UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GERALD D. KEELER,	Civil No. 09-0268 WQH (JMA)
Petitioner,	
v.	**ORDER SUA SPONTE SUBSTITUTING RESPONDENT**
MATTHEW CATE, Secretary,	
Respondent.	

On January 29, 2009, Petitioner filed a petition pursuant to 28 U.S.C. § 2254 in the United States District Court for the Eastern District of California. [Doc. No. 1.]   At the time of filing, Petitioner was housed at the Sierra Conservation Center and thus named Ivan Clay, Warden, as Respondent. On February 6, 2009, the Eastern District transferred the action to this Court. [Doc. No. 4.]

Based on the notice of change of address Petitioner submitted to this Court on February 17, 2009, it appears Petitioner is no longer housed at the Sierra Conservation Camp; rather, it appears he is presently incarcerated at Prado Conservation Camp in Chino, California.
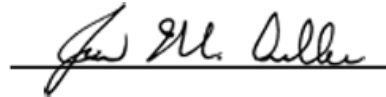
A writ of habeas corpus acts upon the custodian of the state prisoner. *See* 28 U.S.C. § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Because Petitioner's place of custody has changed, so has his custodian. Accordingly, in order to conform with the requirements of Rule 2(a) of the Rules Governing § 2254 Cases and to avoid changing the Respondent again if Petitioner is transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as

-1-   09cv0268

1 | Respondent in place of "Ivan Clay ." *See Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir.

2 | 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge of

3 | state penal institutions).

4 | The Clerk of the Court shall modify the docket to reflect "Matthew Cate, Secretary" as

5 | respondent in place of "Ivan Clay."

6 | **IT IS SO ORDERED.**

7 | DATED: February 26, 2009

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10 | Jan M. Adler
U.S. Magistrate Judge

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