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6 **UNITED STATES DISTRICT COURT**
78 EASTERN DISTRICT OF CALIFORNIA
910 LOVETTE PETTEAY, CASE NO. 1:07-cv-01496-OWW-SMS PC
1112 Plaintiff, ORDER ADOPTING FINDINGS AND
13 v. RECOMMENDATIONS, AND GRANTING
14 AVENAL STATE PRISON, et al., DEFENDANT'S MOTION TO DISMISS
15 Defendants. ACTION, WITHOUT PREJUDICE, FOR
16 FAILURE TO EXHAUST
1718 (Docs. 16 and 18)
1920 Plaintiff Lovette Petteay ("Plaintiff") is a state prisoner proceeding pro se and in forma
21 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United
22 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.
2324 On December 15, 2008, the Magistrate Judge filed a Findings and Recommendations
25 recommending Defendant Henry's motion to dismiss be granted. The parties were given fifteen days
26 within which to file any objections. No objections were filed.
2728 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
1 de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings
2 and Recommendations to be supported by the record and by proper analysis.
34 Accordingly, IT IS HEREBY ORDERED that:
56 1. The Findings and Recommendations, filed December 15, 2008, is adopted in full;
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2. Defendant's motion to dismiss for failure to exhaust, filed September 2, 2008, is GRANTED and this action is dismissed without prejudice.

IT IS SO ORDERED.

Dated: January 26, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE