

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ELIZABETH K. CARLEY, a.k.a.
MELISSA ARIAS

Petitioner,

vs.

JO GENTRY, et al.,

Respondents.

Case No. 2:14-cv-02097-JCM-PAL

ORDER

The court granted respondents' motion to dismiss (ECF No. 10), finding that all but one ground of the petition for a writ of habeas corpus was unexhausted. The court also denied petitioner's request to stay the action while she returned to state court, because petitioner herself caused the failure to exhaust. ECF No. 24. The court instructed petitioner to file a sworn declaration in which she either dismissed the unexhausted grounds or dismissed the action while she returned to state court. Id.

Petitioner has done neither. She has filed a motion to proceed (ECF No. 25), in which she attempts to litigate again the issues that the court already has decided. The court has warned petitioner that it would dismiss the action if she did not make the required choice, and the court will do so now. The court will dismiss the action without prejudice, but petitioner should not think that such a dismissal will excuse a later application of time bars.

Reasonable jurists would not find the court's conclusion to be debatable or wrong, and the court will not issue a certificate of appealability.

