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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

)
GREGORY J. BENNETT,)
)
Petitioner,)
)
vs.)
)
STATE OF NEVADA,)
)
Respondent.)

3:16-cv-00420-RCJ-WGC

ORDER

Gregory Bennett is a prisoner in the custody of the Nevada Department of Corrections. He filed a Petition for a Writ of Prohibition in this Court. The Magistrate Judge recommended dismissing the Petition without prejudice because Petitioner complained of constitutional violations at his trial in state court that were not cognizable under *Heck v. Humphrey*, 512 U.S. 477 (1994). The Court agreed. The Court later denied a motion to recuse (and it hereby denies a successive motion to recuse currently pending). Petitioner appealed, and the Court of Appeals has remanded for the limited purpose of determining whether *in forma pauperis* status should continue on appeal. The Court finds that it should not, because the appeal is frivolous. *See Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

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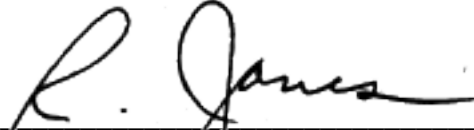
1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the Motion to Recuse (ECF No. 12) is DENIED.

3 IT IS FURTHER ORDERED that *in forma pauperis* status is REVOKED.

4 IT IS SO ORDERED.

5 Dated this 8th day of November, 2016.

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8 ROBERT C. JONES
9 United States District Judge
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