

1 The parties have requested clarification on the status of plaintiff's remaining claims. For
2 all defendants who have appeared in this case and remain after summary judgment, only
3 injunctive and declaratory relief remain. As indicated by the court, defendant Allenby was not
4 subject to summary judgment because he was inadvertently dismissed prior to service by the
5 previously-assigned Magistrate Judge. *See* ECF No. 71 at 18. Defendant Allenby is now
6 deceased. Plaintiff's claim for injunctive relief against defendant Allenby remains against the
7 appropriate substitute public official. The court will allow plaintiff a period of time to consider
8 whether he has basis to assert a claim for damages against defendant Allenby's successor or
9 representative in an individual capacity. If he believes that service is appropriate, plaintiff may
10 file a motion seeking substitution of the party. Fed. R. Civ. P. 25(a)(1). Otherwise, the
11 individual-capacity claim will be extinguished. Although no claims for damages have been
12 dismissed with respect to defendant Allenby, the analysis in the court's findings and
13 recommendations provides guidance for how those claims would have been treated if he had been
14 properly before the court.

15 Finally, for those official capacity claims for declaratory and injunctive relief that remain
16 against state defendants, defendants have requested that Stephanie Clendenin, the current Director
17 of California Department of State Hospitals, be substituted as the appropriate public officer
18 defendant. *See* Fed. R. Civ. P. 25(d). The docket will be amended to reflect this substitution.

19 Accordingly, it is hereby ordered that:

- 20 1. Defendants must notify the court as to whether they will participate in a settlement
21 conference by June 1, 2020;
- 22 2. This case is stayed until five days after a settlement conference has taken place or until
23 defendants file a notice opting out of settlement;
- 24 3. After the stay is lifted:
 - 25 a. Within 30 days, plaintiff must notify the court whether he intends to pursue
26 any individual-capacity claims against defendant Allenby's successor or
27 representative; if so, by the same date, plaintiff must file a motion for
28 substitution;

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b. The parties will have 120 days for additional written discovery and an additional 90 days for depositions; and

c. The parties will have 90 days to file dispositive motions after the close of discovery.

4. The clerk of court is directed to dismiss defendant Stephen Mayberg, Ex-Executive Director of all Five Hospitals from the docket, and add the substitute defendant Stephanie Clendenin, Director of California Department of State Hospitals to the docket.

IT IS SO ORDERED.

Dated: May 26, 2020


UNITED STATES MAGISTRATE JUDGE

No. 204.