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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JAMES L. GARY,

1:09-cv-02161-DLB (HC)

Petitioner,

v.

ORDER REQUIRING PETITIONER TO  
AMEND THE PETITION AND NAME A  
PROPER RESPONDENT

FEDERAL BUREAU OF PRISONS,

Respondent.

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge. (Court Docs. 4, 6.)

On December 8, 2009, Petitioner filed the instant petition for writ of habeas corpus.

**DISCUSSION**

For a court to hear a petition for writ of habeas corpus, it must have jurisdiction over the prisoner or his custodian. United States v. Giddings, 740 F.2d 770, 772 (9th Cir.1984). A failure to name the proper respondent deprives a habeas court of personal jurisdiction. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir.1989). The proper respondent in a federal habeas corpus petition is the petitioner's "immediate custodian." Brittingham, 982 F.2d at 379, quoting Demjanjuk v. Meese, 784 F.2d 1114, 1115 (D.C.Cir.1986) (Bork, J., in chambers). The custodian "is the person having a day-to-day control over the prisoner. That person is the only one who can produce 'the body' of

