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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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LAUSTEVEION JOHNSON,
Petitioner,
v.
BRIAN WILLIAMS, et al.,
Respondents.

Case No. 2:18-cv-00497-RFB-NJK

ORDER

Petitioner Lausteveion Johnson has submitted a *pro se* habeas corpus petition but he has failed to submit an application to proceed *in forma pauperis* or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

The court further notes that it is unclear that petitioner states any claims that are cognizable on federal habeas review and that it appears that his state-court proceedings are ongoing. See Nevada Supreme Court Case No. 74775. A federal court will not grant a state prisoner's petition for habeas relief until the prisoner has exhausted his available state remedies for all claims raised. *Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state courts a fair opportunity to act on each of his claims before he presents those claims in a federal habeas petition. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); see also *Duncan v. Henry*, 513 U.S. 364, 365 (1995). A claim remains unexhausted until the petitioner has given the highest available state court the opportunity to consider the claim through

1 direct appeal or state collateral review proceedings. See *Casey v. Moore*, 386 F.3d
2 896, 916 (9th Cir. 2004); *Garrison v. McCarthey*, 653 F.2d 374, 376 (9th Cir. 1981).

3 This federal petition shall be dismissed without prejudice to petitioner filing a new
4 federal habeas petition, in a new case with a new case number and a new, completed
5 application to proceed *in forma pauperis* with the required financial information or the
6 \$5.00 filing fee.

7 **IT IS THEREFORE ORDERED** that the Clerk **shall file and ELECTRONICALLY**
8 **SERVE** the petition (ECF No. 1-1) on the respondents, for informational purposes only.

9 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada
10 Attorney General, as counsel for respondents.

11 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice as
12 improperly commenced.

13 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

14 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel
15 (ECF No. 3) and motion for evidentiary hearing (ECF No. 4) are both **DENIED** as moot.

16 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and
17 close this case.

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19 DATED: April 12, 2018.



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21 RICHARD F. BOULWARE, II
22 UNITED STATES DISTRICT JUDGE
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