

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT LINZY BELLON,

Case No. 3:18-cv-00081-MMD-WGC

Petitioner,

ORDER

v.

RENEE BAKER, *et al.*,

Respondents.

14 Petitioner Robert Linzy Bellon has submitted a *pro se* habeas corpus petition
15 challenging the computation of his sentence and has paid the filing fee (ECF No. 1). The
16 petition will be dismissed without prejudice because Bellon has not presented his claims
17 to the Nevada Supreme Court.

18 A federal court will not grant a state prisoner's petition for habeas relief until the
19 prisoner has exhausted his available state remedies for all claims raised. *Rose v. Lundy*,
20 455 U.S. 509, 522 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state courts a
21 fair opportunity to act on each of his claims before he presents those claims in a federal
22 habeas petition. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); *see also Duncan v.*
23 *Henry*, 513 U.S. 364, 365 (1995). A claim remains unexhausted until the petitioner has
24 given the highest available state court the opportunity to consider the claim through direct
25 appeal or state collateral review proceedings. *See Casey v. Moore*, 386 F.3d 896, 916
26 (9th Cir. 2004); *Garrison v. McCarthey*, 653 F.2d 374, 376 (9th Cir. 1981).

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1 Here, petitioner has attached some documents from his state postconviction
2 proceedings. The court also takes notice of the dockets of the Nevada Supreme Court
3 and the Eighth Judicial District Court. Taken together, they reflect that the state district
4 court recently denied Bellon's postconviction petition on March 21, 2018. (See ECF No.
5 1 at 6; Eighth Judicial District Court Case No. A-16-746829-W; see also Nevada Supreme
6 Court Case No. 74067).¹ The resolution of Bellon's state postconviction petition could
7 render a federal habeas petition moot. Accordingly, this federal petition shall be dismissed
8 without prejudice to petitioner filing a new federal habeas petition, in a new case with a
9 new case number and a new, completed application to proceed *in forma pauperis* with
10 the required financial information or the \$5.00 filing fee.

11 It is therefore ordered that the Clerk will electronically serve the petition (ECF No.
12 1) on the respondents, for informational purposes only.

13 It is further ordered that the Clerk will add Adam Paul Laxalt, Nevada Attorney
14 General, as counsel for respondents.

15 It is further ordered that this action is dismissed without prejudice as set forth in
16 this order.

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

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

20 DATED THIS 11th day of April 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

26 ¹Nevada Supreme Court Case No. 74067 reflects that Bellon filed an appeal of a
27 purported decision denying his postconviction habeas petition on September 15, 2017.
28 However, the Nevada Supreme Court dismissed the appeal for lack of jurisdiction
because no decision, oral or written, had been made on the petition when Bellon filed the
appeal.