

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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10 ROBIN LEE BENJAMIN, Case No. 3:16-cv-00024-MMD-VPC
11 Petitioner, ORDER
12 v.
13 ATTORNEY GENERAL, *et al.*,
14 Respondents.

16 In this habeas corpus action, brought *pro se* by Robin Lee Benjamin, the Court
17 ruled on the respondents' motion to dismiss on October 3, 2016. (See Order entered
18 October 3, 2016 (ECF No. 21).) In that order, the Court found all but one of Benjamin's
19 claims — Grounds 1 and 3-14 — to be unexhausted in state court. The Court granted
20 Benjamin an opportunity to make an election with respect to her unexhausted claims;
21 Benjamin was directed to either file a notice stating that she wishes to abandon her
22 unexhausted claims, and proceed in this action with the litigation of her exhausted claim,
23 or file a motion for a stay, under *Rhines v. Weber*, 544 U.S. 269 (2005), requesting a stay
24 of this action while she exhausts her unexhausted claims in state court.

25 On December 19, 2016, Benjamin filed a notice (ECF No. 23) stating her election
26 to abandon her unexhausted claims and proceed with her exhausted claim. The Court
27 will accept Benjamin's abandonment of her unexhausted claims. Those claims will be
28 dismissed.

Additionally, in the notice Benjamin filed on December 19, 2016, Benjamin states that she wishes to dismiss the State of Nevada as a respondent, which is appropriate as the State of Nevada is not a proper respondent in this habeas corpus action.

It is therefore ordered that Grounds 1 and 3-14 of petitioner's amended petition for writ of habeas corpus (ECF No. 17) are dismissed.

It is further ordered that the State of Nevada is dismissed as a respondent.

It is further ordered that respondents will have ninety (90) days from the date of this order to file an answer, responding to the remaining claim (the federal-law claim) in Ground 2 of petitioner's amended petition for writ of habeas corpus (ECF No. 17). Thereafter, petitioner will have sixty (60) days to file a reply.

DATED THIS 21st day of December 2016.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE