

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

MARLOWE BROWN,

Petitioner,

No. CIV S-09-3241 DAD P

vs.

U.S. DISTRICT COURT,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a state prisoner proceeding pro se with a habeas corpus action filed pursuant to 28 U.S.C. § 2254. In accordance with the court’s January 15, 2010 order, petitioner has filed an amended petition.

As the court previously advised, “[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 Rick Hill as the respondent in his amended petition. Rick Hill, however, is not the proper respondent. Accordingly, the instant petition must be dismissed with leave to amend. See Stanley, 21 F.3d at 360. Petitioner is advised that the proper respondent in the usual habeas action is the warden of the institution where the petitioner is currently

////

1 incarcerated. See Stanley, 21 F.3d at 360. Michael S. Evans is the current warden of Old  
2 Folsom State Prison.

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

4 1. Petitioner's amended petition for writ of habeas corpus is dismissed with leave  
5 to file a second amended petition within thirty days from the date of this order;

6 2. Any second amended petition must be filed on the form employed by this  
7 court, must name the proper respondent, and must state all claims and prayers for relief on the  
8 form. It must bear the case number assigned to this action and must bear the title "Second  
9 Amended Petition"; and

10 3. The Clerk of the Court is directed to send petitioner the form for habeas corpus  
11 application.

12 DATED: February 9, 2010.

13  
14   
15 \_\_\_\_\_  
16 DALE A. DROZD  
17 UNITED STATES MAGISTRATE JUDGE

15 DAD:9  
16 brow3241.122(2)