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

AUGUSTUS NELSON,

Petitioner,

vs.

KEN CLARK, Warden,

Respondent.

Civil No. 10-1047 IEG (AJB)

**ORDER SUA SPONTE
SUBSTITUTING RESPONDENT**

At the time of filing, Petitioner was apparently housed at the Substance Abuse Treatment Facility in Corcoran, California and thus named Ken Clark, Warden, as Respondent. Based on the notice of change of address Petitioner submitted to the Court on December 30, 2010, it appears Petitioner is no longer housed at the Substance Abuse Treatment Facility in Corcoran, California; rather, it appears he is presently incarcerated at Centinela State Prison, located in Imperial, 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

1 of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as
2 Respondent in place of “Ken Clark .” *See Ortiz-Sandoval v. Gomez*, 81 F.3d 891, 894 (9th Cir.
3 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge of
4 state penal institutions).

5 The Clerk of the Court shall modify the docket to reflect “Matthew Cate, Secretary” in place of
6 the former respondent.

7 **IT IS SO ORDERED**

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9 DATED: January 7, 2011

10 
11 Hon. Anthony J. Battaglia
12 U.S. Magistrate Judge
13 United States District Court
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