

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

LARRY WATSON,

Petitioner,

No. CIV S-09-1855 FCD EFB P

vs.

PEOPLE OF THE STATE OF  
CALIFORNIA,

Respondent.

ORDER

\_\_\_\_\_ /  
Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. He proceeds *in forma pauperis*. *See* 28 U.S.C. § 1915.

A petitioner seeking a writ of habeas corpus must name as respondent the person having custody over him. 28 U.S.C. § 2242; Rule 2(a), Rules Governing Section 2254 Cases. This person ordinarily is the warden of the facility where petitioner is confined. *See Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). Petitioner names as respondent the People of the State of California, who do not have custody over petitioner. Petitioner has not named the proper respondent.

////

////

1           Accordingly, it is ORDERED that the May 19, 2009 petition is dismissed with leave to  
2 file an amended petition naming the proper respondent within 30 days of the date of this order.  
3 Petitioner's failure to file an amended petition will result in a recommendation that this action be  
4 dismissed without prejudice. The Clerk of the Court is directed to send to petitioner the form  
5 Petition for a Writ of Habeas Corpus used in this court.

6 Dated: November 3, 2009.

7   
8 EDMUND F. BRENNAN  
9 UNITED STATES MAGISTRATE JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26