1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 No. 2:14-cv-2809-TLN-EFB P RAYMOND D. JACKSON, 12 Plaintiff, 13 **FINDINGS AND RECOMMENDATIONS** v. 14 SINGH, et al., 15 Defendants. 16 17 Plaintiff was a state prisoner proceeding without counsel in an action brought under 42 18 U.S.C. § 1983. On October 23, 2018, defendants notified the court of plaintiff's death by filing a 19 "Statement Noting Death of Plaintiff." ECF No. 52. On February 8, 2019, defendants served the 20 statement noting death on plaintiff's apparent successor-in-interest. ECF No. 54. Service of the 21 statement noting death triggered the 90-day deadline by which a person who wishes to substitute 22 for the deceased may file a motion to be substituted as the plaintiff. Fed. R. Civ. P. 25(a)(1). 23 Dismissal is mandatory if no such motion is filed within the 90-day period. *Id.* 24 The court finds that 90 days have passed since defendants served the statement noting 25 death, and no motion for substitution has been filed. 26 ///// 27 ///// ///// 28 1

Accordingly, it is hereby RECOMMENDED that this action be dismissed pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). DATED: May 16, 2019.

SIMILA

EDMUND F. BRENNAN

UNITED STATES MAGISTRATE JUDGE