

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

RUDOLFO JOSE MEDINA,

Petitioner,

No. CIV S-08-0040 LKK DAD P

VS.

COUNTY OF SOLANO, et al.,

Respondents.

ORDER

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

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

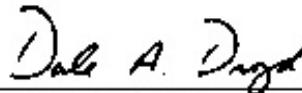
“A petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition.” Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254). Petitioner has named the County of Solano and the California Court of Appeal as respondents in this action. They are not the proper respondents in this action. Accordingly, the instant petition must be dismissed with

1 leave to amend. See Stanley, 21 F.3d at 360. In his amended petition, petitioner must name as
2 the respondent the warden of the facility where he is incarcerated.

3 In accordance with the above, IT IS HEREBY ORDERED that:

- 4 1. Petitioner's application to proceed in forma pauperis is granted;
- 5 2. Petitioner's application for writ of habeas corpus is dismissed with leave to file
6 an amended petition within thirty days from the date of this order;
- 7 3. Any amended petition must be filed on the form employed by this court, must
8 name the proper respondent, and must state all claims and prayers for relief on the form. It must
9 bear the case number assigned to this action and must bear the title "Amended Petition"; and
- 10 4. The Clerk of the Court is directed to send petitioner the form for habeas corpus
11 application.

12 DATED: February 7, 2008.

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15 DALE A. DROZD
16 UNITED STATES MAGISTRATE JUDGE
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