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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MATTHEW JAMES DEGROFF,

 Petitioner,

 v.

J. PRICE,¹

 Respondent.

No. 2:13-cv-1638 JAM KJN P

ORDER TO SHOW CAUSE

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 17, 2013, respondent filed a motion to dismiss this action as barred by the statute of limitations. Petitioner has not filed an opposition to the motion. Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion”

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¹ In his petition, petitioner named Jeffrey Beard, Secretary of the California Department of Corrections and Rehabilitation as the respondent. The court now substitutes in the correct respondent, J. Price, the Acting Warden of Deuel Vocational Institution, where petitioner is presently incarcerated. See Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir.1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254) (“A petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition”). See also Smith v. Idaho, 392 F.3d 350, 355-56 (9th Cir. 2004)

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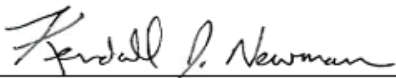
Good cause appearing, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to substitute J. Price, Acting Warden, as the respondent; and

2. Petitioner show cause, within thirty days, why his failure to oppose respondent's October 17, 2013 motion to dismiss should not be deemed a waiver of any opposition to the granting of the motion, and he shall file an opposition. Petitioner is cautioned that failure to respond to the instant order, or to file an opposition to the pending motion to dismiss, will result in a recommendation that this action be dismissed.

Dated: November 27, 2013

/degr1638.46h


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE