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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LEONARD P. SIMENTAL,

1:09-cv-02077-DLB (HC)

Petitioner,

ORDER DIRECTING CLERK OF COURT TO
CHANGE NAME OF RESPONDENT

v.

[Doc. 8]

F. GONZALEZ, Warden

Respondent.

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

When the petition was initially filed, Petitioner failed to name a Respondent. A petitioner filing a petition for writ of habeas corpus must name the state officer who has custody of the petitioner as the respondent. Rule 2 (a) of the Rules Governing § 2254 cases; Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996). Normally, the person having custody of an incarcerated petitioner is the warden of the prison in which the petitioner is incarcerated because the warden has "day-to-day control over" the petitioner. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992); see also Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994).

On April 20, 2010, the Court issued an order to show cause why the petition should not be dismissed for lack of jurisdiction in that Petitioner had not named a proper Respondent. On May 14, 2010, Petitioner filed a notice naming Warden Gonzalez as the Respondent.

