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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY WILLIAMS,

Plaintiff,

vs.

1: 03 CV 06048 OWW YNP SMS (PC)

ORDER DISMISSING ACTION
WITHOUT PREJUDICE

A. SANTA CRUZ,

Defendant.

On August 31, 2009, an order was entered, suggesting death upon the record pursuant to Federal Rule of Civil Procedure 25(a)(1). The order specified that under Rule 25(a)(1), unless a motion for substitution is made, the action shall be dismissed as to the deceased party. The order further specified that absent such a statement, this case would be dismissed on November 30, 2009. On November 23, 2009, Plaintiff filed a motion for the substitution of Defendant Santa Cruz. Plaintiff moves to substitute Defendant Santa Cruz’s successor pursuant to Rule 25(d). That rule provides that an action does not abate when a public officer who is in an official capacity dies.

This action is a civil rights action pursuant to 42 U.S.C. § 1983. In the complaint, Plaintiff does not name Defendant Santa Cruz in an official capacity. Further, While Plaintiff may seek damages against Defendants in their personal capacities, his official capacity claims are precluded by the Eleventh Amendment, which “bars suits for money damages in federal court against a state, its agencies, and state officials in their official capacities.” Aholelei v. Dept. of

1 Public Safety, 488 F.3d 1144, 1147 (9th Cir. 2007) (citations omitted); also Hydrick v. Hunter,
2 500 F.3d 978, 988 (9th Cir. 2007) Therefore, Plaintiff's official capacity damages claims fail as
3 a matter of law.

4 The court having received a suggestion of death, and no response having been filed
5 pursuant to Federal Rule of Civil Procedure 25(a)(1), This matter is ordered dismissed without
6 prejudice. The Clerk is directed to close this case.

7
8 IT IS SO ORDERED.

9 Dated: March 3, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE