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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 MITCHELL DZIK,

Case No. 2:22-cv-02113-GMN-EJY

10 Petitioner,

ORDER

11 v.

12 STATE OF NEVADA, et al.,

13 Respondents.

14 Petitioner has submitted a *pro se* petition for writ of habeas corpus, pursuant to  
15 28 U.S.C. § 2254 (ECF No. 1-1). However, petitioner has submitted an incomplete  
16 application to proceed *in forma pauperis*. He has failed to include a signed financial  
17 certificate or inmate account statements. Accordingly, this matter has not been properly  
18 commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

19 This action therefore is subject to dismissal without prejudice as improperly  
20 commenced. However, the court will give petitioner 30 days to either (1) pay the \$5.00  
21 filing fee or (2) submit a completed and signed financial certificate and the required  
22 inmate account statements. Failure to do so may result in the dismissal of this action  
23 without prejudice.

24 The court notes that Dzik's petition is not on the court's form as required by the  
25 local rules, and it also appears to be unexhausted.<sup>1</sup> A federal court will not grant a state  
26 prisoner's petition for habeas relief until the prisoner has exhausted his available state  
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1 Petitioner states on the face of his petition that his appeal of the denial of his motion to correct  
illegal sentence is pending in state court. (ECF No. 1-1 at 5.)

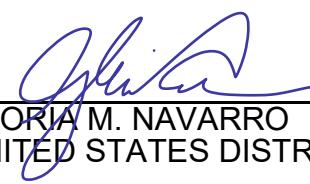
1 remedies for all claims raised. *Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. §  
2 2254(b). A petitioner must give the state courts a fair opportunity to act on each of his  
3 claims before he presents those claims in a federal habeas petition. *O'Sullivan v.*  
4 *Boerckel*, 526 U.S. 838, 844 (1999); *see also Duncan v. Henry*, 513 U.S. 364, 365  
5 (1995). A claim remains unexhausted until the petitioner has given the highest available  
6 state court the opportunity to consider the claim through direct appeal or state collateral  
7 review proceedings. *See Casey v. Moore*, 386 F.3d 896, 916 (9th Cir. 2004); *Garrison*  
8 *v. McCarthey*, 653 F.2d 374, 376 (9th Cir. 1981).

9 **IT IS THEREFORE** ordered that within **30 days** of the date of this order petitioner  
10 must either pay the \$5.00 filing fee or submit a financial certificate and inmate account  
11 statements.

12 **IT IS FURTHER ORDERED** that if petitioner fails to comply with this order, this  
13 action may be dismissed without prejudice.

14 **IT IS FURTHER ORDERED** that the Clerk of Court **SEND** to petitioner one copy  
15 of the application to proceed *in forma pauperis* for incarcerated persons, with  
16 instructions and one copy of the form 28 U.S.C. § 2254 habeas petition.

18 DATED: 18 January 2023.

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21 GLORIA M. NAVARRO  
22 UNITED STATES DISTRICT JUDGE