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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAVELLE TYRONE PLAYER,	1:07-CV-01312-OWW-DLB PC
Plaintiff,	ORDER DISMISSING DEFENDANT
	OFTEDHAL FROM ACTION PURSUANT TO
	NOTICE OF DEATH
v.	(DOC. 52)
ADAMS, et al.,	
Defendants.	

Plaintiff Lavelle Tyrone Player ("Plantiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Campbell, Johnson, Miller, Prulx, Rangel, Oftedhal, and Watson.

On October 20, 2010, Defendants filed a notice of suggestion of death regarding Don Oftedhal. Doc. 52. Defendants' counsel declares that she was informed by CDCR's Legal Affairs Office that Defendant Oftedhal had passed away on April 27, 2010.

Pursuant to Federal Rule of Civil Procedure 25(a)(1),

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

1 More than ninety days have passed since the notice of death was
2 served, and no motion for substitution has been filed.

3 Accordingly, it is HEREBY ORDERED that Defendant Oftedhal is
4 dismissed from this action pursuant to Defendants' notice of
5 suggestion of death.

6 IT IS SO ORDERED.

7 **Dated:** May 16, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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