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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUSSELL E. WATERMAN,

Petitioner,

No. CIV S-06-1943 GEB DAD P

vs.

BILL LOCKYER,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of petitioner’s in forma pauperis application reveals that petitioner is unable to afford the costs of this suit. Accordingly, petitioner’s application for leave to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Petitioner is informed that “[a] petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition.” Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994). The proper respondent is the warden of the institution in which the petitioner is confined. Id.

In the present case, petitioner has named Bill Lockyer, Attorney General of the State of California, as respondent. The petition will be dismissed with leave to file an amended

1 petition naming the warden of California Medical Facility as respondent. See id. Petitioner's
2 amended petition should be identical to his August 30, 2006 petition except for respondent's
3 name. To ensure that the amended petition is properly filed in this case, petitioner is directed to
4 print the word "AMENDED" at the top of the first page of the habeas petition form and to enter
5 the case number assigned to this action in the space designated "Case No." Upon the filing of an
6 amended petition that complies with this order, the court will issue an order directing the
7 respondent to file and serve a response to the petition.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Petitioner's August 30, 2006 application to proceed in forma pauperis is
10 granted; and
11 2. Petitioner's August 30, 2006 petition for writ of habeas corpus is dismissed
12 with leave to file an amended petition within thirty days after this order is served.

13 DATED: September 5, 2006.

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16 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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