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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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8 PERCY LAVAE BACON,

9 Petitioner,

2:15-cv-01144-APG-PAL

10 vs.

ORDER11 BRIAN WILLIAMS, *et al.*,

12 Respondents.

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15 This action, which has been closed for well over a year, was a petition for writ of habeas
16 corpus by Nevada prisoner Percy Lavae Bacon. In his petition, filed on June 17, 2015, Bacon
17 contended that his federal constitutional rights were violated in the manner in which a parole hearing
18 was conducted.

19 The court screened Bacon's original habeas petition (ECF No. 1) on June 19, 2015, and
20 determined that it did not state a viable claim for habeas corpus relief. *See* Order entered June 19,
21 2015 (ECF No. 2). The court granted Bacon an opportunity to file a first amended petition for writ
22 of habeas corpus to attempt to cure the shortcomings of his original petition. *See id.* The court
23 granted Bacon until and including July 31, 2015, to file the first amended petition. *See id.* The court
24 warned that if Bacon did not comply with its order, and file, within the time allowed, a first amended
25 petition for writ of habeas corpus, rectifying the shortcomings in his petition described in the order,
26 this action would be dismissed. *See id.*

1 Bacon did not file a first amended petition by July 31, 2015. Therefore, on August 6, 2015,
2 the court dismissed the action for the reasons stated in the June 19, 2015 order. *See* Order entered
3 August 6, 2015 (ECF No. 3). The court denied Bacon a certificate of appealability. *See id.*
4 Judgment was entered that same date. *See* Judgment (ECF No. 4).

5 On August 17, 2015, Bacon filed an *Ex Parte* Motion for Appointment of Counsel
6 (ECF No. 5), a First Amended Petition for Writ of Habeas Corpus (ECF No. 6), and a Motion to
7 Alter or Amend Judgment (ECF No. 7). In the amended habeas petition, Bacon stated, in conclusory
8 terms, that, with respect to a 2008 parole hearing, the Nevada Department of Corrections denied him
9 any opportunity to be heard. First Amended Petition (ECF No. 6), p. 3. However, it plainly
10 appeared that Bacon had not exhausted his claim in state court. *See id.* at 4. Therefore, there was no
11 showing of cause for relief from the August 6, 2015 judgment. *See* Fed. R. Civ. P. 59, 60; 28 U.S.C.
12 §2254(b)(1). Therefore, on October 13, 2015, the court denied Bacon's motion to alter or amend
13 judgment and his motion for appointment of counsel.

14 Meantime, on September 3, 2015, Bacon filed a notice of appeal (ECF No. 8). The status of
15 Bacon's appeal is unclear.

16 Now, on November 9, 2016, Bacon filed a motion to reopen this case (ECF No. 10), and a
17 motion for leave to file an amended petition (ECF No. 11), with his proposed amended petition
18 attached.

19 There is a final judgment in this case, and there is apparently an appeal pending. Bacon does
20 not show cause why the case should be reopened and the judgment reconsidered. The court will
21 deny Bacon's motions.

22 Bacon states in his November 9 filings that, between January 27, 2016, and September 30,
23 2016, he pursued state-court litigation regarding the matters that are the subject of his petition in this
24 case, and he asserts that he has now exhausted his state-court remedies with respect to his claims. If
25 that is the case, and if Bacon now wishes to pursue federal habeas corpus relief, he may seek to do
26 so by initiating a new federal habeas corpus action in this court. (The court means to express no

1 opinion here with respect to either the procedural viability or the merits of any claim that Bacon may
2 make in any such petition.)

3 **IT IS THEREFORE ORDERED** that petitioner's motion to reopen case (ECF No. 10) is
4 **DENIED.**

5 **IT IS FURTHER ORDERED** that petitioner's motion for leave to amend is **DENIED.**

6 Dated: November 16, 2016.

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UNITED STATES DISTRICT JUDGE

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