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

RHONDA LEWIS,

Petitioner,

No. CIV S-10-0110 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. She seeks leave to proceed *in forma pauperis*. *See* 28 U.S.C. § 1915.

Examination of the *in forma pauperis* affidavit reveals that petitioner is unable to afford the costs of suit.

A petitioner seeking a writ of habeas corpus must name as respondent the person having custody over her. 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:

2 1. Petitioner's request for leave to proceed *in forma pauperis* is granted; and

3 2. The January 14, 2010 petition is dismissed with leave to file an amended petition
4 naming the proper respondent within 30 days of the date of this order. Petitioner's failure to file
5 an amended petition will result in a recommendation that this action be dismissed without
6 prejudice. The Clerk of the Court is directed to send to petitioner the form Petition for a Writ of
7 Habeas Corpus used in this court.

8 Dated: July 26, 2010.

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10 EDMUND F. BRENNAN
11 UNITED STATES MAGISTRATE JUDGE
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