

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Robert Michael Hernandez,  
5 Petitioner  
6 v.  
7 Jo Gentry, et al.,  
8 Respondents  
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2:17-cv-02565-JAD-CWH  
Order Dismissing Case

10 Petitioner Robert Michael Hernandez is serving two consecutive sentences of  
11 6–15 years and 6–20 years after he was convicted of robbery against a person over  
12 the age of 60.<sup>1</sup> He has submitted a petition for writ of habeas corpus under 28  
13 U.S.C. § 2254,<sup>2</sup> but he did not file an application to proceed *in forma pauperis* or pay  
14 the filing fee. As a result, this matter has not been properly commenced.<sup>3</sup>

15 This action will therefore be dismissed without prejudice to Hernandez's  
16 ability to refile it on the required form in a **new action** with either the \$5.00 filing  
17 fee or a completed application to proceed *in forma pauperis*. The pauper application  
18 must also be submitted on the proper form with both an inmate account statement  
19 for the past six months and a properly executed financial certificate.

20 Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED**  
21 without prejudice to the filing of a petition in a new action with either the \$5.00  
22 filing fee or a properly completed application form to proceed *in forma pauperis*.

23 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**  
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26 <sup>1</sup> ECF No. 1-1 at 2.

27 <sup>2</sup> ECF No. 1.

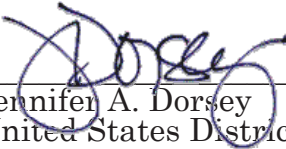
28 <sup>3</sup> 28 U.S.C. § 1915(a)(2); LSR1-1, 1-2.

1 because jurists of reason would not find my dismissal of this improperly commenced  
2 action without prejudice to be debatable or incorrect.

3 The **Clerk of Court is directed to SEND** to Hernandez two copies each of an  
4 application form to proceed *in forma pauperis* for incarcerated persons and a  
5 noncapital § 2254 habeas petition form, one copy of the instructions for each form,  
6 and a copy of the papers that he submitted in this action.

7 The **Clerk of Court is directed to ENTER JUDGMENT** accordingly and  
8 **CLOSE THIS CASE.**

9 DATED: October 26, 2017.

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12 Jennifer A. Dorsey  
13 United States District Judge  
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