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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DENNIS CURTIS HISLE,	)	Case No. 1:17-cv-01400-NONE-SAB (PC)
	)	
Plaintiff,	)	
	)	FINDINGS AND RECOMMENDATION
v.	)	RECOMMENDING PLAINTIFF’S MOTION FOR
	)	SUMMARY JUDGMENT AS TO DEFENDANT
MARLYN CONANAN, et al.,	)	CONANAN BE DENIED AS MOOT
	)	
Defendants.	)	(ECF No. 122)
	)	
	)	

Plaintiff Dennis Curtis Hisle is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion for summary judgment, filed on August 6, 2020.

On March 2, 2020, Defendant Conanán filed a motion for summary judgment on the ground that Plaintiff failed to exhaust the inmate grievance procedures prior to filing suit. (ECF No. 107). On April 20, 2020, Plaintiff filed an opposition, and Defendant Conanán filed a reply on May 1, 2020. (ECF Nos. 115, 120).

On August 3, 2020, the undersigned issued Findings and Recommendations finding that the inmate grievance plaintiff lodged regarding this instance of medical care to indisputably establish that he “did not include allegations that Defendant Conanán falsified medical records, failed to provide Plaintiff with a lay in, and failed to urgently refer Plaintiff to a pulmonologist,” and, as a result,

1 plaintiff failed to exhaust his administrative remedies with respect to the asserted Eighth Amendment  
2 claim against defendant Conanán based on those allegations. (ECF No. 121 at 9.) Therefore, it was  
3 recommended that Defendant Conanán’s motion for summary judgment be granted. (Id. at 12.) The  
4 Findings and Recommendations were adopted in full on November 6, 2020, and the claims against  
5 Defendant Conanán were dismissed, without prejudice. (ECF Nos. 136, 137.)

6 Plaintiff’s motion for summary judgment, self-dated August 1, 2020, and filed on August 6,  
7 2020 (after the Findings and Recommendations recommending Defendant Conanán’s motion for  
8 summary judgment be granted) is moot as it has been determined the claims against Conanán are  
9 unexhausted and have been dismissed. Accordingly, it is **HEREBY RECOMMENDED** that Plaintiff’s  
10 motion for summary judgment, filed on August 6, 2020, be denied as moot.

11 This Findings and Recommendation will be submitted to the United States District Judge  
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**  
13 after being served with this Findings and Recommendation, the parties may file written objections  
14 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
15 Recommendation.” The parties are advised that failure to file objections within the specified time may  
16 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)  
17 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

18  
19 IT IS SO ORDERED.

20 Dated: November 10, 2020

  
21 UNITED STATES MAGISTRATE JUDGE