

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KAJAUNA KENYATTA IRVIN,)	Case No.: 1:10-cv-01940-DAD-SAB (PC)
)	
Plaintiff,)	
)	ORDER DIRECTING DECEASED DEFENDANT
v.)	SETH LANTZ’S COUNSEL TO RE-SERVE THE
)	SUGGESTION OF DEATH, ALONG WITH A
JAMES A YATES, et al.,)	COPY OF PLAINTIFF’S MOTION FOR
)	SUBSTITUTION ON SUCCESSOR, SHANNON
Defendants.)	LANTZ
)	
)	[ECF No. 134]

Plaintiff Kajauna Kenyatta Irvin is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”).

Currently before the Court is Plaintiff’s motion for substitution of the successor to deceased Defendant Sean Lantz. (ECF No. 134.)

Pursuant to Federal Rule of Civil Procedure 25, a notice of suggestion of death of a defendant must be filed with the court and plaintiff, and also on the proper party to be substituted in the place of the deceased defendant. Fed. R. Civ. P. 25(a)(3); Barlow v. Ground, 39 F.3d 231, 233 (9th Cir. 1994). Thus, non-party successors or representatives of the deceased party must be served with the suggestion of death in the manner provided by Rule 4 for the service of a summons. Plaintiff has filed a motion for substitution indicating that deceased Defendant Seth Lantz’s successor is Shannon Lantz, but he is unable to serve a copy because the address is confidential. Accordingly, now that Plaintiff has filed a motion for substitution identifying Shannon Lantz, as the successor of Sean Lantz, defense counsel is

1 directed to serve and file a declaration of service or other proof reflecting that there was proper service
2 of the notice of death, along with a copy of Plaintiff's motion for substitution on Defendant Sean
3 Lantz's successor or representative as provided by Rule 4. If counsel is unable to properly serve the
4 successor, a declaration stating what steps were taken to locate and serve such party must be filed.

5 Accordingly, it is HEREBY ORDERED that:

6 Within thirty (30) days of the date of this order, defense counsel shall endeavor to locate
7 Shannon Lantz as the successor for deceased Defendant Seth Lantz and either: (1) serve the notice of
8 suggestion of death on that party, along with a copy of Plaintiff's motion for substitution; or (2) file a
9 declaration documenting the steps taken to discover the location and attempts to serve Shannon Lantz
10 as successor for Seth Lantz.

11
12 IT IS SO ORDERED.

13 Dated: November 16, 2016



UNITED STATES MAGISTRATE JUDGE