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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

WILLIE JAMISON ,

Plaintiff,

v.

M. CAPELLO, et al.,

Defendants.

CASE NO. 1:10-cv-01633-MJS (PC)

ORDER DISMISSING ACTION PURUSANT TO FED. R. CIV. P 25(a)(1)

(ECF No. 34)

CLERK TO TERMINATE PENDING MOTIONS AND CLOSE CASE

Plaintiff is a former state prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds against Defendants Capello and Kuntz on Plaintiff's Eighth Amendment claims. All parties have consented to Magistrate Judge jurisdiction for all purposes.

On November 20, 2014, Defendants filed a motion for summary judgment. (ECF No. 30.) Plaintiff did not respond and, on January 7, 2015, the Court ordered Plaintiff to file a response or face dismissal for failure to prosecute. (ECF No. 32.) Plaintiff filed no opposition and, on February 18, 2015, the Court ordered Plaintiff to show cause why the action should not be dismissed. (ECF No. 33.) The Court's orders were returned as undeliverable. Thereafter, on March 20, 2015, Defendants notified the Court of Plaintiff's death on or about January 29, 2015. (ECF No. 34.)

More than ninety days have passed since Defendants served their notice of

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Plaintiff's death. No successor or representative has moved to substitute for Plaintiff as to any claims that were not extinguished. Accordingly, Plaintiff's claims must be dismissed. Fed. R. Civ. P. 25(a)(1).

Based on the foregoing, this action is dismissed pursuant to Federal Rule of Civil Procedure 25(a)(1). The Clerk's Office is directed to terminate any pending motions and close the case.

IT IS SO ORDERED.