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

DAVID WAYNE JOHNSON,

Petitioner,

No. CIV S-10-1568 DAD P

vs.

JERRY BROWN,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

“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). Here, petitioner has named California Attorney General Jerry Brown as the respondent in this action and not the warden of his institution of confinement. Accordingly, the instant petition must be dismissed with leave to

1 amend. See Stanley, 21 F.3d at 360.

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

3 1. Petitioner's July 16, 2010 application to proceed in forma pauperis (Doc. No.
4 5) is granted;

5 2. Petitioner's June 22, 2010 application for writ of habeas corpus (Doc. No. 1) is
6 dismissed with leave to file an amended petition within thirty days from the date of this order;

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

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

12 DATED: September 2, 2010.

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14 
15 _____
16 DALE A. DROZD
17 UNITED STATES MAGISTRATE JUDGE

17 DAD:sj
18 john1568.122