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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN MELFORD JAGADE,
Petitioner,
v.
JEFFERY BEARD,
Respondent.

Case No. 1:13-cv-01277-LJO-GSA-HC
ORDER GRANTING PETITIONER'S
MOTION TO AMEND RESPONDENT
ECF NO. 9

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On September 12, 2013, Petitioner filed a motion to amend the petition. Petitioner requests that Jeffery Beard be substituted in place of M. E. Spearman, because Jeffrey Beard has replaced M. E. Spearman as secretary director of CDC prisons.

A petitioner seeking habeas relief must name the state officer having custody of him as the respondent to the petition. Rule 2(a) of the Rules Governing Section 2254 Cases; Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir.1996); Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir.1994). Normally, the person having custody of the prisoner is the warden of the prison because the warden has “day to day control over” the prisoner. Brittingham v. United States, 982 F.2d 378, 279 (9th Cir.1992). However, the chief officer in charge of state penal institutions is also appropriate. Ortiz, 81 F.3d at 894; Stanley, 21 F.3d at 360. Therefore,

1 Petitioner's request is proper.

2 Accordingly, Petitioner's motion for leave to amend the petition to name Jeffery Beard as
3 Respondent in this matter is GRANTED. The Clerk of Court is DIRECTED to change the name
4 of Respondent to Jeffery Beard.

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7 IT IS SO ORDERED.

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Dated: September 23, 2013

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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