

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DARRELL PEOPLES,

Plaintiff,

v.

Case No. 18-1010-JWB

WICHITA STATE UNIVERSITY,

Defendant.

MEMORANDUM AND ORDER

This action alleging employment discrimination was filed *pro se* by Plaintiff on January 8, 2018. (Doc. 1.) On August 31, 2019, Defendant filed a suggestion of death asserting that Plaintiff Darrell Peoples had died. (Doc. 107.) A return of service was subsequently filed showing Defendant had caused personal service of a summons on Floria Clark (Plaintiff's mother), on September 4, 2019. (Doc. 108.)

Rule 25 provides in part that if a party dies and the claim is not extinguished, the court may order substitution of the proper party, and a motion for substitution may be made by any party or by the decedent's successor or representative. Fed. R. Civ. P. 25(a)(1). "If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." *Id.*

The court finds that no motion for substitution has been made within 90 days after service of a statement noting Plaintiff's death. Pursuant to Fed. R. Civ. P. 25(a)(1), the action is hereby **DISMISSED WITHOUT PREJUDICE**. The pending motions (Docs. 87, 94, 95, 96, 97, 98, 99) are **DENIED** as moot.

IT IS SO ORDERED this 11th day of December, 2019.

_____ s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE