10 HOUA LAO,

Petitioner,

2: 08 - cv - 3171 - MCE TJB

VS.

FRANCISCO JACQUES, Warden

Respondent.

ORDER AMENDING CAPTION

Petitioner, Houa Lao, a state prisoner, is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. A petition for habeas corpus relief must name as respondent the state officer having custody of petitioner, typically the warden of the prison in which the petitioner is incarcerated. Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), Rules Governing Proceedings under 28 U.S.C. § 2254 ("[i]f the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody")). At the time Petitioner filed his amended federal habeas petition, he was incarcerated at the Pelican Bay State Prison and named Francisco Jacques, who was then Warden of Pelican Bay State Prison, as the Respondent. However, Petitioner filed a notice of change of address on March 30, 2010 which stated that he is now

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

incarcerated at the California State Prison, Sacramento. Because Tim Virga is the individual

who currently has custody of Petitioner, the caption of this case will be hereby changed to reflect the proper party Respondent. See Rule 2, Rules Governing Proceedings under 28 U.S.C. § 2254; see also, Rumsfeld v. Padilla, 542 U.S. 426, 441 (2004) ("[W]hen the Government moves a habeas petitioner after she properly files a petitioner naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release.").

Accordingly, IT IS ORDERED that this matter shall hereinafter be captioned: HOUA LAO, Petitioner v. TIM VIRGA, Respondent.

DATED: October 24, 2011

TIMOTHY J BOMMER UNITED STATES MAGISTRATE JUDGE