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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FERRILL J. VOLPICELLI,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

3:10-cv-00005-LRH-VPC

ORDER

Following upon petitioner’s motion (#47) for partial dismissal of the claims held by the Court to be unexhausted,

IT IS ORDERED that petitioner’s motion (#47) for partial dismissal is GRANTED and that the following claims are DISMISSED without prejudice:

- (a) Grounds 1 through 6, 10, 12 through 17, and 19 through 22;
- (b) all claims in Ground 7 **other than** the claim that petitioner was denied effective assistance of counsel when trial counsel failed to protect him from an allegedly excessive restitution order by the sentencing court;
- (c) all claims in Ground 8 **other than** the claim that petitioner was denied effective assistance of counsel when trial counsel allowed him to be subjected to an indictment that allegedly contained multiplicitous and duplicitous charges, violating his right to be free from double jeopardy;

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- (d) any and all claims remaining in Ground 9 following upon the Court's dismissal of the claim of ineffective assistance of counsel in Ground 9;
- (e) all claims in Ground 11 **other than** the claim that petitioner was denied effective assistance of counsel when trial counsel failed to impeach accomplice Brett Bowman's allegedly inconsistent and/or perjured testimony with his prior inconsistent statements;
- (f) all claims in Ground 18 **other than** the claim in Ground 18(b) that petitioner was denied effective assistance of counsel when trial and appellate counsel did not argue that the February 11, 2004, conviction did not constitute a prior offense under N.R.S. 207.010 for purposes of habitual criminal enhancement; and
- (g) any and all claims remaining in Ground 23 following upon the Court's dismissal of Ground 23 in part as redundant of a claim in Ground 18(b).

IT FURTHER IS ORDERED that respondents shall file an answer to the remaining claims within **thirty (30) days** of entry of this order and that petitioner shall have **thirty (30) days** from service of the answer within which to mail a reply to the answer to the Clerk for filing.

Due to the age of the case, extensions of time will be considered only for extraordinary circumstances. In the event of scheduling conflicts with other matters in this Court, any request for extension of time should be sought in the later-filed case.

DATED this 19th day of November, 2012.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE