

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ANGEL MENDEZ,

Plaintiff,

No. 11-CV-961

-v-

KNOBLACH, Sgt., Onieda Correctional Facility;  
MASNER, Correctional Officer, Onieda  
Correctional Facility; and TIMOTHY COLLINS,  
Correctional Officer, Onieda Correctional Facility,

Defendants.

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APPEARANCES:

OF COUNSEL:

ANGEL MENDEZ  
Plaintiff pro se  
05-A-5320  
Wende Correctional Facility  
Regional Medical Unit  
P.O. Box 1187  
Alden, NY 14004

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorney for Defendants  
The Capitol  
Albany, NY 12224

CHRISTOPHER W. HALL, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Angel Mendez brought this action pursuant to 42 U.S.C. § 1983.

Subsequently, plaintiff died and his wife, Carmen Mendez, attempted to substitute herself as

plaintiff and continue the action on her deceased husband's behalf. On September 17, 2013, the Honorable Christian F. Hummel, United States Magistrate Judge, advised by Report-Recommendation that Ms. Mendez's motion to substitute be denied. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

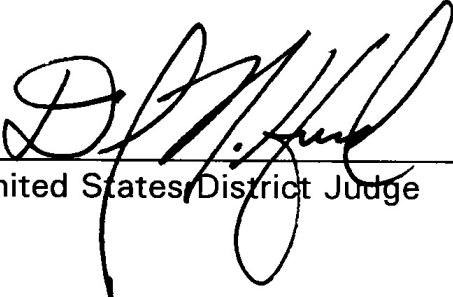
Therefore, it is

ORDERED that

1. Ms. Mendez's motion to substitute is DENIED; and
2. This case is DISMISSED for failure to substitute within 90 days after service of the statement noting the death of plaintiff Angel Mendez pursuant to Federal Rule of Civil Procedure 25(a).

The Clerk is directed to serve a copy of this Decision and Order upon defendants and Carmen Mendez.

IT IS SO ORDERED.

  
United States District Judge

Dated: November 26, 2013  
Utica, New York.