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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

LAWRENCE E. GOMES,
Plaintiff,
v.
MARIANA LOTASZTAIN, et al.,
Defendants.

No. 2:19-CV-1499-KJM-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a former prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

On August 5, 2021, Defendants filed a notice of Plaintiff's death. See ECF No. 69. Pursuant to Federal Rule of Civil Procedure, upon the death of Plaintiff, a motion for substitution may be filed within 90 days of the notice of death. The rule further provides that the action must be dismissed if no such motion is timely filed. See Fed. R. Civ. P. 25(a)(1). To date, more than 90 days have passed and no motion to substitute has been filed. This action must, therefore, be dismissed. See id.

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Based on the foregoing, the undersigned recommends that this action be dismissed.

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)(1). Within 14 days after being served with these findings and recommendations, any party may file written objections with the Court. Responses to objections shall be filed within 14 days after service of objections. Failure to file objections within the specified time may waive the right to appeal. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: November 29, 2021



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE