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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	LUIS RODRIGUEZ,	No. 1:13-cv-00231 DAD DLB PC
12	Plaintiff,	FINDINGS AND RECOMMENDATIONS DISMISSING ACTION PURSUANT TO RULE 25(A)(1)
13	V.	
14	HEFFLEFINGER, et al.,	THIRTY-DAY OBJECTION DEADLINE
15	Defendants.	ORDER DIRECTING CLERK OF COURT TO SERVE C. GRENOT WITH THESE
16		FINDINGS AND RECOMMENDATIONS
17		
18	Plaintiff Luis Rodriguez ("Plaintiff"), a former state prisoner proceeding pro se and in	
19	forma pauperis, filed this civil rights action on February 14, 2013.	
20	Defendants filed a statement of Plaintiff's death on May 4, 2016, and represented in the	
21	notice that they served members of Plaintiff's family in compliance with Federal Rules of Civil	
22	Procedure 4 and 25(a)(1). However, Defendants' notice was not accompanied by any supporting	
23	evidence. Therefore, on August 11, 2016, the Court ordered Defendants to supplement the notice	
24	with evidence of proper service. Defendants complied with the order on August 16, 2016.	
25	Defendants' proofs of service, which they inadvertently failed to file with the Court	
26	earlier, indicate that Defendants personally served Plaintiff's successor or representative, A.	
27	Garcia, on May 7, 2016. Walker Decl. ¶¶ 3, 6. Defendants also attempted service on Plaintiff's	
28	Plaintiff's wife, Caroline Grenot, informed the Court of Plaintiff's passing in a letter dated April 21, 2016.	
	d Comment of the Comm	•

1 successors or representatives C. Grenot and D. Rodriguez numerous times, but were not 2 successful. Walker Decl. ¶¶ 4-5. 3 Plaintiff death was suggested upon the record more than ninety days ago, with proper service, and no motion for substitution has been made. Fed. R. Civ. P. 25(a)(1).² 4 5 Accordingly, the Court RECOMMENDS that this action be DISMISSED pursuant to 6 Federal Rule of Civil Procedure 25(a)(1). These Findings and Recommendations are submitted to 7 the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. 8 § 636(b)(1). Within thirty (30) days after being served with these Findings and 9 Recommendations, any party may file written objections with the Court and serve a copy on all 10 parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and 11 Recommendations." Any reply to the objections shall be served and filed within ten (10) days 12 after service of the objections. The parties are advised that failure to file objections within the 13 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 14 1153 (9th Cir.1991). 15 The Clerk of Court is ORDERED to serve these Findings and Recommendations on C. 16 Grenot, at the address specific in Document 67. 17 IT IS SO ORDERED. 18 1s/ Dennis L. Beck 19 Dated: **August 17, 2016** UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26

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² The Court issued Findings and Recommendations on March 7, 2016, recommending that Defendants' motion for summary judgment based on exhaustion be granted in part. Given the notice of Plaintiff's death, the Findings and Recommendations have not been adopted.