-CAB Belmont v. Hartley

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 SANTANA BELMONT. Civil No. 09-2700 JLS (CAB) 12 Petitioner. ORDER SUA SPONTE SUBSTITUTING 13 v. RESPONDENT JAMES D. HARTLEY, Warden, 14 Respondent. 15 At the time of filing, Petitioner was apparently housed at Avenal State Prison and thus 16 17 named James D. Hartley, Warden, as Respondent. Based on the notice of change of address 18 Petitioner submitted to the Court on December 3, 2010 [return address on a letter dated 19 December 2, 2010 from Petitioner to the Court], it appears Petitioner is no longer housed at 20 Avenal State Prison; rather, it appears he is presently incarcerated at Richard J. Donovan 21 Correctional Facility in San Diego, California. 22 A writ of habeas corpus acts upon the custodian of the state prisoner. See 28 U.S.C. 23 § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Because Petitioner's place of custody has changed, 24 so has his custodian. Accordingly, in order to conform with the requirements of Rule 2(a) of the 25 Rules Governing § 2254 Cases and to avoid changing the Respondent again if Petitioner is 26 transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution 27 of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as 28 Respondent in place of "James D. Hartley." See Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th

MMONCHMB Beniverer@CaseWhabeaNhlelmont-09cv270009cv2700 sub resp. wod. 121010 -1- 09cv2700

Cir. 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge of state penal institutions). The Clerk of the Court shall modify the docket to reflect "Matthew Cate, Secretary" as respondent in place of "James D. Hartley." IT IS SO ORDERED. DATED: December 10, 2010 United States Magistrate Judge

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