

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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

Petitioner,

V.

JO GENTRY, et al.,

## Respondents.

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

## ORDER

Before the court are petitioner's motion for leave to conduct discovery (ECF No. 82), respondents' opposition (ECF No. 86), and petitioner's reply (ECF No. 87). The court grants the motion in part.

Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts allows the court to authorize discovery, and the court may limit the extent of the discovery. If, through "specific allegations before the court," the petitioner can "show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that [she] is . . . entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry." Bracy v. Gramley, 520 U.S. 899, 908-09 (1997) (quoting Harris v. Nelson, 394 U.S. 286, 300 (1969)).

Carley wants a clean, complete copy of the discovery provided to her in her state-court criminal case. Over the years, pages from documents have been lost. Also, Carley was charged

1 with using a fake Texas driver's license to try to change the personal identification number on a  
2 casino's player card. However, Carley's only copy of the driver's license is nothing but a black  
3 rectangle. ECF No. 82 at 5-6. Carley thus seeks to subpoena the Clark County District  
4 Attorney's Office, the Nevada State Gaming Control Board, and the Las Vegas Metropolitan  
5 Police Department for any and all records or evidence related to her case. ECF No. 82 at 4-5.  
6 Respondents agree that Carley should have a clean, complete copy of the discovery. ECF No. 86  
7 at 5.

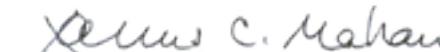
8 Respondents raise other objections to petitioner's request. First, they warn that the  
9 agencies' record-retention period for these documents have expired. ECF No. 86 at 4. That is no  
10 reason to deny an otherwise valid discovery request. If an agency has destroyed the documents,  
11 then the agency can so respond. Second, respondents argue that the request is overbroad, asking  
12 for any and all evidence related to the case, instead of a copy of the discovery provided during the  
13 state-court criminal case. ECF No. 86 at 4. Carley notes that she phrased the request the way that  
14 she did to ensure that the state agencies provide all the relevant materials and do not withhold  
15 documents. ECF No. 87 at 2. Carley describes in detail what she wants the agencies to produce,  
16 but without limitation. It is unlikely that the Las Vegas Metropolitan Police Department or the  
17 Nevada State Gaming Control Board have any documents other than what Carley describes.  
18 Third, respondents argue that the request as phrased can include confidential work product of the  
19 Clark County District Attorney's Office. ECF No. 86 at 4. The court agrees with Carley that if  
20 the Clark County District Attorney's Office finds confidential work product, then they can submit  
21 a privilege log. Respondents' objections do not persuade the court to limit the discovery request.

22 Respondents have filed an unopposed motion for extension of time to respond to third  
23 amended petition for writ of habeas corpus (first request) (ECF No. 88). Respondents ask the  
24 court to set the deadline to file a response to Monday, August 30, 2021. That deadline would  
25 occur before the deadline that the court is setting for completion of discovery. Instead of  
26 extending the time to respond to the third amended petition, which might then either need further  
27 extension or become moot based upon what Carley learns from discovery, the court will suspend  
28 briefing on the third amended petition until completion of any post-discovery motions.

1 IT THEREFORE IS ORDERED petitioner's motion for discovery (ECF No. 82) is  
2 **GRANTED.** Discovery must be completed within 90 days from the date of entry of this order.  
3 Petitioner will have 30 days from the completion of discovery to file and serve any appropriate  
4 motion.

5 IT FURTHER IS ORDERED that respondents' unopposed motion for extension of time to  
6 respond to third amended petition for writ of habeas corpus (first request) (ECF No. 88) is  
7 **GRANTED.** Respondents need not respond to the third amended petition (ECF No. 80) until  
8 further order of the court.

9 DATED: June 4, 2021.



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10 JAMES C. MAHAN  
11 United States District Judge

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