

1 exhaust administrative remedies be granted. (ECF No. 111.) On September 13, 2011,
2 Plaintiff filed his Objections to the Findings and Recommendation. (ECF No. 116.)

3 In his Objection, Plaintiff again makes the futility argument, stating that because all
4 of his requests were denied, any grievance he filed would have been denied too. The
5 argument is not persuasive. As the Magistrate Judge explained in the Findings and
6 Recommendation, futility is not an exception to the exhaustion requirement. Booth v.
7 Churner, 532 U.S. 731, 741 n. 6 (2001) (“[W]e will not read futility or other exceptions into
8 statutory exhaustion requirements where Congress has provided otherwise.”); see also
9 Tatum v. Rosario, 2005 WL 2114190, *2 n. 4 (E.D. Cal. Sep. 1, 2005).

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11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(c) and Local Rule 305,
12 this Court has conducted a de novo review of this case. Having carefully reviewed the
13 entire file, the Court finds the Findings and Recommendation to be supported by the record
14 and by proper analysis. Thus, Defendant Federal Bureau of Prison’s Motion to Dismiss
15 is granted. Defendant Federal Bureau of Prisons and all claims against it are dismissed
16 from this action without prejudice.

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18 Accordingly, IT IS HEREBY ORDERED that:

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20 1. The Findings and Recommendation, filed August 12, 2011, is adopted in full;
21 2. All claims against Defendant Federal Bureau of Prisons are DISMISSED
22 WITHOUT PREJUDICE for failure to exhaust administrative remedies; and
23 3. Defendant Federal Bureau of Prisons is DISMISSED from this action. IT IS
24 SO ORDERED.

25 **Dated: September 16, 2011 /s/ Oliver W. Wanger**
26 UNITED STATES DISTRICT JUDGE