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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	YASYN WHITE-SOTO,	Case No. 1:19-cv-0457 JLT BAM (PC)
12	Plaintiff,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT REGARDING EXHAUSTION, DISMISSING THE ACTION, AND DIRECTING THE CLERK OF COURT TO CLOSE THIS CASE
13	v.	
14	STARR,	
15	Defendant.	
16		(Docs. 33, 65)
17	Yasyn White-Soto seeks to hold Defendant Starr liable for excessive force in violation of	
18	the Eighth Amendment and retaliation in violation of the First Amendment. (Docs. 1, 9.)	
19	Defendant seeks summary judgment, asserting Plaintiff failed to exhaust his administrative	
20	remedies prior to filing this action. (Doc. 33.)	
21	The magistrate judge found Defendant carried his burden to show Plaintiff did not exhaust	
22	his administrative remedies prior to filing this action, because Plaintiff filed his complaint "during	
23	the exhaustion process." (Doc. 65 at 9.) Specifically, the magistrate judge determined that "based	
24	on the undisputed evidence before the Court, Plaintiff filed this lawsuit before receiving a final	
25	decision on KVSP-0-18-02867/CCI-0-18-02442." (Id.) In addition, the magistrate judge	
26	observed that after this action was initiated, "Plaintiff successfully received a decision on the	
27	merits of the original grievance for the claims raised in this action." (Id. at 10.) Because it was	
28	undisputed that Plaintiff failed to exhaust his administrative remedies prior to filing suit, the	

1 magistrate judge recommended the motion for summary judgment be granted. 2 The Court served the Findings and Recommendations on Plaintiff notified him that any 3 objections were due within 14 days of the date of service. (Doc. 65 at 11.) The Court also 4 advised Plaintiff that failure to file objections by the specified time may result in the waiver of 5 rights on appeal. (*Id*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) 6 Plaintiff did not file objections, and the time to do so has expired. 7 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. 8 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations 9 are supported by the record and proper analysis. Thus, the Court **ORDERS**: 10 1. The Findings and Recommendations issued May 9, 2024 (Doc. 65) are 11 **ADOPTED** in full. 2. Defendant's motion for summary judgment (Doc. 33) is **GRANTED**. 12 13 3. The action is **DISMISSED** based upon Plaintiff's failure to exhaust administrative 14 remedies. 15 4. The Clerk of Court is directed to close this case. 16 IT IS SO ORDERED. 17 Dated: **June 5, 2024** 18 19 20 21 22 23 24 25 26 27

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