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

ERIC CONRAD GULBRONSON,

No. 2:15-cv-0520-CMK-P

Petitioner,

vs.

ORDER

KAMALA D. HARRIS,

Respondent.

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Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s response to the court’s order to show cause. As directed, petitioner has also submitted a motion to proceed in forma pauperis, and an amended petition (Doc. 12).

Petitioner has submitted the affidavit required by 28 U.S.C. § 1915(a) showing that petitioner is unable to prepay fees and costs or give security therefor. The request will be granted.

Petitioner was previously directed to file an amended petition naming the correct respondent. He was informed that the proper respondent is the state officer having custody of him. See Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994); see also Rule

1 2(a), Federal Rules Governing Section 2254 Cases. “The proper person to be served in the usual
2 case is either the warden of the institution in which the petitioner is incarcerated or the chief
3 officer in charge of state penal institutions.” Advisory Committee Notes to Rule 2 of the Rules
4 Governing Section 2254 Cases. Failure to name the proper respondent deprives the court of
5 jurisdiction. See Stanley, 21 F.3d at 360.

6 Petitioner originally named a Lassen County Superior Court Judge as the
7 respondent. In his amended petition, he names the California Attorney General as the
8 respondent. Neither of these individuals have custody of petitioner. While there are
9 circumstances where naming the Attorney General may be appropriate, this is not one of those
10 limited circumstances. Petitioner will be provided one more opportunity to name the proper
11 respondent. He is again cautioned that failure to comply with this order may result in the
12 dismissal of this action. See Local Rule 110.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The order to show cause issued April 6, 2016, is discharged;
- 15 2. Petitioner’s motion for leave to proceed in forma pauperis (Docs. 10, 13)
16 is granted;
- 17 3. Petitioner’s amended petition for writ of habeas corpus (Doc. 12) is
18 dismissed with leave to amend;
- 19 4. Petitioner shall file a second amended petition on the form employed by
20 this court, and which names the proper respondent and states all claims and requests for relief,
21 within 30 days of the date of this order; and

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