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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

ALFRED ROLLINGS,

CASE NO. 1:09-cv-01541-SKO PC

Plaintiff,

ORDER DENYING PLAINTIFF’S MOTION  
TO STAY CASE PENDING EXHAUSTION,  
AND GRANTING PLAINTIFF A THIRTY-  
DAY EXTENSION OF TIME TO FILE AN  
OPPOSITION OR A STATEMENT OF NON-  
OPPOSITION TO DEFENDANT’S MOTION  
TO DISMISS

v.

WARDEN HARRINGTON,

Defendant.

(Doc. 16)

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Plaintiff Alfred Rollings, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 31, 2009. This action is proceeding against Defendant Harrington for allegedly exposing Plaintiff to contaminated water, in violation of the Eighth Amendment. Defendant filed a motion to dismiss for failure to exhaust on May 9, 2011. 42 U.S.C. § 1997e(a); Fed. R. Civ. P. 12(b). On June 10, 2011, Plaintiff filed a motion seeking to stay this action pending exhaustion.

Exhaustion must occur prior to filing suit and unexhausted claims filed prematurely must be dismissed. Jones v. Bock, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); McKinney v. Carey, 311 F.3d 1198, 1199-1201 (9th Cir. 2002). Therefore, the Court cannot stay this action pending exhaustion and Plaintiff’s motion for a stay is DENIED.

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1 In the event that Plaintiff wishes to file an opposition or a statement of non-opposition to  
2 Defendant's motion in light of this order, Plaintiff SHALL do so within **thirty (30) days** from the  
3 date of service of this order.

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5 IT IS SO ORDERED.

6 **Dated: June 15, 2011**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE

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