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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VASILIS SAKELLARIDIS,
Petitioner,
v.
DAVE DAVEY, Warden,
Respondent.

Case No. 1:14-cv-01527-LJO-GSA HC
ORDER GRANTING PETITIONER'S
MOTION TO AMEND TO NAME A
PROPER RESPONDENT
ORDER DIRECTING CLERK OF COURT
TO SUBSTITUTE RESPONDENT
(ECF No. 8)

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

On October 16, 2014, after conducting a preliminary review of the petition, the Court determined that Petitioner had failed to name a proper respondent. The Court granted Petitioner leave to file a motion to amend the petition in order to name a proper respondent. On October 27, 2014, Petitioner filed a motion to amend the petition to name Dave Davey, the warden of his institution, as Respondent. A petitioner seeking habeas corpus relief under 28 U.S.C. § 2254 must name the state officer having custody of him as the respondent to the petition. Rule 2 (a) of the Rules Governing § 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 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.

1 United States, 982 F.2d 378, 379 (9th Cir. 1992); see also Stanley, 21 F.3d at 360. Therefore,
2 Petitioner's motion is proper and will be granted.

3 **ORDER**

4 Accordingly, IT IS HEREBY ORDERED:

5 1) Petitioner's motion to amend the petition is GRANTED; and

6 2) The Clerk of Court is DIRECTED to substitute Dave Davey as Respondent in this
7 matter.

8
9 IT IS SO ORDERED.

10 Dated: October 29, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE