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6                    **UNITED STATES DISTRICT COURT**

7                            **DISTRICT OF NEVADA**

8  ISIDRO VILLANUEVA,

9        *Petitioner*,                              3:10-cv-00225-LRH-VPC

10  vs.                                              ORDER

11
    DIRECTOR, NEVADA DEPARTMENT
12  OF CORRECTIONS, *et al.*,

13        *Respondents*.

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15        This habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's motion (#23)

16  for voluntary dismissal.

17        Petitioner Isidro Villanueva has sought to challenge his Nevada state conviction, pursuant to

18  a guilty plea, of lewdness with a child under fourteen years of age.  His motion to dismiss the petition

19  without prejudice follows upon the Court's holding that a number of grounds are unexhausted.  To the

20  extent that the motion perhaps suggests that the Court "recommended" that petitioner dismiss and

21  exhaust grounds, the Court made no recommendation – in any respect – in its prior order.  The Court

22  held that certain grounds were unexhausted, and it gave petitioner thirty days "within which to mail to

23  the Clerk for filing a motion for dismissal without prejudice of the entire petition, for partial dismissal

24  only of the unexhausted claims, and/or for other appropriate relief." #20, at 6.  The election as to what

25  relief to request was left entirely to petitioner, and this Court neither is petitioner's legal advisor nor did

26  it advise petitioner how to proceed.  In the motion before the Court, petitioner "moves . . . to dismiss

27  without prejudice his petition for writ of habeas corpus."  While the current petition will be dismissed

28  without prejudice, such a dismissal does not prevent dismissal of a later petition for untimeliness.

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IT THEREFORE IS ORDERED that petitioner's motion (#23) for voluntary dismissal is GRANTED and the petition is DISMISSED without prejudice.

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The Clerk of Court shall enter final judgment accordingly, dismissing this action without prejudice.

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DATED this 6th day of April, 2012.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

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