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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANDRE UNDERWOOD,  
Plaintiff,  
v.  
R. COX and C. STANLEY,  
Defendants.

Case No. 1:16-cv-00597-AWI-EPG (PC)  
ORDER SETTING CONFERENCE  
REGARDING SETTING OF AN  
EVIDENTIARY HEARING  
(ECF NO. 43)

On January 19, 2018, Defendant Cox filed a motion for summary judgment on the grounds that Plaintiff failed to exhaust his available administrative remedies. (ECF No. 43). On February 12, 2018, Plaintiff filed his opposition to the motion for summary judgment. (ECF No. 46). On February 20, 2018, Defendant Cox filed his reply. (ECF No. 48).

After reviewing the evidence and applicable law, the Court has determined that there is a dispute of fact regarding whether Plaintiff timely filed his grievance, and that an Albino evidentiary hearing is necessary. See Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014). Accordingly, the Court will set a conference regarding the setting of an evidentiary hearing. The parties should be prepared to discuss the procedures and scope of the evidentiary hearing.

In accordance with the above, IT IS HEREBY ORDERED that:

1. A conference regarding the setting of an evidentiary hearing is set before Magistrate Judge Erica P. Grosjean on March 5, 2018, at 10:00 a.m. at the Robert E. Coyle

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Federal Courthouse, 2500 Tulare Street, Fresno, CA 93721 in Courtroom #10;

2. Plaintiff must appear telephonically. Defendants' counsel may either appear in person or telephonically. To appear telephonically, the parties are directed to use the following dial-in number and passcode: 1-888-251-2909; passcode 1024453; and
3. Plaintiff's institution of confinement shall make Plaintiff available for the conference at the date and time indicated above. To the extent possible, prior to the conference defense counsel shall confirm with Plaintiff's institution of confinement that arrangements have been made for Plaintiff's attendance.

IT IS SO ORDERED.

Dated: February 21, 2018

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE