

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

ERIC HOWARD, ADC #105324,

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Plaintiff,

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v.

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No. 1:12CV00061-JJV

WENDY KELLY, Deputy Director,
Arkansas Department of Correction; *et al.*,

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Defendants.

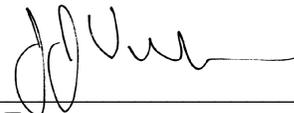
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ORDER

On November 28, 2012, defense counsel notified the Court of the death of Defendant Ronald Gana (Doc. No. 19).

According to Rule 25(a) of the Federal Rules of Civil Procedure, following a party's death, a motion to substitute the proper party must be made within ninety days after the service of a statement noting the party's death. *See* FED. R. CIV. P. 25(a). The failure to file a motion to substitute will result in the dismissal in the action by or against the decedent. *Id.* Over ninety days has passed since the notice of Mr. Gana's death, and Plaintiff has not filed a motion to substitute party. Thus, in accordance with the Federal Rules of Civil Procedure, the Court finds that the claims against Ronald Gana should be DISMISSED as a matter of law.

IT IS SO ORDERED this 8th day of March, 2013.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE