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

ARTHUR LEE HARRIS,

Petitioner,

vs.

MATTHEW CATE, Secretary of the California
Department of Corrections and Rehabilitation,

Respondent.

Civil No. 10cv0966-JLS (RBB)

**ORDER SUA SPONTE
SUBSTITUTING RESPONDENTS**

On July 1, 2010, Petitioner, a state prisoner proceeding pro se, filed a First Amended Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, naming Bobby Phillips, the Warden of the institution where he was confined, and Edmund G. Brown, the California Attorney General, as Respondents. (Doc. No. 1.) Petitioner has since filed a Notice of Change of address indicating that he has been transferred to another institution. (Doc. No. 12.)

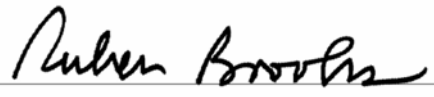
A writ of habeas corpus acts upon the custodian of the state prisoner. See 28 U.S.C. § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Because Petitioner’s place of confinement has changed, the Warden of the previous institution in no longer a proper Respondent. In addition, the California Attorney General is not a proper Respondent to this action. See Rule 2 (b), 28 U.S.C. foll. § 2254. In order to conform with the requirements of Rules 2(a) and 2(b) of the Rules Governing § 2254 Cases and to avoid changing the Respondent again if Petitioner is

1 transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution
2 of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as
3 Respondent in place of “Bobby Phillips” and “Edmund G. Brown.” See Ortiz-Sandoval v.
4 Gomez, 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may
5 be the chief officer in charge of state penal institutions).

6 The Clerk of the Court shall modify the docket to reflect “Matthew Cate, Secretary” as
7 Respondent in place of “Bobby Phillips,” “Edmund G. Brown” and “Ben Curry.”¹

8 **IT IS SO ORDERED.**

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10 DATED: October 7, 2010



Ruben B. Brooks
United States Magistrate Judge

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14 CC: ALL PARTIES

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28 ¹ In his original Petition, Petitioner named “Ben Curry” as Respondent. (Doc. No. 1.) In its June 1, 2010 Order dismissing the Petition, the Court instructed Petitioner that “Ben Curry” was not a proper Respondent to this action. (Doc. No. 4.) Petitioner did not name “Ben Curry” as a Respondent in the First Amended Petition, the operative pleading in this action. The Clerk shall therefore remove “Ben Curry” as a listed Respondent on the docket.