

1 concerned the treatment he allegedly received from another doctor not named as a defendant in
2 this action. (*Id.*) Therefore, the magistrate judge concluded that defendants had met their burden
3 of showing that plaintiff failed to utilize and exhaust the administrative remedies available to him
4 as to his claims brought against the named defendants in this action. (*Id.* at 6.)

5 Plaintiff filed objections to the magistrate judge's findings and recommendations. (Doc.
6 No. 98.) In his objections, plaintiff concedes that defendants have met their initial burden to
7 show that an available administrative remedy exists. (*Id.* at 1.) Plaintiff argues, however, that he
8 exhausted all available administrative remedies against defendant Lewis because Lewis signed
9 and approved the denial of plaintiff's inmate grievance at the third and final level of review. (*Id.*
10 at 2.) However, the law is clear that plaintiff cannot pursue any claims against a prison official
11 based solely on their processing and review of his inmate appeals. Plaintiff does not have a
12 constitutionally protected right to have his appeals accepted or processed. *Ramirez v. Galaza*,
13 334 F.3d 850, 860 (9th Cir. 2003); *Mann v. Adams*, 855 F.2d 639, 640 (9th Cir. 1988). The
14 prison grievance procedure does not confer any substantive rights upon inmates and actions in
15 reviewing appeals cannot serve as a basis for liability under 42 U.S.C. § 1983. *Buckley v.*
16 *Barlow*, 997 F.2d 494, 495 (8th Cir.1993); *see also Wright v. Shannon*, No. 1:05-cv-01485-LJO-
17 YNP (PC), 2010 WL 445203, at *5 (E.D. Cal. Feb. 2, 2010) (plaintiff's allegations that prison
18 officials denied or ignored his inmate appeals failed to state a cognizable claim under the First
19 Amendment). Thus, a denial or refusal to process an inmate grievance is not a constitutional
20 violation. *Rushdan v. Gear*, No. 1:16-cv-01017-BAM (PC), 2018 WL 2229259, at *6 (E.D. Cal.
21 May 16, 2018). Accordingly, summary judgment in favor of defendant Lewis.¹

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

26 //

27 _____
28 ¹ In his objections, plaintiff does not address exhaustion and the entry of summary judgment in
favor of defendant Davey.


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly,

1. The findings and recommendations issued on August 25, 2021 (Doc. No. 97) are adopted in full;
2. Defendants' motion for summary judgment (Doc. No. 85) is granted; and
3. The Clerk of the Court is directed to enter judgment and close this case.

IT IS SO ORDERED.

Dated: September 30, 2021


UNITED STATES DISTRICT JUDGE