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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEPHEN D. COMSTOCK,

Petitioner,

vs.

STEFANIE HUMPRHIES, et al.,

Respondents.

3:10-cv-00147-LRH-WGC

ORDER

On February 14, 2014, this court denied all claims with prejudice in this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 32). Judgment was entered on that date (ECF No. 33). Petitioner Stephen D. Comstock appealed, and on May 12, 2015, the Ninth Circuit Court of Appeals issued an order reversing and remanding with instructions to this court that the writ of habeas corpus be granted (ECF No. 39). The order further directed that Comstock shall be released from probationary custody unless the State notified this court within thirty (30) days of its intent to retry him and commences retrial within ninety (90) days. *Id.* After a petition for reconsideration was denied, the mandate issued on June 29, 2015, and was ordered spread upon the records of this court on July 8, 2015 (ECF Nos. 41, 42, 43).

On August 27, 2015, counsel for petitioner filed a notice of state proceedings (ECF No. 44). He indicated that the state district court held a hearing on July 29, 2015, at which petitioner was represented by the local public defender. *Id.* At that hearing, the district attorney informed the court that the State would not seek a retrial, and the state district court dismissed the case with prejudice.


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1 *Id.* Counsel for petitioner attached the written order dismissing the case with prejudice, which was
2 entered on August 13, 2015 (ECF No. 44-1).

3 **IT IS THEREFORE ORDERED** that this court's order and judgment dated February 14, 2014
4 are **REVERSED**. Petitioner's application for a writ of habeas corpus is **GRANTED**. Petitioner's
5 conviction and sentence are set aside, and he is released from custody. The Clerk shall enter judgment
6 accordingly.

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Dated this 28th day of October, 2015.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE