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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Daniel Roy Organ,  
Petitioner,  
vs.  
Joseph M. Arpaio, et al.,  
Respondents.

No. CV 11-0158-PHX-GMS (LOA)

**ORDER**

Petitioner Daniel Roy Organ, who is subject to probation, has filed a Petition for Writ of Habeas Corpus through counsel pursuant to 28 U.S.C. § 2254. (Doc. 1.)<sup>1</sup> He has paid the \$5.00 filing fee. The Petition will be dismissed with leave to file an Amended Petition within 30 days.

**I. Petition**

In his Petition, Petitioner names Maricopa County Sheriff Joseph M. Arpaio as Respondent and the Arizona Attorney General as an Additional Respondent. Petitioner raises two grounds for relief for an unlawful vehicle stop and a warrantless search following his arrest.

**II. Petitioner Must Name the Person Having Custody of Him**

A petitioner for habeas relief must name the state officer having custody of him as a respondent to the petition. Smith v. Idaho, 392 F.3d 350, 354 (9th Cir. 2004) (citing Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994)). Failure to name the proper

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<sup>1</sup> “Doc.” refers to the docket number of documents filed in this action.

1 respondent deprives the court of personal jurisdiction over the custodian. Smith, 392 F.3d  
2 at 354. A petitioner on probation or parole due to a state court judgment must name the  
3 probation or parole officer responsible for supervising him and the official in charge of the  
4 parole or probation agency, or the state correctional agency, as appropriate, as Respondents.  
5 See Rule 2(b), 28 U.S.C. foll. § 2254, advisory committee’s note. Further, in this District,  
6 a petitioner typically also names the Arizona Attorney General as a respondent. See  
7 Belgarde v. State of Montana, 123 F.3d 1210, 1212-13 (9th Cir. 1997).

8           Petitioner fails to name his probation officer and the official in charge of the probation  
9 agency as respondents. Petitioner will be granted leave to amend his Petition to name the  
10 proper Respondents.

11 **III. Petitioner Fails to Allege a Constitutional Violation in His Petition**

12           Federal habeas relief is available “only on the ground that [an inmate] is in custody  
13 in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).  
14 Under Rule 2(c) of the Rules Governing Section 2254 Cases, a § 2254 petition must state all  
15 grounds for relief that may be available to the petitioner, the particular federal right allegedly  
16 violated, the facts supporting each ground, and the relief requested. In this case, Petitioner  
17 alleges an unlawful vehicle stop and search, but he fails to allege the violation of any  
18 particular constitution right. The Court will dismiss the Petition with leave to amend to  
19 identify the constitutional rights allegedly violated.

20 **IV. Leave to Amend**

21           For the foregoing reasons, Petitioner’s Petition will be dismissed with leave to amend.  
22 Within 30 days, Petitioner must submit a first amended petition to cure the deficiencies  
23 outlined above.

24           Petitioner must clearly designate on the face of the document that it is the “First  
25 Amended Petition.” The first amended petition must be retyped or rewritten in its entirety  
26 on the court-approved form and may not incorporate any part of the original Petition by  
27 reference.

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**IT IS ORDERED:**

(1) The Petition is **dismissed** for the reasons stated. (Doc. 1.) Petitioner has **30 days** from the date this Order is filed to file a first amended petition in compliance with this Order.

(2) If Petitioner fails to file an amended petition within 30 days, the Clerk of Court must, without further notice, enter a judgment of dismissal of this action without prejudice.

DATED this 10th day of February, 2011.

  
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G. Murray Snow  
United States District Judge