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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

VERNON W. NELSON, JR.,

Petitioner,

v.

RENEE BAKER, et al.,

Respondents.

Case No. 3:15-cv-00403-MMD-WGC

ORDER

This habeas matter comes before the Court on petitioner's motion for voluntary dismissal. (ECF No. 18.)

Respondents have filed a motion to dismiss the petition, *inter alia*, with prejudice as untimely. (ECF No. 9.) Petitioner filed an opposition to the motion. He now seeks dismissal of "all counts and claims in his pending habeas corpus as soon as is procedurally possible."

The Court will grant petitioner's motion. Given that petitioner seeks dismissal at a time when a motion to dismiss with prejudice is pending, the Court exercises its discretion under Federal Rule of Civil Procedure 41(a)(2) to dismiss the action without prejudice.

It therefore is ordered that petitioner's motion for voluntary dismissal (ECF No. 18) is granted and that this action is dismissed without prejudice.

It further is ordered that respondents' motion to dismiss (ECF No. 9) accordingly is denied as moot.

The Clerk of Court is directed to close this case.

DATED THIS 14th day of November 2016.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE