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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL ROY JOHNSON,

1:10-cv-01164-SMS (HC)

Petitioner,

ORDER DIRECTING CLERK OF COURT TO
CHANGE NAME OF RESPONDENT

v.

[Doc. 11]

HECTOR A. RIOS,

Respondent.

Petitioner is a federal prisoner proceeding pro se with a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

When the petition was initially filed, Petitioner named the United States Parole Commission as 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 July 13, 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 July 26, 2010, Petitioner filed a notice naming Warden Rios as the Respondent.

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

3
4 IT IS SO ORDERED.

5 **Dated:** August 10, 2010

 /s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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