

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FERRILL J. VOLPICELLI,

Petitioner,

Case No. 3:14-cv-00579-MMD-VPC

ORDER

v.

ROBERT LeGRAND, *et al.*,

Respondents.

This is a habeas corpus action under 28 U.S.C. § 2254. On November 17, 2016, this Court entered an order directing petitioner to show cause why the claims in his petition are not barred by either the doctrine of res judicata or the doctrine of procedural default. (ECF No. 20.) In response, petitioner filed a motion for a stay. (ECF No. 22.)

In support of his motion, petitioner points out that he currently has an appeal pending with the Nevada Supreme Court in relation to the claims in his federal petition. Respondents concede that “the interests of judicial economy would be best served by staying this matter until the Nevada Supreme Court has an opportunity to resolve [petitioner’s] pending appeal.” (ECF No. 24 at 2.) This Court agrees and will grant the stay.

It is therefore ordered that petitioner’s motion for stay (ECF No. 22) is granted. This action is stayed pending exhaustion of petitioner’s unexhausted claims.

It is further ordered that the grant of a stay is conditioned upon petitioner returning to federal court with a motion to reopen within forty-five (45) days of issuance of the remittitur by the Supreme Court of Nevada at the conclusion of the state court proceedings.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further ordered that the Clerk administratively close this action until such time as the Court grants a motion to reopen the matter.

It is further ordered that respondents motion for extension of time (ECF No. 23) is granted *nunc pro tunc* as of December 27, 2016.

DATED THIS 3rd day of April 2017.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE