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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN T. CARIDAD,  
Petitioner,  
v.  
HARRY OREOL,<sup>1</sup>  
Respondent.

No. 2:14-cv-1847 KJM AC P

ORDER

By order filed June 3, 2015, respondent was accorded the opportunity to request that the court vacate the pending motion to dismiss in this action with leave to file an amended motion. See ECF No. 44. Respondent timely responded and requests that the court deny the motion to dismiss without prejudice to the filing of an amended motion or an answer to petitioner’s amended petition. Respondent requests a sixty-day period within which to file and serve a new responsive pleading.

Accordingly, for good cause shown, IT IS HEREBY ORDERED that:

- 1. The pending motion to dismiss, ECF No. 40, is denied without prejudice.

<sup>1</sup> Harry Oreol is Executive Director at Patton State Hospital, where plaintiff is detained. A federal petition for writ of habeas corpus must name as respondent the state officer having custody of petitioner. See 28 U.S.C. § 2254; Rule 2(a), Rules Governing Section 2254 Cases in the U.S. District Courts; Smith v. Idaho, 392 F.3d 350, 354-55 (9th Cir. 2004); Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994).

