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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	LAVAL JONES,	No. 1:19-cv-01068-NONE-EPG (PC)
12	Plaintiff,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND DIRECTING
13	V.	THE CLERK OF COURT TO ASSIGN A DISTRICT JUDGE TO THIS CASE FOR THE
14	WEBER,	PURPOSE OF CLOSING THE CASE AND THEN TO CLOSE THIS CASE
15	Defendant.	(Doc. Nos. 21, 54)
16		(Doc. 1103. 21, 54)
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18	Laval Jones ("plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this	
19	civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States	
20	Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
21	On October 19, 2020, defendant Weber filed a motion for summary judgment. (Doc.	
22	No. 21.) On April 29, 2021, the assigned magistrate judge entered findings and	
23	recommendations, recommending that "Defendant Weber's motion for summary judgment (ECF	
24	No. 21) be GRANTED," and that "[t]his action be DISMISSED without prejudice because	
25	Plaintiff failed to exhaust his available administrative remedies before filing this action." (Doc.	
26	No. 54 at 9.)	
27	The parties were provided an opportunity to file objections to the findings and	
28	recommendations. Plaintiff filed his objections on May 24, 2021. (Doc. No. 55.) Defendant	
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1 Weber did not object or file a response to plaintiff's objections.

2 In accordance with the provisions of 28 U.S.C. 636(b)(1)(C), this court has conducted a 3 de novo review of the case. Having carefully reviewed the entire file, the court concludes that the 4 magistrate judge's findings and recommendations are supported by the record and by proper 5 analysis. The magistrate judge correctly concluded that defendant met his burden of establishing 6 that there was an available administrative remedy and that plaintiff did not exhaust that available 7 remedy prior to commencement of the instant lawsuit as is required. (Doc. No. 54 at 7.) Plaintiff 8 indicated in his opposition to the motion that he indeed did submit an inmate grievance within 9 one day of the incident in question but claims that CDCR misplaced that inmate grievance and 10 did not respond to it. (Doc. No 48 at 1, 31.) However, as the magistrate judge correctly 11 concluded, even assuming plaintiff's unsigned opposition may be considered,¹ plaintiff's 12 conclusory assertion therein that he timely filed an inmate grievance lacks any detailed facts, nor 13 is it supported by any evidence and is therefore insufficient to create a genuine issue of material 14 fact. (See Doc. No 57 at 8 (reviewing cases).) In this regard, plaintiff did not provide a 15 description of the contents of the purported inmate grievance, provide a copy of the inmate 16 grievance, explain to whom he gave it, or detail any efforts he undertook to follow up on its 17 purported submission. Finally, plaintiff failed to even mention the first inmate grievance he now 18 claims to have submitted in his later, late-filed, inmate grievance. Plaintiff's objections fail to 19 rebut with any specificity the pending findings and recommendations. 20 Accordingly, 21 1. The findings and recommendations issued on April 29, 2021, (Doc. No. 54), are

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adopted in full;

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 ¹ Plaintiff's opposition was not signed by him and therefore cannot be considered as evidence in the context of summary judgment. (*See* Doc. No. 54 at 7.) However, plaintiff did make similar, general assertions in his scheduling conference statement, which was sworn to under the penalty of perjury. (Doc. No. 51 at 4.)

1	2.	Defendant Weber's motion for summary judgment, (Doc. No. 21), is granted;
2	3.	This action is dismissed without prejudice because plaintiff failed to exhaust his
3		available administrative remedies before filing this action; and
4	4.	The Clerk of Court is directed to assign a district judge to this case for the purpose
5		of closing the case and then to close this case.
6	IT IS SO ORDERED.	
7	Dated:	July 14, 2021 Jale A. Drogd
8		UNITED STATES DISTRICT JUDGE
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