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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Gregory Lynn Norwood,
Plaintiff,
vs.
M. Robinson, et al.,
Defendants.

No. CV 08-00172-ROS
ORDER

(PC) Norwood v. Robinson et al

Doc. 38

Defendants have filed Motions to Dismiss (Doc. 27, 35) pursuant to Rule 12(b) of the Federal Rules of Civil Procedure for failure to exhaust prison administrative remedies as required by 42 U.S.C. § 1997e(a) and Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim. Plaintiff filed responses but, in an abundance of caution, the Court will give him an opportunity to submit additional filings.

NOTICE--WARNING TO PLAINTIFF

THIS NOTICE IS REQUIRED TO BE GIVEN TO YOU BY THE COURT¹

Defendants' Motions to Dismiss seek to have your case dismissed for failure to exhaust prison administrative remedies as required by 42 U.S.C. § 1997e(a). A motion to dismiss under Rule 12(b) of the Federal Rules of Civil Procedure will, if granted, end your case. When deciding a motion to dismiss for failure to exhaust, the Court may consider

¹ Wyatt v. Terhune, 315 F.3d 1108, 1120 n.14 (9th Cir. 2003).

1 evidence beyond your complaint, including sworn declarations and other admissible
2 documentary evidence. Moreover, if Defendants produce admissible evidence demonstrating
3 that you failed to exhaust available administrative remedies, your complaint will be dismissed
4 without prejudice unless your response to Defendants' Motion includes admissible evidence
5 sufficient to show that you exhausted all available administrative remedies or that no
6 administrative remedies were available to you. Types of admissible evidence may include
7 copies of your grievances, grievance responses and sworn declarations.

8 You must timely respond to all motions. The Court may, in its discretion, treat your
9 failure to respond to Defendants' Motion to Dismiss as a consent to the granting of that
10 Motion without further notice, and judgment may be entered dismissing this action without
11 prejudice. See Brydges v. Lewis, 18 F.3d 651 (9th Cir. 1994) (*per curiam*).

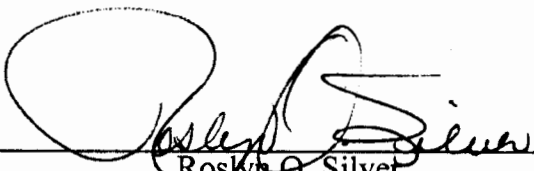
12 **IT IS ORDERED** that Plaintiff may file additional responses to Defendants' Motions
13 to Dismiss, together with copies of grievances, sworn declarations or other admissible
14 evidence, no later than October 23, 2009.

15 **IT IS FURTHER ORDERED** that Defendants may file replies within 15 days after
16 service of Plaintiff's response.

17 **IT IS FURTHER ORDERED** that the Motions to Dismiss will be deemed ready for
18 decision without oral argument on the day following the date set for filing a reply unless
19 otherwise ordered by the Court.

20 DATED this 1st day of October, 2009.

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Roslyn O. Silver
United States District Judge