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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

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9 SERGIO T. TORRES, 1:10-cv-00339-DLB (HC)10 Petitioner, ORDER DIRECTING CLERK OF COURT TO  
11 v. CHANGE NAME OF RESPONDENT

12 [Doc. 21]

13 KEN CLARK,

14 Respondent. /

15 Petitioner is a state prisoner proceeding pro se with a Petition For Writ Of Habeas Corpus  
16 pursuant to 28 U.S.C. § 2254.17 When the petition was initially filed, Petitioner named the State of California as  
18 Respondent. A petitioner filing a petition for writ of habeas corpus must name the state officer  
19 who has custody of the petitioner as the respondent. Rule 2 (a) of the Rules Governing § 2254  
20 cases; Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996). Normally, the person having  
21 custody of an incarcerated petitioner is the warden of the prison in which the petitioner is  
22 incarcerated because the warden has "day-to-day control over" the petitioner. Brittingham v.  
23 United States, 982 F.2d 378, 379 (9th Cir. 1992); see also Stanley v. California Supreme Court,  
24 21 F.3d 359, 360 (9th Cir. 1994).25 On April 23, 2010, the Court issued an Order To Show Cause why the petition should not  
26 be dismissed for lack of jurisdiction in that Petitioner had not named a proper Respondent. On  
27 July 14, 2010, Petitioner filed a notice naming Warden Clark as the Respondent.

Accordingly, the Clerk of the Court is DIRECTED to substitute Warden Clark as the Respondent in this action.

IT IS SO ORDERED.

Dated: July 28, 2010

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE