

1 submitted an inmate grievance on the facts alleged in this action and that the process is
2 completed. (Doc. 12, p. 2.) Plaintiff indicates his grievance was denied at the first level because
3 the treatment he desires is not an urgent or emergent medical procedure and that Defendant LT
4 Kirk granted it at the second level indicating that Plaintiff could not be denied SRS, but that it
5 would take time to set a plan in place and see what treatment plans are available. (*Id.*)

6 From the exhibits to the SAC, it is apparent that Plaintiff did not file his inmate grievance
7 regarding the issues raised in this action until early July of 2017.¹ On July 13, 2017, Defendant
8 Nurse Larranaga responded to Plaintiff's grievance indicating that the nurse practitioner had
9 added a new medication to Plaintiff's current regimen and directed Plaintiff to discuss any
10 additional desired medications with the nurse practitioner at his next chronic care visit. (*Id.*, p. 6.)
11 Nurse Larranaga further indicated that SRS was not deemed an emergent, urgent need since
12 Plaintiff was still going through court proceedings and not sentenced yet, and that he would need
13 to be reevaluated after sentencing, or Plaintiff could request a pass to see an outside provider at
14 his own expense. (*Id.*) Plaintiff appealed this to the next level where LT Kirk responded on
15 August 1, 2017, that, as he had previously explained to Plaintiff, it was going to take some time
16 as "this is all new at a county level. However it is a priority to get some type of plan in place" for
17 Plaintiff and that LT Kirk would look into Plaintiff's new request to be housed where he can live
18 full-time in his gender preferred role. (*Id.*, p. 7.) Thus, it appears that when Plaintiff filed suit on
19 June 27, 2017, he did so before exhausting the available grievance procedure in compliance with
20 section 1997e(a). *Wyatt v. Terhune*, 315 F.3d 1108, 1120 (9th Cir. 2003) ("A prisoner's
21 concession to nonexhaustion is a valid ground for dismissal. . .").

22 Accordingly, Plaintiff is **ORDERED** to show cause **within 21 days** from the date of
23 service of this order why this action should not be dismissed, without prejudice, for his failure to
24 exhaust administrative remedies prior to filing suit. **Plaintiff is warned that failure to timely**
25 **respond to this order will result in dismissal of this action for Plaintiff's failure to obey a**

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27 ¹ The exact date in July that Plaintiff presented his inmate grievance to jail personnel is unreadable. (*See* Doc. 12, pp.
28 9-11.) However, the responses to it are dated near the end of July. (*Id.*, pp. 6-8.) Plaintiff filed a second grievance
on these issues on August 6, 2017. (*Id.*, pp. 12-13.)

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court order.

IT IS SO ORDERED.

Dated: **March 28, 2018**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE