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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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GREGORY TYREE BROWN,

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Plaintiff,

NO. 2:15-CV-0121-TOR

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v.

ORDER GRANTING PLAINTIFF'S
MOTION TO SUBSTITUTE PARTIES

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ELDON VAIL, et al,

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Defendants.

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BEFORE THE COURT is Plaintiff's Motion to Substitute Parties. ECF No.

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51. This matter was submitted for consideration without oral argument. The Court

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has reviewed the record and files herein, and is fully informed. For the reasons

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discussed below, Plaintiff's Motion to Substitute Parties (ECF No. 51) is

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GRANTED.

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BACKGROUND

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On August 3, 2015, Plaintiff Gregory Tyree Brown, a *pro se* prisoner

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currently housed at the Clallam Bay Corrections Center, filed his First Amended

1 Complaint. ECF No. 5. Plaintiff alleged that Defendants violated his federal and
2 state constitutional rights when they confiscated and destroyed 55 of his personal
3 photographs. *Id.*

4 On March 31, 2016, this Court granted Defendants' Motion to Dismiss and
5 dismissed Plaintiff's First Amended Complaint. ECF No. 26. On March 1, 2018,
6 the Ninth Circuit vacated the dismissal of Plaintiff's action and remanded to this
7 Court. ECF No. 36. By Mandate, the Ninth Circuit's judgment took effect on
8 March 23, 2018. ECF No. 45.

9 On June 6, 2018, Plaintiff filed the instant motion to substitute parties. ECF
10 No. 51.

11 **DISCUSSION**

12 Plaintiff requests the Court substitute Defendants Eldon Vail and Bernard
13 Warner in their official capacities with the current Secretary of Department of
14 Corrections (DOC), Stephen Sinclair. *Id.* at 1. Plaintiffs also request that his
15 claims against Defendants Vail and Warner remain in their individual capacities.
16 *Id.* at 2.

17 Defendants respond that under Federal Rule of Civil Procedure 25(d), when
18 a public officer leaves during the pendency of an action, the officer's successor is
19 automatically substituted as a party. ECF No. 52 at 2; Fed. R. Civ. P. 25(d).

20 Defendants note that Defendants Vail and Warner are both former DOC

1 Secretaries. ECF No. 52 at 2. Mr. Sinclair became the DOC Secretary in 2017.
2 *Id.* Defendants then agree that Defendants Vail and Warner are replaced by Mr.
3 Sinclair in his official capacity. *Id.*

4 The Court finds that Defendants Vail and Warner are automatically
5 substituted in their official capacities by the current DOC Secretary. *See* Fed. R.
6 Civ. P. 25(d). As the parties agree, the Court determines that Defendants Vail and
7 Warner are replaced by Mr. Sinclair in his official capacity as the DOC Secretary.
8 The Court notes that Plaintiff's claims against Defendants Vail and Warner in their
9 individual capacities remain.

10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

11 Plaintiff's Motion to Substitute Parties (ECF No. 51) is **GRANTED**.

12 The District Court Executive is directed to enter this Order, furnish copies to
13 the parties, and adjust the docket accordingly.

14 **DATED** June 29, 2018.



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Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge