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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LANCE WILLIAMS,

 Plaintiff,

 v.

WASCO STATE PRISON, et al.,

 Defendants.

CASE NO. 1:14-cv-01714-DAD-MJS (PC)

**ORDER SETTING EVIDENTIARY
HEARING**

Date: June 23, 2017
Time: 10:30 a.m., Courtroom 6 (MJS)

Plaintiff is a state prisoner proceeding pro se in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds against Defendants Salvatore and John Doe 1 on Plaintiff’s Eighth Amendment medical indifference claim.

Defendants filed a motion for summary judgment based on Plaintiff’s failure to exhaust administrative remedies. (ECF No. 43.) On March 17, 2017, the District Court adopted the Magistrate Judge’s Findings and Recommendations to deny the motion. (ECF No. 69.) The matter was referred back to the Magistrate Judge for further proceedings on the issue of exhaustion.

Accordingly, the Court HEREBY SETS an evidentiary hearing before the Honorable Michael J. Seng, United States Magistrate Judge, to decide the disputed issues of fact relating to the exhaustion of Plaintiff’s claims. The hearing will be held on June 23, 2017, at 10:30 a.m., in Courtroom 6, Seventh Floor of the United States District

1 Court in Fresno, California. The hearing will commence and be completed that day, and
2 will be limited to the issue of whether Plaintiff is excused from the Prison Litigation
3 Reform Act's exhaustion requirement because administrative remedies were "effectively
4 unavailable."

5 More specifically, the parties should be prepared to present evidence as to the
6 following:

- 7 • Whether Plaintiff submitted an inmate appeal on May 5, 2014 complaining
8 about Defendants' alleged misconduct on April 5 and 6, 2014;
- 9 • Whether prison officials failed to respond to or otherwise process Plaintiff's
10 May 5, 2014 appeal;
- 11 • Whether on June 30 and/or July 13, 2014, Plaintiff submitted a CDCR
12 Form 22 requesting the names of the officers working on April 5 and 6,
13 2014 so that he could list them on his "previously submitted" appeal;
- 14 • Whether prison officials failed to respond to or otherwise process Plaintiff's
15 CDCR Forms 22;
- 16 • Whether Plaintiff submitted an inmate appeal on April 15, 2016
17 complaining about prison officials' failure to respond to the May 5, 2014
18 appeal; and
- 19 • Whether Plaintiff had a reasonable, good faith belief that the administrative
20 appeals process was effectively unavailable to him.

21 In preparation for the hearing, it is HEREBY ORDERED that, no later than May
22 26, 2017, the parties shall confer regarding the witnesses to be called and evidence to
23 be presented at the hearing. No later than June 9, 2017, defense counsel shall file a
24 statement setting forth the witnesses to be called and documents to be presented at the
25 hearing. Defense counsel shall provide a courtesy copy of all exhibits to be used at the
26 hearing to Judge Seng's chambers no later than June 9, 2017.

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28 IT IS SO ORDERED.

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Dated: March 21, 2017

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE