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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 ISAIAH RASHAD TAYLOR,  
12 Petitioner,  
13 vs.  
14 MARTIN HOSHINO, Acting Secretary,  
15 Respondent.  
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Civil No. 11cv1165-BTM (BLM)

**ORDER SUA SPONTE  
SUBSTITUTING RESPONDENTS**

17 On May 26, 2011, Petitioner, a state prisoner proceeding pro se, filed a Petition for a Writ  
18 of Habeas Corpus pursuant to 28 U.S.C. § 2254, naming as Respondents Mike McDonald, the  
19 Warden of Calipatria State Prison, where Petitioner was confined, and Kamala Harris, the  
20 California Attorney General. Petitioner has now submitted a Notice of change of address  
21 indicating that he has been transferred to Centinela State Prison. (ECF No. 26.) Because  
22 Petitioner's custodian has changed, the Warden of the institution where Petitioner was  
23 previously housed is no longer a proper Respondent.

24 A writ of habeas corpus acts upon the custodian of the state prisoner. See 28 U.S.C.  
25 § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. In order to conform with the requirements of  
26 Rule 2(a) of the Rules Governing § 2254 Cases and to avoid changing the Respondent again if  
27 Petitioner is transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the  
28 substitution of Martin Hoshino, Acting Secretary of the California Department of Corrections

1 and Rehabilitation, as Respondent in place of Mike McDonald. See Ortiz-Sandoval v. Gomez,  
2 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may be the  
3 chief officer in charge of state penal institutions).

4 In addition, the Attorney General of the State of California is not a proper respondent in  
5 this action. As set forth above, Rule 2 of the Rules following § 2254 provides that the state  
6 officer having custody of the petitioner shall be named as respondent. Rule 2(a), 28 U.S.C. foll.  
7 § 2254. However, “[i]f the petitioner is not yet in custody – but may be subject to future custody  
8 – under the state-court judgment being contested, the petition must name as respondents both  
9 the officer who has current custody and the attorney general of the state where the judgement  
10 was entered.” Rule 2 (b), 28 U.S.C. foll. § 2254. Here, there is no basis for Petitioner to have  
11 named the Attorney General as a respondent in this action.

12 The Clerk of the Court shall modify the docket to reflect “Martin Hoshino, Acting  
13 Secretary” as Respondent in place of “Mike McDonald” and “Kamala Harris.”

14 **IT IS SO ORDERED.**

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16 DATED: December 28, 2012

17   
18 BARBARA L. MAJOR  
19 United States Magistrate Judge  
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22 CC: ALL PARTIES  
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