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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

PAUL ZARAGOZA, aka G. GARCIA,
Petitioner,
v.
MATTHEW CATE, Secretary, et al.,
Respondents.

Civil No. 09-1598 DMS (WMc)

**ORDER SUA SPONTE SUBSTITUTING
RESPONDENT**

On July 22, 2009, Petitioner, a state prisoner proceeding pro se, submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. At the time of filing, Petitioner was apparently housed at Mule Creek State Prison and thus named Michael Martel, Warden, as Respondent. Based on the notice of change of address Petitioner submitted to the Court on November 23, 2009, it appears Petitioner is no longer housed at Mule Creek State Prison; rather, it appears he is presently incarcerated at Kern Valley State Prison in Delano, 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 Respondent in place of "Michael Martel ." *See Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th

1 Cir. 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge
2 of state penal institutions).

3 The Clerk of the Court shall modify the docket to reflect “Matthew Cate, Secretary” as
4 respondent in place of “Michael Martel.”

5 **IT IS SO ORDERED.**

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7 DATED: December 4, 2009

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9 Hon. William McCurine, Jr.
10 U.S. Magistrate Judge
11 United States District Court

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