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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TARRELL M. SMITH,

Petitioner,

vs.

BRIAN E. WILLIAMS, et al.,

Respondents.

Case No. 2:15-cv-01762-RFB-NJK

ORDER

Petitioner has filed a motion to voluntarily dismiss petition for writ of habeas corpus (ECF No. 16). Respondents have not responded to the motion. Petitioner understands that the dismissal would be without prejudice.[1] Good cause appearing;

IT IS THEREFORE ORDERED that this action is **DISMISSED** with prejudice. The clerk of the court shall enter judgment accordingly and close this action.

IT IS FURTHER ORDERED that the court will not issue a certificate of appealability.

DATED: July 13, 2017.

RICHARD F. BOULWARE, II
United States District Judge

[1] Technically, under Rule 41(a) of the Federal Rules of Civil Procedure, a dismissal would be without prejudice unless the order states otherwise. However, this action itself has been open for more than a year, and the one-year period of limitation of 28 U.S.C. § 2244(d)(1) was not tolled while the action was open. Even if the court were to dismiss the action "without prejudice," any subsequent petition would be time-barred.

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