

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3
4 Marcus Sharif McNeal,
5 Petitioner
6 v.
7 State of Nevada, et al.,
8 Respondents

2:16-cv-01618-JAD-GWF

Order

[ECF No. 8]

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10 Pro se petitioner Marcus Sharif McNeal is currently serving two consecutive terms of 5-
11 15 years after he was convicted of attempted murder, battery with a deadly weapon, and an ex-
12 felon enhancement.¹ He petitions for a writ of habeas corpus under 28 U.S.C. § 2254, arguing
13 that his Fourth, Fifth, Sixth, and Fourteenth Amendment rights were violated.² McNeal
14 previously moved to stay these federal habeas proceedings so that he could exhaust his
15 unexhausted claims in state court.³ I denied that motion because it appeared that his state-court
16 proceedings had already concluded.⁴ McNeal then moved for reconsideration, arguing that his
17 state-court appeal was pending.⁵ After reviewing the Nevada Supreme Court docket, it appears
18 that McNeal's case has now concluded.⁶ Accordingly, I deny McNeal's motion for

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¹ ECF No. 1-1.

21 ² *Id.*

22 ³ ECF No. 4.

23 ⁴ ECF No. 5.

24 ⁵ ECF No. 8.

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26 ⁶ Case No. 71446 concluded on September 29, 2017, with the issuance of remittitur to the state
27 district court. This information was obtained from the online Nevada Appellate Case
28 Management System. <http://caseinfo.nvsupremecourt.us/public/publicActorSearch.do> (last
visited Nov. 13, 2017).

1 reconsideration as moot.

2 On October 17, 2017, McNeal filed a motion seeking production of several documents,⁷
3 which respondents opposed.⁸ McNeal later filed a motion to withdraw his request for
4 documents,⁹ along with a letter requesting that the Clerk of Court provide him with copies of his
5 habeas petitions in this case and in another case, 2:17-cv-2589-RFB-CWH. It appears from this
6 and other correspondence that McNeal has sent to the court that McNeal wishes to amend his
7 petition in this action.

8 Accordingly, IT IS HEREBY ORDERED that McNeal’s motion for reconsideration
9 **[ECF No. 8] is DENIED as moot.**

10 IT IS FURTHER ORDERED that McNeal’s motion to withdraw his motion for
11 production **[ECF No. 16] is GRANTED**, and McNeal’s motion for production **[ECF No. 14] is**
12 **therefore WITHDRAWN.**

13 The **Clerk of Court** is directed to **SEND to McNeal** a copy of his petition in this case
14 **[ECF No. 6]** and a copy of his petition in **case 2:17-cv-2589-RFB-CWH [ECF No. 1-1]**.

15 IT IS FURTHER ORDERED that **McNeal has leave to amend his petition in THIS**
16 **ACTION.** McNeal has **until December 13, 2017, to file an amended petition.** If McNeal does
17 not file an amended petition by that date, this case will proceed on the original petition **[ECF No.**
18 **6]**.

19 IT IS FURTHER ORDERED that in any amended petition, McNeal must **CLEARLY**
20 **TITLE the amended petition** as an amended petition by placing the word **“AMENDED”**
21 **immediately ABOVE “Petition for a Writ of Habeas Corpus”** on page 1 in the caption and
22 **PLACE THE DOCKET NUMBER 2:16-cv-01618-JAD-GWF** in the designated space above
23 the word **“AMENDED.”** Under Local Rule LR 15-1, the amended petition must be complete in
24 itself without reference to previously filed papers. The claims and allegations that are stated in

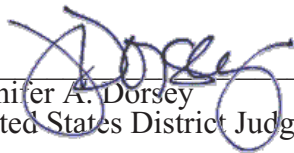
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26 ⁷ ECF No. 14.

27 ⁸ ECF No. 15.

28 ⁹ ECF No. 16.

1 the amended petition will be the only matters that I consider. Any claims or allegations that are
2 left out of the amended petition or that are not realleged in the amended petition will be forfeited.

3 DATED: November 13, 2017.

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6 Jennifer A. Dorsey
7 United States District Judge
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