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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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9 BRIAN KERRY O'KEEFE,

10 Petitioner,

3:16-cv-00471-HDM-VPC

11 vs.

ORDER12 ROBERT LeGRAND, *et al.*,

13 Respondents.

14 _____/

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16 This action is a petition for a writ of habeas corpus by Brian Kerry O'Keefe, a Nevada
17 prisoner. O'Keefe initiated this action on August 8, 2016, by filing a habeas corpus petition, along
18 with three exhibits (ECF No. 1). O'Keefe paid the filing fee.

19 The Court has reviewed O'Keefe's petition, pursuant to Rule 4 of the Rules Governing
20 Section 2254 Cases in the United States District Courts, and determines that it is plainly without
21 merit, and subject to summary dismissal.

22 O'Keefe petitions for a writ of habeas corpus under 28 U.S.C. § 2241. *See* Petition for Writ
23 of Habeas Corpus (ECF No. 1), p. 1. His petition is largely incomprehensible. As the court
24 understands it, he complains of the Nevada Supreme Court's handling of his appeal and his attempt
25 to seek certiorari in the United States Supreme Court following the conclusion of that appeal. *See id.*
26 at 2-3, 6-8. As the court understands O'Keefe's petition, he asserts that the Nevada Supreme Court's

1 handling of his appeal and his petition for certiorari affected the running of the statute of limitations
2 under 28 U.S.C. § 2244(d), with respect to some unspecified claim he would make in federal court.
3 *See id.* O’Keefe does not, however, articulate any viable claim that he is held in custody in violation
4 of the constitution, laws, or treaties of the United States. *See id.*; *see also* 28 U.S.C. § 2241.

5 Moreover, the court takes notice that O’Keefe already has a petition for writ of habeas corpus
6 pending in this court, in Case Number 3:14-cv-00477-RCJ-VPC. In that case, as in this case,
7 O’Keefe seeks relief from his conviction and sentence in Case Number 08-C250630 in Nevada’s
8 Eighth Judicial District Court. *See* Petition for Writ of Habeas Corpus (ECF No. 1), p. 1; Amended
9 Petition for Writ of Habeas Corpus, ECF No. 7 in Case No. 3:14-cv-00477-RCJ-VPC, p. 2. The
10 record in Case Number 3:14-cv-00477-RCJ-VPC reveals that on July 27, 2016, the Ninth Circuit
11 Court of Appeals remanded the case to this court for further proceedings, and the case is now
12 pending in this court. *See* Memorandum, ECF No. 30 in Case Number 3:14-cv-00477-RCJ-VPC. It
13 appears that any claim by O’Keefe that his custody in state prison is contrary to federal law -- and
14 any argument regarding the application of the statute of limitations to any such claim -- must be
15 made in that action.

16 **IT IS THEREFORE ORDERED** that this action is **DISMISSED**.

17 **IT IS FURTHER ORDERED** that petitioner is denied a certificate of appealability.

18 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

19 Dated this 10th day of August, 2016.

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UNITED STATES DISTRICT JUDGE