

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HARRIS NYANJALA KABALAMAGA,

Plaintiff,

-against-

WILLIAM BARR, et al.,

Defendants.

USDC SDNY  
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DATE FILED: 11/3/2021

No. 20-cv-02166 (NSR)

ORDER & OPINION

NELSON S. ROMÁN, United States District Judge:

On March 11, 2020, Plaintiff Harriet Nyanjala Kabalamaga (“Plaintiff”) commenced this action against Defendants William Barr, Chad Wolf, Lee Cissna, Timothy Houghton, Susan Quintana, and Scott P. Ruben. (ECF No. 1.) On October 21, 2020, Defendants filed a Suggestion of Death indicating that counsel for Plaintiff had informed Defendants of Plaintiff’s death and arguing that dismissal of the Complaint is appropriate because the claims were extinguished by death. (ECF No. 12.) Plaintiff’s counsel failed to respond to Defendants’ request for dismissal. On June 30, 2021, the Court issued an Order to Show Cause directing Plaintiff to show cause in writing on or before July 30, 2021 why his claims should not be dismissed. (ECF No. 13.) On July 3, 2021, counsel for Plaintiff filed a letter stating Plaintiff had died. (ECF No. 14.)

Rule 25(a)(1) provides, in pertinent part, that:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. 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.

Rule 25 establishes a ninety-day period for any party to make a motion to substitute a party for the decedent. *See Kaplan v. Lehrer*, 173 F. App’x 934, 935 (2d Cir.2006). The ninety-day

period can be extended where there is “an inability or a significant difficulty in identifying the decedent’s legal representative or successor. *See Unicorn Tales, Inc. v. Banerjee*, 138 F.3d 467, 470 (2d Cir.1998).

In light of the foregoing, counsel for Plaintiff is directed to serve a copy of this Opinion and Order upon Plaintiff’s next of kin, and to file proof of service on the docket. Plaintiff’s next of kin shall have ninety days from service of this Opinion and Order to move to be substituted as the representative of Plaintiff for the purpose of prosecuting Plaintiff’s claims. In the event there is no timely substitution, the Complaint shall be deemed dismissed upon counsel for Plaintiff submitting an affidavit informing the Court that no substitution has been requested and upon submission of a proposed order of dismissal.

Dated: November 3, 2021  
White Plains, New York

SO ORDERED:



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NELSON S. ROMÁN  
United States District Judge