

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MARION DOYLE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:14-cv-000259-JDL
)	
FALMOUTH POLICE DEPARTMENT,)	
et al.,)	
)	
Defendants.)	

ORDER ON MOTIONS TO SUBSTITUTE

This pro se action was originally brought by plaintiffs Michael Doyle and Marion Doyle. See ECF No. 1. At a hearing on January 21, 2015, Michael Doyle suggested Marion Doyle’s death on the record. See ECF No. 31. On February 4, I issued an order dismissing plaintiff Michael Doyle’s complaint for failure to state a claim on which relief could be granted. ECF No. 33. I noted in that order that I would decline to act on the defendants’ motion to dismiss as it related to Marion Doyle, because a substitution for Marion as a party pursuant to Federal Rule of Civil Procedure 25 had not yet occurred. *Id.* at 1 n.1. On March 4, defendants filed a motion to substitute Michael Doyle, in his capacity as the personal representative of the Estate of Marion Doyle, for Marion. ECF No. 35 at 2. I grant defendants’ motion.

Defendants have further requested that Michael Doyle be compelled to obtain counsel. *Id.* I decline to do so. However, I note that because a layperson may not appear on behalf of an estate, see *State v. Simanonok*, 539 A.2d 211, 212 (Me. 1988), Michael Doyle, in his capacity as the personal representative of the Estate of Marion

Doyle, must obtain counsel if he wishes to appear in this matter in his capacity as a personal representative. If counsel for the Estate has not entered an appearance within thirty (30) days of this order, I will issue an order to show cause why this case should not be dismissed for lack of prosecution. *See* Loc. R. 41.1(b).

Finally, Michael Doyle has also filed a motion to substitute himself for Marion Doyle. ECF No. 36. It appears that Michael is seeking to substitute himself in his personal capacity, and not in his capacity as the personal representative of Marion's Estate. *Id.* at 1. Because a cause of action only survives for the personal representative of the deceased, *see* 18-A M.R.S.A. § 3-817(a), I deny Michael's motion to substitute himself in his individual capacity.

Accordingly, defendant's motion to substitute (ECF No. 35) is **GRANTED**. Michael Doyle's motion to substitute (ECF No. 36) is **DENIED**.

SO ORDERED.

Dated: April 22, 2015

/s/ Jon D. Levy
U.S. District Judge