

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

Feb 15, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WASHINGTON

TAMMI PURDY, o.b.o., KEVIN N.,
deceased,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 1:17-CV-3184-JTR

ORDER GRANTING PLAINTIFF'S
RENEWED MOTION FOR
SUBSTITUTION OF PARTY AND
DENYING DEFENDANT'S
MOTION FOR RELIEF FROM
JUDGMENT

BEFORE THE COURT are Defendant's motion for relief from judgment, ECF No. 24, and Plaintiff's renewed motion for substitution of party, ECF No. 26. Attorney D. James Tree represents Plaintiff; Special Assistant United States Attorney Summer Stinson represents Defendant.

Plaintiff filed this disability appeal case on October 23, 2017. ECF No. 1, 4. On October 22, 2018, the Court granted Plaintiff's motion for summary judgment, in part, and remanded the case to the Commissioner for further administrative proceedings. ECF No. 17. Judgment was entered for Plaintiff. ECF No. 18. However, recent pleadings indicate Plaintiff was found dead on August 13, 2018. ECF No. 26-1; ECF No. 21-1. On January 14, 2019, Plaintiff's counsel moved the Court to substitute Tammi Purdy as the Plaintiff in this action in place of her deceased brother, Kevin N. ECF No. 21. The Court denied the motion, without prejudice, finding counsel failed to demonstrate Plaintiff's sister was suitable to be the real party in interest in this matter. ECF No. 23.

1 On January 28, 2019, Defendant filed the pending motion to alter judgment,
2 requesting the case be dismissed as moot based on Plaintiff's death and the failure
3 to substitute a qualified party in place of the deceased Plaintiff. ECF No. 24 at 3-4.
4 On January 31, 2019, Plaintiff submitted the pending renewed motion for
5 substitution of party which again seeks to substitute Tammi Purdy as the Plaintiff
6 in this action in place of her deceased brother. ECF No. 26.

7 A review of Plaintiff's motion, ECF No. 26, and the declaration of Tammi
8 Purdy, ECF No. 27, reflects Kevin N. has no spouse, Kevin N. has no living parent
9 or children, and Ms. Purdy is the sole surviving sibling of Kevin N. Consequently,
10 Ms. Purdy is qualified to be substituted as the real party in interest in this matter.
11 See 20 C.F.R. § 404.503(b), (d).

12 Accordingly, **IT IS HEREBY ORDERED:**

13 1. Plaintiff's renewed motion for substitution of party, **ECF No. 26**, is
14 **GRANTED**. All future pleading shall reflect the Plaintiff of this case as follows:
15 **TAMMI PURDY, o.b.o., KEVIN N., deceased**.

16 2. Defendant's motion for relief from judgment, **ECF No. 24**, is
17 **DENIED**.

18 **IT IS SO ORDERED**. The Clerk of the Court is directed to enter this
19 order, furnish copies to counsel, and **AMEND** the docket to reflect Plaintiff as
20 **TAMMI PURDY, o.b.o., KEVIN N., deceased**.

21 DATED February 15, 2019.

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

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE