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

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11 RYAN CHILCOTE,

12 Petitioner,

13 v.

14 SCOTT KERNAN, Secretary,

15 Respondent.

Case No.: 17cv0061 GPC (PCL)

**ORDER: (1) SUA SPONTE  
SUBSTITUTING RESPONDENT; and  
(2) DENYING MOTION TO ADD  
RESPONDENT [ECF No. 11] AS  
MOOT**

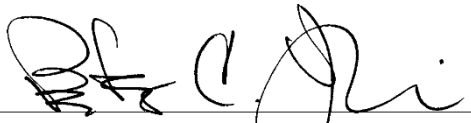
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17 Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas  
18 corpus pursuant to 28 U.S.C. § 2254 (West 2007).

19 Petitioner submitted a motion to add respondent on June 19, 2017 and a notice of  
20 change of address on June 28, 2017. A writ of habeas corpus acts upon the custodian of  
21 the state prisoner. See 28 U.S.C. § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. In order to  
22 conform with the requirements of Rule 2(a) of the Rules Governing § 2254 Cases and to  
23 avoid changing the Respondent again if Petitioner is transferred to another prison or  
24 paroled, the Court hereby sua sponte **ORDERS** the substitution of Scott Kernan,  
25 Secretary of the California Department of Corrections and Rehabilitation, as Respondent  
26 in place of “D. Davey.” See Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996)  
27 (stating that the respondent in § 2254 proceedings may be the chief officer in charge of  
28 state penal institutions).

1           The Clerk of the Court will modify the docket to reflect “Scott Kernan, Secretary”  
2 as respondent in place of “D. Davey.” Because the Court is sua sponte substituting Scott  
3 Kernan, Secretary, as Respondent, the Motion to Add Respondent [ECF No. 11] is  
4 **DENIED** as moot.

5           **IT IS SO ORDERED.**

6 Dated: July 11, 2017

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8 Hon. Peter C. Lewis  
9 United States Magistrate Judge

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