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

SAM CONSIGLIO, JR.,)	Case No.: 1:16-cv-01268-AWI-SAB (PC)
)	
Plaintiff,)	
)	SUA SPONTE ORDER REGARDING
v.)	SUBSTITUTION OF PARTY SUED IN THEIR
)	OFFICIAL CAPACITY
EDMUND G. BROWN, et al.,)	
)	[ECF Nos. 23, 24]
Defendants.)	
)	
)	
)	

Plaintiff Sam Consiglio, Jr., is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds against Defendants Edmund Brown, Governor of the State of California, Pamela Ahlin, Director of the California Department of State Hospitals, and Audrey King, Executive Director of Department of State Hospitals-Coalinga (“DSH-C”), in their official capacities, on Plaintiff’s claim that the prohibitions in 9 C.C.R. § 891 and 9 C.C.R. § 4350 amount to punishment in violation of the Fourteenth Amendment.

On November 14, 2017, a waiver of service of summons was filed by defense counsel. The waiver was executed by counsel for Brandon Price on November 9, 2017, with a notation stating that Brandon Price was appearing in place of Defendant King, who has now retired from her position. (ECF No. 23)

On November 22, 2017, a copy of the waiver and the Form USM-285 was returned, showing that Brandon Price, Executive Director of DSH-C, was served in place of Defendant King. Plaintiff provided information in the USM-285 form that at the time this action was filed, Audrey King was the Executive Director of DSH-C, but has since retired, and to his understanding, Brandon Price has

1 replaced her as Executive Director. (ECF No. 24.) The request to waive was sent by the United States
2 Marshal on August 1, 2017. (Id. at 2.)

3 Defendant King is the former Executive Director of DSH-C, who was sued in her official
4 capacity. Under Federal Rule of Civil Procedure 25, when a public officer who has been sued in his or
5 her official capacity leaves office, “[t]he officer’s successor is automatically substituted as a party.”
6 Fed. R. Civ. P. 25(d). “Later proceedings should be in the substituted party’s name, but any misnomer
7 not affecting the parties’ substantial rights must be disregarded. The court may order substitution at
8 any time, but the absence of such an order does not affect the substitution.” Id.

9 Therefore, Brandon Price is automatically substituted for Defendant King. The Clerk of the
10 Court will be directed to update the docket to reflect this automatic substitution of a party.

11 Accordingly, the Court HEREBY ORDERS that:

12 1. Pursuant to Federal Rule of Civil Procedure 25(d), “Brandon Price” is automatically
13 substituted for “Audrey King” as the Defendant Executive Director of DSH-C, sued in their official
14 capacity in this action; and

15 2. The Clerk of the Court is respectfully directed to update the docket to reflect this
16 substitution of parties.

17
18 IT IS SO ORDERED.

19 Dated: December 6, 2017



UNITED STATES MAGISTRATE JUDGE