

1 multiple extensions of time to do so, plaintiff filed objections on August 1, 2019. (Doc. No. 137.)
2 Defendants filed a response to those objections on August 7, 2019. (Doc. No. 138.)

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
4 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's
5 objections and defendants' response, the court finds the findings and recommendations to be
6 supported by the record and by proper analysis.

7 In his objections, plaintiff largely reiterates arguments raised in his opposition to
8 defendants' motion for summary judgment and addressed by the magistrate judge's findings and
9 recommendations. First, plaintiff argues that the inmate grievances he filed at California State
10 Prison, Los Angeles County and California Substance Abuse Treatment Facility in Corcoran
11 sufficed to exhaust his claims against individuals employed at California Correctional Institution.
12 Plaintiff is correct that an inmate grievance need not identify a defendant by name so long as the
13 grievance is sufficient to "alert[] the prison to the nature of the wrong for which redress is
14 sought." *Reyes v. Smith*, 810 F.3d 654, 659 (9th Cir. 2016). However, neither the decision in
15 *Reyes* nor any other case cited by plaintiff stand for the proposition that an inmate grievance
16 against one set of officials at one prison can also serve to exhaust a prisoner's claims against
17 different prison officials at an entirely separate facility. The magistrate judge considered and
18 rejected plaintiff's argument in this regard, finding that even when construed in the light most
19 favorable to plaintiff, neither of plaintiff's inmate grievances raised concerns about anything that
20 allegedly occurred at the California Correctional Institution. (Doc. No. 116 at 7–10.) Because
21 the conduct of defendants Naficy, Aithal, Seymour, and Carrizales about which plaintiff
22 complains in this action, was in no way referenced even tangentially in those two inmate
23 grievances, those grievances could not serve to exhaust any administrative remedies as to
24 plaintiff's claims against those defendants. The court therefore agrees with the magistrate judge's
25 conclusion in this regard.

26 Next, plaintiff argues that because his Post-Traumatic Stress Disorder was an ongoing
27 medical condition, he was not required to file multiple inmate grievances related to it. The
28 magistrate judge addressed and rejected this argument, and in doing so conducted an exhaustive

1 review of the cases cited by plaintiff in support of his argument. (Doc. No. 116 at 12–16.)
2 Plaintiff’s objections cite to those same cases and reiterate plaintiff’s previous arguments, but the
3 court finds no basis raised upon which to disagree with the magistrate judge’s comprehensive
4 analysis.

5 Third, plaintiff argues that his administrative remedies were “effectively unavailable”
6 because his inmate grievances were cancelled before reaching the third level of review, relieving
7 plaintiff of his obligation to fully exhaust his claims. *Sapp v. Kimbrell*, 623 F.3d 813, 823 (9th
8 Cir. 2010). However, as the magistrate judge found, plaintiff’s remedy if he disagreed with the
9 cancellation of his grievances was to appeal that cancellation. The undisputed evidence before
10 the court on summary judgment demonstrates that as to at least one of plaintiff’s grievances, he
11 did in fact appeal from the cancellation. Because plaintiff was plainly able to appeal an adverse
12 administrative decision in this context, his administrative remedies were not unavailable to him
13 and he was obligated to pursue them through the third level of review.

14 Finally, plaintiff argues generally that “CDCR’s grievance rules are very unclear,” and
15 that because of their “opaque nature,” he should be excused from complying with them. (Doc.
16 No. 137 at 13–15.) In particular, plaintiff argues that he is a “well studied inmate litigator,” and if
17 he cannot discern which claims have and have not been exhausted, it is doubtful that any prisoner
18 could reasonably do so. (*Id.* at 15.) The undersigned is sympathetic to plaintiff’s argument—
19 exhaustion of administrative remedies under the PLRA can present nuanced legal questions that
20 frequently bedevil judges and litigants alike. It is no accident that appellate courts are called upon
21 to resolve these issues with some regularity. *See, e.g., Rodriguez v. County of Los Angeles*, 891
22 F.3d 776, 792 (9th Cir. 2018); *Fuqua v. Ryan*, 890 F.3d 838, 846–47 (9th Cir. 2018); *Soto v.*
23 *Sweetman*, 882 F.3d 865, 869–71 (9th Cir.), *cert. denied*, ___ U.S. ___, 139 S. Ct. 480 (2018).
24 For someone untrained in the practice of law, these issues may be all the more mystifying.
25 Nonetheless, while this court must allow plaintiff some leeway with respect to the reading of his
26 pleadings before this court in light of his *pro se* status, exhaustion of administrative remedies
27 under the PLRA is mandatory. *Jones v. Bock*, 549 U.S. 199, 211 (2007). Because the court

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1 agrees with the assigned magistrate judge that plaintiff did not exhaust those remedies as to
2 certain of his claims, the court is obligated to dismiss those causes of actions.

3 Accordingly,

- 4 1. The findings and recommendations issued on January 17, 2019 (Doc. No. 116) are
5 adopted in full;
- 6 2. Defendants' partial motion for summary judgment (Doc. No. 51) is granted;
- 7 3. Plaintiff's claims against defendants Carrizales, Naficy, Aithal, Seymour, Fisher,
8 Pallares, Hernandez, and Miranda are dismissed, without prejudice, due to
9 plaintiff's failure to exhaust available administrative remedies prior to filing suit as
10 required; and
- 11 4. This matter is referred back to the magistrate judge for further proceedings.

12 IT IS SO ORDERED.

13 Dated: September 25, 2019

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16 UNITED STATES DISTRICT JUDGE
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