

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LOVETTE PETTEAY,

CASE NO. 1:07-cv-01496-OWW-SMS PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND GRANTING
DEFENDANT'S MOTION TO DISMISS
ACTION, WITHOUT PREJUDICE, FOR
FAILURE TO EXHAUST

v.

AVENAL STATE PRISON, et al.,

Defendants.

(Docs. 16 and 18)

Plaintiff Lovette Petteay ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On December 15, 2008, the Magistrate Judge filed a Findings and Recommendations recommending Defendant Henry's motion to dismiss be granted. The parties were given fifteen days within which to file any objections. No objections were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed December 15, 2008, is adopted in full;
and

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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