

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY PATTERSON,

Plaintiff,

Case No. 16-cv-12422

Hon. Matthew F. Leitman

v.

CITY OF DETROIT, *et al.*,

Defendants.

ORDER DISMISSING ACTION WITHOUT PREJUDICE

On June 28, 2016, Plaintiff Timothy Patterson (“Patterson”) filed an action against Defendants City of Detroit and Charles Flanagan. (*See* Compl., ECF #1.)

On October 27, 2017, Patterson’s attorney filed a Suggestion of Death with the Court in which he stated “Plaintiff Timothy Patterson has died.” (*See* ECF #8 at 1, Pg. ID 53.)

Rule 25(a) of the Federal Rules of Civil Procedure provides, in pertinent part, that

[i]f a party dies and the claim is not extinguished . . . [a] motion for substitution may be made by any party or by the decedent’s successor or representative. 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.

Thus, under Rule 25(a), “any party” or Patterson’s “successor or representative” was required to file a motion to substitute the proper party in this action no later than January 25, 2018 (90 days from when the Suggestion of Death was filed on October 27, 2017). January 25 has now passed and no one (including Patterson’s attorney) has filed a motion for substitution of the proper party in this action.

Accordingly, **IT IS HEREBY ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: February 14, 2018

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 14, 2018, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764