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

ELIAS R. MURILLO,

No. CIV S-10-0868-CMK-P

Petitioner,

vs.

ORDER

PEOPLE, STATE CAL. S. CT.,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s petition (Doc. 1) and request for leave to proceed in forma pauperis (Doc. 2).

Petitioner has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that petitioner is unable to prepay fees and costs or give security therefor. His request for leave to proceed in forma pauperis will therefore be granted.

However, Petitioner’s petition names “People, State Cal. S. Ct.” as the respondent. “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); see also Rule 2(a), Federal Rules Governing Section 2254 Cases. Because petitioner has not named the appropriate state officer, the petition must be dismissed with leave to amend to name the correct respondent. See Stanley, 21 F.3d at 360. Petitioner is warned that

1 failure to comply with this order may result in the dismissal of this action. See Local Rule 110.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Petitioner's request for leave to proceed in forma pauperis (Doc. 2) is
4 granted;

5 2. Petitioner's petition for writ of habeas corpus (Doc. 1) is dismissed with
6 leave to amend;

7 3. Petitioner shall file an amended petition on the form employed by this
8 court, and which names the proper respondent and states all claims and requests for relief, within
9 30 days of the date of this order; and

10 4. The Clerk of the Court is directed to send petitioner the court's form
11 habeas corpus application.

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13 DATED: June 16, 2010

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15 **CRAIG M. KELLISON**
16 UNITED STATES MAGISTRATE JUDGE
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