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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GREGORY W. DRIVER,

Petitioner,

vs.

JOHNNY MORRISON, *et al.*,

Respondents.

Case No. 2:14-cv-01664-APG-NJK

**ORDER**

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. Petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Habeas petitioners proceeding *pro se* must use the court-approved *in forma pauperis* form required by Local Rule LSR 1-1 of the Local Rules of Special Proceedings and Appeals. Further, applications to proceed *in forma pauperis* by prisoners must be submitted with an inmate account statement for the past six months and a properly executed financial certificate signed by an authorized prison or jail officer. 28 U.S.C. § 1915(a)(2); Local Rule LSR 1-2.

Due to the lack of an *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application that includes all required attachments. It does not appear from the papers presented that a dismissal

1 without prejudice would result in a promptly-filed new petition being untimely. In this regard,  
2 plaintiff at all times remains responsible for calculating the running of the limitations period as  
3 applied to his case and properly commencing a timely-filed habeas corpus action.

4 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the  
5 filing of a **new petition in a new action**.

6 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies  
7 of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same,  
8 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the  
9 same.

10 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he  
11 may not file further documents in this action.

12 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable  
13 jurists would not find the dismissal of the improperly-commenced action without prejudice to be  
14 debatable or wrong.

15 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

16 Dated this 17<sup>th</sup> day of October, 2014.

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20 UNITED STATES DISTRICT JUDGE

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