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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENNETH H. CASNER,)	1:10-cv-01081-SKO-HC
)	
Petitioner,)	ORDER GRANTING PETITIONER'S
)	MOTION TO SUBSTITUTE WARDEN ELVIN
v.)	VALENZUELA AS RESPONDENT (DOC.
)	24)
)	
ELVIN VALENZUELA, Warden,)	ORDER DIRECTING THE SUBSTITUTION
)	OF WARDEN ELVIN VALENZUELA AS
Respondent.)	RESPONDENT
)	
)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge to conduct all further proceedings in the case, including the entry of final judgment, by manifesting consent in signed writings filed by Petitioner on July 2, 2010 (doc. 5), and on behalf of Respondent on September 26, 2012 (doc. 33).

Pending before the Court is Petitioner's application to change the named respondent to the warden of the California Men's Colony at San Luis Obispo, California, Petitioner's institution of confinement, in place of Kathleen Dickinson, the former warden of the California Medical Facility at Vacaville, California. No opposition to the application has been received.

1 A petitioner seeking habeas relief must name the state
2 officer having custody of him or her as the respondent to the
3 petition. Rule 2(a) of the Rules Governing Section 2254 Cases in
4 the United States District Courts; Ortiz-Sandoval v. Gomez, 81
5 F.3d 891, 894 (9th Cir. 1996); Stanley v. California Supreme
6 Court, 21 F.3d 359, 360 (9th Cir. 1994). Normally, the person
7 having custody of the prisoner is the warden of the prison
8 because the warden has "day to day control over" the prisoner.
9 Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992).
10 Therefore, Petitioner's request is proper.

11 Accordingly, it is ORDERED that Petitioner's motion for
12 leave to amend the petition to name Warden Elvin Valenzuela as
13 Respondent in this matter is GRANTED.

14 The Clerk of Court is DIRECTED to change the name of
15 Respondent to Warden Elvin Valenzuela.

16
17 IT IS SO ORDERED.

18 **Dated: October 30, 2012**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE