

1
2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 JAMES KENNETH FLOYD,

Case No. 3:17-cv-00400-MMD-WGC

7 Petitioner,

ORDER

8 v.

9 WARDEN BACA, et al.,

10 Respondents.

11 On September 10, 2018, this court granted in part Respondents' motion to
12 dismiss James Kenneth Floyd's pro se petition for writ of habeas corpus pursuant to 28
13 U.S.C. § 2254 (ECF No. 13). The Court determined that Floyd had failed to exhaust
14 several grounds in state court. The Court directed Floyd to inform the Court whether he
15 wished to: (1) voluntarily abandon the unexhausted claims in his federal habeas petition
16 and proceed only on the exhausted claims; (2) return to state court to exhaust his
17 unexhausted claims, in which case his federal habeas petition would be dismissed
18 without prejudice; or (3) file a motion asking this Court to stay and abey his exhausted
19 federal habeas claims while he returns to state court to exhaust his unexhausted claims.
20 The Court advised petitioner to familiarize himself with the limitations periods for filing
21 federal habeas petitions contained in 28 U.S.C. § 2244(d).

22 Floyd has responded, and he indicates that he wishes the Court to dismiss this
23 federal habeas petition without prejudice so he may return to state court to exhaust his
24 unexhausted claims (ECF No. 14). Accordingly, his petition is dismissed without
25 prejudice.

26 It is therefore ordered that the petition (ECF No. 4) is dismissed without
27 prejudice.

28 It is further ordered that a certificate of appealability is denied.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

It is further ordered that the Clerk shall enter judgment accordingly and close this case.

DATED THIS 15th day of October 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE