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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA  
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7 DYLLIN REYNOLDS,

8 Plaintiff,

9 v.

10 P. ROUCH, et al.,

11 Defendants.  
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Case No. 1:17-cv-01029-EPG (PC)

ORDER FOR PLAINTIFF TO SHOW  
CAUSE WHY THIS CASE SHOULD NOT  
BE DISMISSED WITHOUT PREJUDICE  
FOR FAILURE TO EXHAUST

(ECF NO. 1)

THIRTY DAY DEADLINE

14 Dyllin Reynolds (“Plaintiff”) is a state prisoner proceeding *pro se* with this civil rights  
15 action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action  
16 on August 2, 2017. (ECF No. 1). The complaint is awaiting screening.

17 The Court has conducted a preliminary review of the complaint, and it appears that  
18 Plaintiff has failed to exhaust his available administrative remedies. Plaintiff has stated that  
19 there is a grievance procedure available at his institution and that he filed a grievance  
20 concerning the facts related to the complaint, but that he did not complete the grievance  
21 process. (Id. at 2.).

22 42 U.S.C. § 1997e(a) states that “[n]o action shall be brought with respect to prison  
23 conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in  
24 any jail, prison, or other correctional facility until such administrative remedies as are available  
25 are exhausted.” Exhaustion is required regardless of the relief sought by the prisoner and  
26 regardless of the relief offered by the administrative process, unless “the relevant  
27 administrative procedure lacks authority to provide any relief or to take any action whatsoever  
28 in response to a complaint.” Booth v. Churner, 532 U.S. 731, 736, 741 (2001); Ross v. Blake,

1 136 S.Ct. 1850, 1857, 1859 (June 6, 2016).

2 Exhaustion of administrative remedies must occur before the filing of the complaint.  
3 McKinney v. Carey, 311 F.3d 1198, 1199 (9th Cir. 2002). The Court notes that a dismissal for  
4 failure to exhaust is without prejudice. Id.

5 While there are no “special circumstances” exceptions to the exhaustion requirement,  
6 Ross, 136 S.Ct. at 1862, “the [administrative] remedies must indeed be ‘available’ to the  
7 prisoner.” Id. at 1856.

8 Based on the face of Plaintiff’s complaint, it appears that Plaintiff has failed to exhaust  
9 his available administrative remedies. Therefore, the Court will order Plaintiff to show cause  
10 why this case should not be dismissed, without prejudice, for failure to exhaust available  
11 administrative remedies.

12 Accordingly, based on the foregoing, it is HEREBY ORDERED that within **thirty (30)**  
13 **days** from the date of service of this order, Plaintiff shall show cause why this case should not  
14 be dismissed, without prejudice, for failure to exhaust available administrative remedies.  
15 Failure to respond may result in dismissal of this case.

16  
17 IT IS SO ORDERED.

18 Dated: August 3, 2017

18 /s/ Eric P. Gray  
19 UNITED STATES MAGISTRATE JUDGE