

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

LAURENCE STEWART,

Plaintiff,

vs.

MR. BERKEBILE, MS. ARNOLD, MR.  
SPIEGLE, and MR. WEAVER,

Defendants.

CV 15-00089-GF-BMM

**ORDER**

Plaintiff/Appellant Laurence Stewart died while this matter was on appeal. The Ninth Circuit issued an order explaining that a personal representative must file a motion to be substituted as a party for Stewart, pursuant to Fed. R. App. P. 43(a)(1). No personal representative appeared, and the Ninth Circuit dismissed the appeal as to certain parties. Defendant/Appellant Weaver continued with his appeal. (Doc. 214 at 5.)

The Ninth Circuit vacated this Court's order denying summary judgment, the jury verdict, the clerk's judgment, and the award of costs on September 19, 2022.

*Stewart v. Berkebile*, Memorandum opinion, No. 19-36106, (9th Cir. September 19, 2022 (Doc. 210.) The Ninth Circuit remanded for further proceedings.

The Court directed Defendants to propose the proper resolution of the matter. (Doc. 212.) Defendants suggest that, as no personal representative has appeared on behalf of Plaintiff Stewart, the matter should be dismissed on justiciability grounds and pursuant to Fed. R. Civ. P. 25. (Doc. 214 at 2.)

Rule 25(a) provides a method for substitution of parties should a party die during litigation. The Court must dismiss the matter if a personal representative does not move for substitution within ninety days of a notice of death. No personal representative has appeared following the suggestion of death filed in the Ninth Circuit on May 18, 2020.

The jurisdiction of federal courts requires the existence of a “case or controversy” under Article III of the Constitution. *See, e.g., Public Util. Comm’n v. F.E.R.C.*, 100 F.3d 1451, 1458 (9 Cir. 1996). A claim is moot and not justiciable when the action “has lost its character as a present, live controversy.” *American Rivers v. National Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir. 1997). Without a plaintiff, this matter is no longer justiciable.

**ORDER**

Accordingly, **IT IS HEREBY ORDERED** that:

This matter is **DISMISSED**. The Clerk of Court is directed to enter judgment pursuant to Fed. R. Civ. P. 58.

DATED this 30th day of November, 2022.

A handwritten signature in blue ink that reads "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris, Chief District Judge  
United States District Court