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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 RICHARD R. GATES,

Case No. 3:19-cv-00309-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 R. BAKER, *et. al.*,

Defendants.

10 On June 6, 2019, Plaintiff Richard Gates, then an inmate in the custody of the  
11 Nevada Department of Corrections, initiated this prisoner civil rights action pursuant to 42  
12 U.S.C. § 1983. (ECF No. 1-1.) On January 12, 2021, Defendants filed a suggestion of  
13 death on the record. (ECF No. 26.) On January 13, 2021, pursuant to Federal Rule of  
14 Civil Procedure 25(a)(1), the Court directed any party or the decedent's successor or  
15 representative to file a motion for substitution within 90 days after service of a statement  
16 noting death. (ECF No. 27.) That deadline has now expired, and no party has filed a  
17 motion for substitution.

18 Under Federal Rule of Civil Procedure 25(a)(1), "[i]f a party dies and the claim is  
19 not extinguished, the court may order substitution of the proper party. A motion for  
20 substitution may be made by any party or by the decedent's successor or representative.  
21 If the motion is not made within 90 days after service of a statement noting the death, the  
22 action by or against the decedent must be dismissed." Fed. R. Civ. P. 25(a)(1).

23 It is therefore ordered that this action is dismissed with prejudice because no  
24 motion for substitution was made in accordance with the Court's January 13, 2021 order.

25 The Clerk of Court is directed to enter judgment accordingly and close this case.

26 DATED THIS 26<sup>th</sup> Day of April 2021.

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MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE