1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 JEREMIAH SIMMONS, No. 2:19-cv-02491-KJM-JDP (PC) 12 Plaintiff, 13 v. **ORDER** 14 G. POMPEY, 15 Defendant. 16 17 Plaintiff, a former state prisoner proceeding pro se, has filed this civil rights action 18 seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate 19 Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 The court has learned plaintiff has passed away during the pendency of this action. On 21 October 10, 2023, the magistrate judge filed findings and recommendations, recommending this 22 action be dismissed without prejudice because plaintiff's successor or representative has not filed 23 a motion for substitution in accordance with Federal Rule of Civil Procedure 25(a). The findings 24 and recommendations were served on all parties and contained notice to all parties that any 25 objections to the findings and recommendations were to be filed within fourteen days. No party 26 has filed objections to the findings and recommendations. 27 The court presumes that any findings of fact are correct. See Orand v. United States, 28 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed 1

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de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court"). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed October 10, 2023, are adopted in full;
- 2. This action is dismissed without prejudice; and
- 3. The Clerk of Court is directed to close this matter.

DATED: December 28, 2023.

CHIEF UNITED STATES DISTRICT JUDGE