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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 ANDREW RAMIREZ,

12 Plaintiff,

13 v.

14 P.A. MIRANDA, et al.,

15 Defendants.
16

No. 2:13-cv-0600 KJN P

ORDER

17 Plaintiff was a state prisoner proceeding in forma pauperis. Plaintiff consented to proceed
18 before the undersigned for all purposes. See 28 U.S.C. § 636(c). On July 30, 2014, the
19 undersigned issued an order to plaintiff's next of kin, Andrew Ramirez, Jr., asking him to notify
20 the court, within forty-five days, whether he would waive personal service of the notice of
21 suggestion of death on the record, and to inform the court whether he would file a motion for
22 substitution or did not intend to pursue this action. The mailing was not returned from the postal
23 service, but Andrew Ramirez, Jr., has not responded to the July 30, 2014 order.

24 Therefore, the undersigned orders the United States Marshal to personally serve a copy of
25 the instant order, as well as a copy of the July 30, 2014 suggestion of death on the record and
26 order on plaintiff's next of kin, Andrew Ramirez, Jr., who is granted ninety days from the date of
27 personal service in which to file a motion for substitution of parties in this case. Mr. Ramirez, Jr.,
28 is informed that failure to timely file such motion for substitution will result in the dismissal of

1 this action without prejudice. Because plaintiff is deceased, the Clerk of the Court is relieved of
2 the obligation to serve a copy of this order on plaintiff.

3 Accordingly, IT IS HEREBY ORDERED that:


4 1. The Clerk of the Court is directed to forward to the United States Marshal a copy of the
5 instant order, the July 30, 2014 suggestion of death on the record and order (ECF No. 15), and a
6 completed USM-285 form for service on Mr. Ramirez, Jr.

7 2. Within fourteen days from the date of this order, the United States Marshal shall
8 personally serve Andrew Ramirez, Jr., 4481 Heather Circle, Chino, California 91710, with the
9 instant order, and a copy of the July 30, 2014 suggestion of death on the record and order.

10 3. Within ninety days from the date of personal service, plaintiff's next of kin, Andrew
11 Ramirez, Jr., shall file a motion for substitution in this action, if he so desires. Failure to file such
12 motion will result in the dismissal of this action.

13 4. The Clerk of the Court is relieved of the obligation to serve plaintiff with a copy of the
14 instant order because plaintiff is deceased.

15 Dated: October 1, 2014

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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