UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ADAM SHARPE, Plaintiff, v. C. CRYER, et al., Defendants.	No. 1:19-cv-00711-DAD-EPG (PC) ORDER CONCERNING MOTION FOR SUMMARY JUDGMENT

Adam Sharpe ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's complaint (ECF No. 1), which he filed on May 21, 2019, against Defendant C. Cryer, J. Lewis and S. Gates for deliberate indifference to a serious medical condition in violation of the Eighth Amendment and against Defendant S. Smith for failure to protect in violation of the Eighth Amendment. (ECF No. 33).

On December 24, 2020, Defendants filed a motion for summary judgment as to Defendant Smith only on the ground that Plaintiff failed to exhaust his administrative remedies against Defendant Smith. (ECF No. 50). Defendants attached several non-healthcare grievances and supporting documents from individuals who process non-healthcare grievances. (ECF Nos. 50-4 & 50-5).

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Plaintiff filed an opposition to the motion on March 4, 2021. His opposition refers to, but does not attach, a healthcare grievance:

> Plaintiff did exhaust appeal Log # HC 19001205 which is also the basis of this lawsuit and speaks to a general grievance on plaintiff's treatment and living conditions regarding his keratoconus at the time of the filing of this suit Plaintiff was without proper contact lenses and thus severly visually impaired shortly after being seriously injured in a cell assault as Plaintiff warned was a risk in BOTH his reasonable accommodation request.

(ECF No. 57 at 8-9) (as in original).

Defendants filed a reply on March 12, 2021. Defendants claim it did not satisfy the exhaustion requirement. (ECF No. 58 at 4). However, Defendants do not attach the grievance.

Given that Defendant Smith is requesting dismissal of Plaintiff's claims as to Defendant Smith based on non-exhaustion, Defendant Smith has provided information on what it claims are the relevant administrative grievances, but Defendant Smith has not provided information on one grievance that Plaintiff contends exhausts his administrative remedies, the Court orders as follows:

Accordingly, IT IS HEREBY ORDERED that within fourteen days, Defendants shall file a copy of Plaintiff's administrative grievance related to "Log # HC 19001205," as well as sufficient documents or evidence to determine if that grievance was exhausted at the third level.

IT IS SO ORDERED.

Dated: **March 31, 2021**

/s/ Eric P. Grosjean
UNITED STATES MAGISTRATE JUDGE