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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAVID J. VALENCIA, JR.,)	1:11-CV-01066-AWI-SKO-HC
)	
Petitioner,)	ORDER GRANTING PETITIONER'S
)	MOTION TO AMEND THE PETITION TO
v.)	CHANGE THE NAME OF RESPONDENT
)	(Doc. 37)
)	
)	ORDER DIRECTING THE CLERK TO
CONNIE GIPSON,)	CHANGE THE NAME OF THE RESPONDENT
Respondent.)	
)	
)	

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 303. Pending before the Court is Petitioner's motion to amend the petition to name a proper respondent, filed on August 20, 2012.

Petitioner requests that the Court name as Respondent Connie Gipson, Warden of the California State Prison at Corcoran, California, where Petitioner is confined.

A petitioner seeking habeas relief must name the state officer having custody of him or her as the respondent to the

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

9 Accordingly, Petitioner's motion for leave to amend the
10 petition to name Warden Connie Gipson as Respondent in this
11 matter is GRANTED.

12 The Clerk of Court is DIRECTED to change the name of
13 Respondent to Warden Connie Gipson.

14
15 IT IS SO ORDERED.

16 **Dated: October 30, 2012**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE