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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY ARMSTRONG,  
Petitioner,  
v.  
KAMALA HARRIS,  
Respondent.

No. 2:15-cv-1090 MCE DAD P

ORDER

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254. He has requested an extension of time to file a traverse. Good cause appearing, his request will be granted.

Counsel for respondent has filed a motion seeking to name the proper respondent in this action and to terminate the currently named respondent, Kamala Harris, the Attorney General of California. Respondent’s counsel is correct that the state’s attorney general is not the proper official to name as respondent in this habeas case. “Congress has authorized § 2254 petitioners challenging present physical custody to name either the warden or the chief state penal officer as a respondent.” Rumsfeld v. Padilla, 542 U.S. 426, 450 n.18 (2004). Counsel for respondent requests that instead Jeffrey Beard, Secretary of the California Department of Corrections and Rehabilitation (CDCR), be named as respondent.

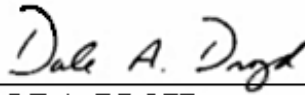
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1 Applying the decision in Padilla, the court finds the respondent's motion well-taken.  
2 Therefore it will be granted.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Petitioner's request for an extension of time (ECF No. 18) is granted.
- 5 2. Petitioner shall file a traverse within sixty days from the date of this order.
- 6 3. The motion to name the proper respondent (ECF No. 15) is granted. All future filings  
7 in this case shall name Jeffrey Beard, Secretary of CDCR, as the respondent.
- 8 4. The Clerk of Court is directed to terminate Kamala Harris as respondent.

9 Dated: October 13, 2015

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12 DALE A. DROZD  
13 UNITED STATES MAGISTRATE JUDGE

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