IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAYMOND BERGERON-DAVALIA,

    Plaintiff,

v.

STEVEN PARENTEAU, DUSTIN MEEKER
and CORRECTIONS OFFICERS DOES 1-3[1],

    Defendants.

ORDER

Case No. 17-cv-729-jdp

In an order entered on June 21, 2018, plaintiff Raymond Bergeron-Davalia was granted leave to proceed *in forma pauperis* against defendants Dustin Meeker, Steven Parenteau and CO Does 1-3. On June 29, 2018, the Wisconsin Department of Justice filed an Acceptance of Service indicating that it accepts service on behalf of defendant Steven Parenteau, but it does accept service on behalf of defendant Dustin Meeker because he is deceased. The court will construe the Wisconsin Department of Justice's representation as a suggestion of death pursuant to Federal Rule of Civil Procedure 25(a).

As set forth in *Atkins v. City of Chicago*, 547 F.3d 869, 870-74 (7th Cir. 2008), Rule 25 requires the party filing the suggestion of death to both identify the proper party to be substituted *and* serve that individual with the notice. Until proper service is effectuated, the 90-day deadline is not triggered. *Id.* at 874 ("[N]othing will suffice to start the 90-day clock running except service on whoever is identified as the decedent's representative or successor."). The Wisconsin Department of Justice may have an opportunity to identify the proper party to be substituted and then to serve the notice on that party. Once that occurs, plaintiff will have 90 days to file a motion for substitution.

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[1] I have amended the case caption to include the full name of defendants Parenteau and Meeker as identified in the Acceptance of Service.

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ORDER

IT IS ORDERED that the Wisconsin Department of Justice may have until **September 18, 2018**, to serve the proper person with notice of death or show cause why they are unable to do so. Once the Department files proof of service, plaintiff will have 90 days to file a motion for substitution.

Entered this 28th day of August, 2018.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge