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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DONN RICHARD MOORE,)
)
 Petitioner,)
)
 vs.)
)
 I. BACA, *et al.*,)
)
 Respondents.)
)
 _____)

3:15-cv-00101-RCJ-WGC

ORDER

On March 25, 2015, this court denied petitioner’s motion to proceed *in forma pauperis* and directed him to pay the filing fee in order to proceed with his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 3. He has complied with that order and paid the required fee. ECF No. 4. The court has reviewed the petition pursuant to Habeas Rule 4, and the petition shall be docketed and served.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

IT THEREFORE IS ORDERED that the Clerk shall FILE the petition for writ of habeas corpus and ELECTRONICALLY SERVE it on the respondents.

1 **IT FURTHER IS ORDERED** that respondents shall file a response to the petition,
2 including potentially a motion to dismiss, within **ninety (90) days** of service of the petition, with any
3 requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule
4 under the local rules. **Any response filed shall comply with the remaining provisions below,**
5 **which are entered pursuant to Habeas Rule 4.**

6 **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this
7 case shall be raised together in a single consolidated motion to dismiss. In other words, the court
8 does not wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple
9 successive motions to dismiss or embedded in the answer. Procedural defenses omitted from such
10 motion to dismiss will be subject to potential waiver. Respondents shall not file a response in this
11 case that consolidates their procedural defenses, if any, with their response on the merits, except
12 pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If
13 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within
14 the single motion to dismiss **not** in the answer; and (b) they shall specifically direct their argument to
15 the standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24
16 (9th Cir. 2005). In short, no procedural defenses, including exhaustion, shall be included with the
17 merits in an answer. All procedural defenses, including exhaustion, instead must be raised by
18 motion to dismiss.

19 **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall
20 specifically cite to and address the applicable state court written decision and state court record
21 materials, if any, regarding each claim within the response as to that claim.

22 **IT FURTHER IS ORDERED** that petitioner shall have **thirty (30) days** from service of the
23 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for
24 relief by respondents by motion otherwise being subject to the normal briefing schedule under the
25 local rules.

