

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nathan Webster v. Fletcher, et al.

Webster v. Fletcher · No. No. 2:24-cv-1479 AC P · Decided September 23, 2025

SUMMARY

The court addresses a defendant's notice indicating that the plaintiff in a 42 U.S.C. § 1983 action had died. It vacates the pending motion to dismiss and directs the defendant to file a formal notice of death and serve it on the plaintiff's representative or successor in accordance with Federal Rule of Civil Procedure 25 and Ninth Circuit precedent. The court indicates that a motion to dismiss may be filed after the substitution period expires.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 23, 2025
DOCKET	No. 2:24-cv-1479 AC P
DISPOSITION	vacated
PROCEDURAL POSTURE	While defendant's motion to dismiss was pending, defendant notified the court that plaintiff had died. The court vacated the motion and ordered defendant to file and serve a formal notice of death before any Rule 25(a) substitution period could begin.
PRECEDENTIAL VALUE	unpublished district-court order; nonprecedential

TOPICS

- service of process
- motions to dismiss
- civil procedure
- section 1983

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether defendant's notice that plaintiff had died was sufficient to trigger the ninety-day substitution period under Federal Rule of Civil Procedure 25(a).
2. Whether defendant's pending motion to dismiss should remain pending before a formal suggestion of death was filed and properly served.

HOLDINGS

1. The ninety-day period for seeking substitution under Rule 25(a) is not triggered until a party formally suggests the death on the record and serves the suggestion of death in the manner required by Rule 25 and the applicable service rules.
2. The defendant's motion to dismiss was vacated pending the filing and service of a formal notice of plaintiff's death.

KEY QUOTATIONS

“[i]f a party dies and the claim is not extinguished, the court may order substitution of a proper party.”” (at 1)

“First, a party must formally suggest the death of the party upon the record. Second, the suggesting party must serve other parties and nonparty successors or representatives of the deceased with a suggestion of death in the same manner as required for service of the motion to substitute.” (at 1)

FACTUAL BACKGROUND

Plaintiff Nathan Webster died on September 14, 2025, while his civil-rights action was pending. Defendant had filed a motion to dismiss and then submitted a notice of plaintiff's status based on a Shasta County Sheriff's Office press release. The court determined that the formal notice and service requirements governing substitution after a party's death had not yet been satisfied.

PROCEDURAL HISTORY

Defendant filed a motion to dismiss on August 8, 2025. After defendant filed a notice indicating that plaintiff had died, the court vacated the motion to dismiss and ordered defendant to file a formal notice of death and serve it on plaintiff's representative or successor.

DISPOSITION

vacated

REMAND INSTRUCTIONS

No remand was ordered. Defendant must file a formal notice of plaintiff's death within fourteen days, serve it on plaintiff's representative or successor in interest within thirty days, and file a certificate of service. After the substitution period, defendant may file a Rule 25(a) motion to dismiss.

CASES CITED

- Robertson v. Wegmann, 436 U.S. 584, 590 (1978)
- Barlow v. Ground, 39 F.3d 231, 233 (9th Cir. 1994)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 NATHAN WEBSTER, No. 2:24-cv-1479 AC P 12 Plaintiff, 13 v. ORDER
14 FLETCHER, et al., 15 Defendants. 16 17 On August 8, 2025, defendant filed a motion to
dismiss. ECF No. 21. Defendant has now 18 filed a “Notice of Plaintiff’s Status” indicating that
according to s Shasta County Sheriff’s Office 19 press release, plaintiff died on September 14,
2025.

ECF No. 26. 20 Federal Rule of Civil Procedure provides a process applicable after a party to a
civil action 21 has died. Of relevance here, it provides that “[i]f a party dies and the claim is not
extinguished, 22 the court may order substitution of a proper party.” Fed. R. Civ. P. 25(a). If the
decedent’s 23 successor or representative does not file a motion for substitution “within 90 days
after service of 24 a statement noting the death, the action by or against the decedent must be
dismissed.” Id. Under 25 California law—which federal courts apply in determining survival of a
claim under 42 U.S.C. 26 § 1983—a cause of action against a person is generally not extinguished
by that person’s death.

27 Cal. Civ. Proc. Code § 377.20(a); see Robertson v. Wegmann, 436 U.S. 584, 590 (1978). 28 ///
1 The Ninth Circuit has explained that Rule 25 requires two affirmative steps to trigger the 2 || 90-
day period: 3 First, a party must formally suggest the death of the party upon the record.

Second, the suggesting party must serve other parties and 4 nonparty successors or representatives
of the deceased with a suggestion of death in the same manner as required for service of the 5
motion to substitute.

Thus, a party may be served the suggestion of death by service on his or her attorney, while
nonparty successors or 6 representatives of the deceased party must be served the suggestion of
death in the manner provided by Rule 4 for the service of a 7 summons. 8 | Barlow v. Ground, 39
F.3d 231, 233 (9th Cir. 1994) (internal citations omitted); see Fed. R. Civ.

9 || P. 25. Under Barlow, defendants have some obligation to identify plaintiffs representative or 10
|| successor and to serve the notice of death on that party. 11 Considering the “Notice of Plaintiff’s
Status,” defendant’s motion to dismiss will be 12 || vacated. Defendants will be ordered to provide
the court with a formal notice of plaintiffs death 13 || and to serve that notice on plaintiff’s
representative or successor.

After the period for 14 || substitution, defendant may file a motion to dismiss pursuant to Rule
25(a). 15 Accordingly, IT IS HEREBY ORDERED that: 16 1. Inlight of the “Notice of Plaintiff’s
Status” (ECF No. 26), defendant’s motion to 17 || dismiss (ECF No. 21) is vacated. 18 2. Within

fourteen days of the date of this order, defendant shall fill with the court a 19 | formal notice of plaintiff's death.

20 3. Within thirty days of the date of this order, defendant shall serve a formal notice of 21 ||
plaintiff's death on plaintiff's representative or successor in interest and file a certificate of 22 ||
service with the court. 23 || DATED: September 23, 2025 ~ 24 ☐☐ —————e—r ALLISON
CLAIRE 25 UNITED STATES MAGISTRATE JUDGE 26 27 28