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

MUHAMMAD NURIDDIN,)	Case No.: 1:11-cv-01448-LJO-SAB (PC)
)	
Plaintiff,)	
)	ORDER DISMISSING DEFENDANT BELL,
v.)	WITHOUT PREJUDICE, PURSUANT TO RULE
)	4(M) OF THE FEDERAL RULES OF CIVIL
ESTRELLA, et al.,)	PROCEDURE
)	
Defendants.)	[ECF Nos. 20, 36, 39]
)	
)	

Plaintiff Muhammad Nuriddin is appearing pro se and in forma pauperis in this civil rights action pursuant to Bivens v. Six Unknown Agents, 403 U.S. 388 (1971). Bivens actions and actions under 42 U.S.C. § 1983 “are identical save for the replacement of a state actor under § 1983 by a federal actor under Bivens.” Van Strum v. Lawn, 940 F.2d 406, 409 (9th Cir. 1991).

When personal service was attempted on Defendant Bell on August 8, 2014, the Human Resources Department at the United States Penitentiary in Atwater reported that Assistant Warden John Bell died on May 14, 2012. (ECF No. 20.)

On October 1, 2014, the Court issued an order to show cause why Defendant Bell should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (ECF No. 23.) Plaintiff filed a response on October 23, 2014. (ECF No. 26.)

1 On January 14, 2015, the Court granted Plaintiff thirty days to file a motion for substitution
2 under Rule 25 of the Federal Rules of Civil Procedure. (ECF No. 33.) Plaintiff filed a motion for
3 substitution on February 25, 2015.

4 On March 20, 2015, the Court denied Plaintiff's motion for substitution and granted Plaintiff
5 thirty days to make the proper substitution and provide a current address for service on the proper
6 party or suffer dismissal of Defendant Bell. The thirty day time frame has passed and Plaintiff has not
7 filed a motion for substitution. Dismissal of Defendant Bell without prejudice is warranted pursuant to
8 Rule 4(m) of the Federal Rules of Civil Procedure. See, e.g., Hightower v. Schwarzenegger, No.
9 1:04-cv-06028-OWW-SKO (PC), 2011 WL 2802857 at *3-5 (dismissal warranted if plaintiff fails to
10 make the proper substitution and provide current address for service of deceased defendants.)

11 Based on the foregoing, it is HEREBY ORDERED that Defendant Bell is DISMISSED,
12 without prejudice, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

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14 IT IS SO ORDERED.

15 Dated: May 13, 2015

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