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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH ALLEN SHARONOFF,
Plaintiff,
v.
MONTROYA, et al.,
Defendants.

No. 1:15-cv-00799 DLB PC
ORDER DENYING PLAINTIFF’S
MOTION TO STAY ACTION
(Document 21)

Plaintiff Kenneth Allen Sharonoff (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on May 27, 2015, and it is proceeding on his January 20, 2016, Third Amended Complaint.

Defendants’ responsive pleading is currently due on or before July 23, 2016.

On June 27, 2016, Plaintiff filed a motion requesting that this action be stayed, or held in abeyance, so that he can exhaust and “conform to rule 56.” ECF No. 21, at 1.

The Court will not stay an action while Plaintiff exhausts his administrative remedies, as administrative remedies must have been exhausted prior to filing in this Court. McKinney v. Carey, 311 F.3d 1198, 1199-1201 (9th Cir. 2002). Plaintiff may not exhaust while the suit is pending. McKinney, 311 F.3d at 1199-1201.

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To the extent Plaintiff cites Rule 56, he may move for discovery under Rule 56 if and when Defendants file a motion for summary judgment based on the failure to exhaust.

IT IS SO ORDERED.

Dated: June 30, 2016

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE