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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NOEL RAY SMITH,
Plaintiff,
v.
CHAIM ZAKLOS et al.,
Defendants.

No. 2:15-cv-0842 WBS CKD P (TEMP)

ORDER

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983. On March 29, 2016, the court ordered the United States Marshal to effect service on defendants Jeffrey Beard and Chaim Zaklos. Plaintiff has filed a motion to substitute Scott Kernan for Jeffrey Beard because Kernan has replaced Beard as Secretary of the California Department of Corrections and Rehabilitation.

Rule 25 of the Federal Rules of Civil Procedure provides:

An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer's successor is automatically substituted as a party. Later proceedings should be in the substituted party's name, but any misnomer not affecting the parties' substantial rights must be disregarded. The court may order substitution at any time, but the absence of such an order does not affect the substitution.

Fed. R. Civ. P. 25(d).

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In this case, the court finds that substitution is appropriate pursuant to Federal Rule of Civil Procedure 25.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion to substitute Scott Kernan for Jeffrey Beard (Doc. No. 21) is granted; and
2. The Clerk of the Court is directed to substitute Scott Kernan, the Secretary of the California Department of Corrections and Rehabilitation, for Jeffrey Beard as the proper defendant in this matter.

Dated: April 21, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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