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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH DELGADO,
Plaintiff,
v.
JOE A. LIZARRAGA, et al.,
Defendants.

No. 2:19-cv-1540 KJM KJN P

FINDINGS AND RECOMMENDATIONS

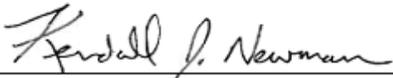
Plaintiff is a state prisoner, proceeding pro se, with a civil rights action pursuant to 42 U.S.C. § 1983. On May 20, 2020, counsel for defendants Barton and Scheurer filed a suggestion of death upon the record as to defendant Negrete. A suggestion of death upon the record pertaining to the death of defendant Negrete was filed on June 3, 2020. Pursuant to Federal Rule of Civil Procedure 25, a motion for substitution of a proper party must be made no later than ninety days after the death is suggested upon the record. That time period has now expired, and no motion for substitution has been filed. Therefore, defendant Negrete must be dismissed. Weil v. Investment/Indicators, Research and Management, Inc., 647 F.2d 18, 21 n. 5 (9th Cir.1981); Fed. R. Civ. P. 25(a)(1).

Accordingly, IT IS HEREBY RECOMMENDED that defendant Negrete 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 fourteen days

1 after service of these findings and recommendations, any written objections may be filed with the
2 court. The document should be captioned “Objections to Magistrate Judge’s Findings and
3 Recommendations.” Any response to the objections shall be filed and served within fourteen
4 days after service of the objections. Failure to file objections within the specified time may waive
5 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: October 15, 2020

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8 _____
9 KENDALL J. NEWMAN
10 UNITED STATES MAGISTRATE JUDGE

11 /delg1540.death.fr
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