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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JACK ALLEN WILSON,

CASE NO. 1:05-cv-00700-LJO-SMS PC

Plaintiff,

ORDER DISMISSING ACTION PURSUANT  
TO FRCP 25(A)(1), AND DIRECTING CLERK  
OF COURT TO ENTER JUDGMENT

v.

MATA,

(Doc. 37)

Defendant.

\_\_\_\_\_ /  
This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Jack Allen Wilson, a former state prisoner proceeding pro se and in forma pauperis. On October 7, 2009, the United States Court of Appeals for the Ninth Circuit reversed the order and judgment of this Court finding that Plaintiff failed to exhaust and dismissing the action, and mandate issued on October 29, 2009. On November 5, 2009, the Court issued an order requiring Defendant Mata to file either an answer to Plaintiff’s amended complaint, Fed. R. Civ. P. 12(a), or a notice of suggestion of Plaintiff’s death on the record, Fed. R. Civ. P. 25(a)(1).<sup>1</sup>

Defendant filed a statement of Plaintiff’s death on November 12, 2009, and represented in the notice that service in compliance with Federal Rules of Civil Procedure 4 and 25(a)(1) was made on Plaintiff’s father. However, Defendant’s brief notice was not accompanied by any supporting evidence, and on November 16, 2009, the Court ordered Defendant to supplement his notice with evidence of proper service. Defendant complied with the order on December 3, 2009.

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<sup>1</sup> Judicial notice was taken of the fact that a notice of suggestion of Plaintiff’s death on the record was filed in case number 1:06-cv-01393-JMR *Wilson v. Alamieda, et al.*

1 Plaintiff death was suggested upon the record more than ninety days ago, and no motion for  
2 substitution was made. Fed. R. Civ. P. 25(a)(1). Accordingly, this action is HEREBY ORDERED  
3 DISMISSED pursuant to Federal Rule of Civil Procedure 25(a)(1), and the Clerk of the Court shall  
4 enter judgment.

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6 IT IS SO ORDERED.

7 **Dated: June 17, 2010**

**/s/ Lawrence J. O'Neill**  
**UNITED STATES DISTRICT JUDGE**

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