

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

No. 20-CV-3892-LTS

EUGENE DAVIS,

ORDER

Defendant.

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This matter was initiated on May 15, 2020, by order of the Court severing it from 20-CIV-570. (Docket Entry No. 1.) On September 16, 2020, the Court was notified by letter filed by Defendant City of New York that Plaintiff Eugene Davis had passed away. (Docket Entry No. 20.) The Court construed that letter as a statement noting death, pursuant to Federal Rule of Civil Procedure 25(a)(1). (Docket Entry No. 22.) The Court's order noting Plaintiff's death was served on Plaintiff's mother on September 25, 2020. (Docket Entry No. 25.)

Rule 25(a)(1) provides that "[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." Fed. R. Civ. P. 25(a)(1). More than 90 days have passed since service of the Court's order construing the Defendant City's letter noting Mr. Davis's death, and no party or successor or representative of Mr. Davis has moved for substitution. Accordingly, this case is dismissed pursuant to Rule 25(a)(1).

It is hereby ordered that the City serve a copy of this order upon any known successors or representatives of Plaintiff, and thereafter file proof of service on the docket.

The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

Dated: New York, New York
January 7, 2021

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge