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8	IN THE UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	DUANE LINDER,	No. 2:18-CV-2281-DJC-DMC-P
12	Plaintiff,	
13	V.	FINDINGS AND RECOMMENDATIONS
14	JAMES S. PUCELIK, et al.,	
15	Defendants.	
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17	Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to	
18	42 U.S.C. § 1983. Pending before the Court is Defendants' motion to dismiss, ECF No. 71.	
19	Defendants contend this action should be dismissed pursuant to Federal Rule of Civil Procedure	
20	25(a)(1) following Plaintiff's death.	
21	By separate order issued herewith, the Court has directed that Plaintiff's legal	
22	materials be sent to Plaintiff's sister, Ms. Terri Sanford. Pending a motion to substitute filed by	
23	Ms. Sanford or other next of kin, the Court finds that Defendants' motion to dismiss should be	
24	denied without prejudice to renewal of no motion to substitute is filed within the 90-day period	
25	specified in Rule 25(a)(1).	
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1	Based on the foregoing, the undersigned recommends that Defendants' motion to	
2	dismiss, ECF No. 71, be DENIED without prejudice.	
3	These findings and recommendations are submitted to the United States District	
4	Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days	
5	after being served with these findings and recommendations, any party may file written objections	
6	with the Court. Responses to objections shall be filed within 14 days after service of objections.	
7	Failure to file objections within the specified time may waive the right to appeal. See Martinez v.	
8	<u>Ylst</u> , 951 F.2d 1153 (9th Cir. 1991).	
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10	Dated: August 3, 2023	
11	DENNIS M. COTA	
12	UNITED STATES MAGISTRATE JUDGE	
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