1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 BENJAMIN T. CARIDAD, No. 2:14-cv-1847 KJM AC P 12 Petitioner. 13 v. **ORDER** 14 HARRY OREOL,¹ 15 Respondent. 16 17 By order filed June 3, 2015, respondent was accorded the opportunity to request that the 18 court vacate the pending motion to dismiss in this action with leave to file an amended motion. 19 See ECF No. 44. Respondent timely responded and requests that the court deny the motion to 20 dismiss without prejudice to the filing of an amended motion or an answer to petitioner's 21 amended petition. Respondent requests a sixty-day period within which to file and serve a new 22 responsive pleading. 23 Accordingly, for good cause shown, IT IS HEREBY ORDERED that: 24 1. The pending motion to dismiss, ECF No. 40, is denied without prejudice. 25 Harry Oreol is Executive Director at Patton State Hospital, where plaintiff is detained. A 26 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 27 the U.S. District Courts; Smith v. Idaho, 392 F.3d 350, 354-55 (9th Cir. 2004); Stanley v. 28 California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994). 1

2	days after the filing date of this order. <u>See</u> Rule 4, 28 U.S.C. foll. § 2254. An answer shall be
3	accompanied by all transcripts and other documents relevant to the issues presented in the
4	petition. See Rule 5, 28 U.S.C. foll. § 2254;
5	3. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be
6	filed and served within thirty days after service of the answer;
7	4. If the response to the habeas petition is a motion, petitioner's opposition or statement
8	of non-opposition to the motion shall be filed and served within thirty days after service of the
9	motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter.
10	SO ORDERED.
11	DATED: June 11, 2015
12	ALLISON CLAIRE
13	UNITED STATES MAGISTRATE JUDGE
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2. Respondent is directed to file a response to petitioner's habeas petition within sixty