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

ARLEF DAI WEAVER,

Petitioner,

No. 2:13-cv-0856 EFB P

vs.

STATE OF CALIFORNIA,

Respondent.

ORDER

_____/

Petitioner is a state prisoner proceeding without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 16, 2013, the undersigned directed respondent to file a response to the petition within 60 days. However, further review of the petition reveals that petitioner has failed to sign his petition. Accordingly, the petition must be dismissed with leave to amend and the order filed on May 16, 2013 is vacated.

A judge “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

An application for federal habeas relief must be signed under penalty of perjury, by the petitioner or by a person authorized to sign it for the petitioner. Rule 2(c)(5), Rules Governing

1 Section § 2254 Cases. Petitioner’s application is not signed. *See* Dckt. No. 1. Additionally, the
2 court requires all petitions for writ of habeas corpus be filed on the proper form which is
3 provided by this court. L.R. 190(b); *see also* Rule 2(c)-(d), Rules Governing Section § 2254
4 Cases.

5 A petitioner seeking a writ of habeas corpus must also name as respondent the person
6 having custody over him. 28 U.S.C. § 2242; Rule 2(a), Rules Governing Section 2254 Cases.
7 This person ordinarily is the warden of the facility where petitioner is confined. *See Stanley v.*
8 *California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). Petitioner names as respondent
9 “State of California,” which is not the person having custody over him. Thus, petitioner has
10 failed to name the proper respondent.

11 Accordingly, it is ORDERED that:

12 1. The May 16, 2013 order is vacated.

13 2. Petitioner has 30 days from the date of this order to file an amended petition for a writ
14 of habeas corpus curing the deficiencies identified in this order. In addition to using the proper
15 form and signing the petition, petitioner must name the proper respondent. The petition must
16 bear the docket number assigned to this action and be styled, “First Amended Petition.” The
17 petition must also be complete in itself without reference to any prior petition.

18 3. Petitioner’s failure to comply with this order may result in dismissal.

19 4. The Clerk of the Court is directed to send petitioner the court’s form for application
20 for writ of habeas corpus.

21 DATED: May 17, 2013.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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