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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WASHINGTON

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Jan 14, 2019

SEAN F. MCAVOY, CLERK

KEVIN N.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

No. 1:17-CV-3184-JTR

ORDER DENYING MOTION FOR  
SUBSTITUTION OF PARTY  
WITHOUT PREJUDICE

12 **BEFORE THE COURT** is Plaintiff counsel's motion for substitution of  
13 party. ECF No. 21. Counsel requests that the Court substitute Tammi Purdy as the  
14 Plaintiff in this action in place of her deceased brother, Kevin N., the currently  
15 named plaintiff. ECF No. 21.

16 Plaintiff filed this disability appeal case on October 23, 2017. ECF No. 1, 4.  
17 The pending motion indicates Kevin N. died on or about August 13, 2018. ECF  
18 No. 21 at 1; ECF No. 21-1. If a claimant dies before receiving disability benefits  
19 to which he or she is entitled, the claimant's surviving spouse becomes the real  
20 party in interest. 20 C.F.R. § 404.503(b)(1). If there is no qualifying surviving  
21 spouse, then the child or children of the deceased shall become the real party in  
22 interest. 20 C.F.R. § 404.503(b)(2). If there are no children, then the real party in  
23 interest becomes the parent or parents of the deceased individual. 20 C.F.R. §  
24 404.503(b)(3).

25 Although there is a method for a sibling to be eligible to become the real  
26 party in interest, see 20 C.F.R. § 404.503(b)(7), (d), counsel has provided no  
27 documentation to demonstrate Plaintiff's sister is suitable to be the real party in  
28 interest in this matter (i.e., that she is the only living heir of Plaintiff).

1           Accordingly, Plaintiff's motion for substitution of party, **ECF No. 21**, is  
2 **DENIED WITHOUT PREJUDICE.**

3           **IT IS SO ORDERED.** The Clerk of the Court is directed to enter this order  
4 and furnish copies to counsel.

5           DATED January 14, 2019.

A handwritten signature in black ink, appearing to be "M" or "Rodgers".

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JOHN T. RODGERS  
UNITED STATES MAGISTRATE JUDGE