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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

WILLIAM SIMON,  
Plaintiff,  
v.  
C/O K. CLEMENTS, *et al.*,  
Defendant.

No. CV 15-4925-JLS (PLA)  
**ORDER ACCEPTING FINDINGS,  
CONCLUSIONS, AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

**I.  
INTRODUCTION**

On December 15, 2016, the United States Magistrate Judge issued a Final Report and Recommendation in this action, recommending that defendant’s Motion for Summary Judgment be granted and the action dismissed for failure to exhaust administrative remedies. Following an extension of time, plaintiff filed objections to the Report and Recommendation on January 17, 2017 (ECF No. 52), to which defendant filed a response on February 2, 2017 (ECF No. 53). Plaintiff then filed a Reply on February 13, 2017 (ECF No. 54).

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3 **II.**

4 **DISCUSSION**

5 In his "Reply," plaintiff once again argues that "it was impossible to retrieve the necessary  
6 paperwork" to exhaust, and that he "did send letters to Chief of Appeals." (ECF No. 54 at 2). He  
7 also states that he has "no proof other than himself," but that his 602 form "clearly shows that  
8 plaintiff stated on his 602 [he] has problems." (*Id.* at 3, 6). As stated in the Final Report and  
9 Recommendation, "plaintiff's exhibits include a document with a date of February 3, 2015, in which  
10 plaintiff seeks to discover the current status of his Appeal, but this letter does not mention any  
11 problems that plaintiff was having in obtaining supporting documents." (ECF No. 46 at 10, citing  
12 ECF No. 37-2 at 11). Accordingly, plaintiff still has failed to point to any evidence that prison  
13 officials prevented him from obtaining the documents necessary to properly complete his  
14 grievance, or that he made any attempt to timely comply with the instructions on his rejected  
15 Appeal.

16 **III.**

17 **CONCLUSION**

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Third Amended Complaint, the  
19 other records on file herein, the Magistrate Judge's Final Report and Recommendation, plaintiff's  
20 Objections to the Final Report and Recommendation, defendant's response to plaintiff's  
21 Objections, and plaintiff's reply thereto. The Court has engaged in a *de novo* review of those  
22 portions of the Final Report and Recommendation to which objections have been made. The  
23 Court accepts the recommendations of the Magistrate Judge.

24 ACCORDINGLY, IT IS ORDERED:

- 25 1. The Final Report and Recommendation is accepted.  
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2. Defendant's Motion for Summary Judgment is granted.
3. Plaintiff's action is dismissed without leave to amend and without prejudice for failure to exhaust administrative remedies.
4. Judgment shall be entered consistent with this Order.
5. The clerk shall serve this Order and the Judgment on all counsel or parties of record.

DATED: April 25, 2017



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HONORABLE JOSEPHINE L. STATON  
UNITED STATES DISTRICT JUDGE