

1 2015). First, the defendant must “prove that there was an available administrative remedy, and that
2 the prisoner did not exhaust that available remedy.” *Id.* Second, “the burden shifts to the plaintiff,
3 who must show that there is something particular in his case that made the existing and generally
4 available administrative remedies effectively unavailable to him.” *Id.* An existing administrative
5 remedy may be unavailable when (1) it “operates as a simple dead end—with officers unable or
6 consistently unwilling to provide any relief to aggrieved inmates”; (2) it is “so opaque that it becomes
7 ... incapable of use”; or (3) “prison administrators thwart inmates from taking advantage of a grievance
8 process through machination, misrepresentation, or intimidation.” *Ross v. Blake*, 578 U.S. 632, 136 S.
9 Ct. 1850, 1859-60 (2016). The ultimate burden of proof ... remains with the defendants.” *Williams*,
10 775 F.3d at 1191.

11 A plaintiff will not satisfy his burden with generalized, conclusory statements that
12 administrative remedies were unavailable. *See McBride v. Lopez*, 807 F.3d 982, 987 (9th Cir. 2015); *cf.*
13 *Rodriguez v. Cnty. of Los Angeles*, 891 F.3d 776, 793 (9th Cir. 2018) (“If the appellees in this case had
14 alleged only general and unsubstantiated fears about possible retaliation ... we would not hold that they
15 had not exhausted their administrative remedies.”). Plaintiff’s statements in his objections that he filed
16 grievances, which were destroyed, does not satisfy his burden of proof on summary judgment. *See*,
17 *e.g., Jeffries v. Fields*, No. CV 12-1351 R (JC), 2014 WL 994908, at *18 (C.D. Cal. Mar. 10,
18 2014) (holding the plaintiff’s conclusory assertion that officials tampered with his grievance
19 “insufficient to demonstrate that ... prison officials ... rendered further administrative remedies
20 unavailable”).

21 According to 28 U.S.C. § 636 (b)(1)(C) and *Britt v. Simi Valley United School Dist.*, 708 F.2d
22 452, 454 (9th Cir. 1983), this Court conducted a *de novo* review of the case. Having carefully reviewed
23 the matter, including Plaintiff’s objections, the Court concludes the Findings and Recommendations are
24 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 25 1. The Findings and Recommendations issued April 5, 2022 (Doc. 39) are **ADOPTED**.
- 26 2. Defendants’ motion for summary judgment (Doc. 33) is **GRANTED**.
- 27 3. Defendants’ motion for summary judgment filed May 19, 2022 (Doc. 42) is terminated
28 as moot.

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- 4. This case is **DISMISSED** without prejudice.
- 5. The Clerk of Court is **DIRECTED** to close this case.

IT IS SO ORDERED.

Dated: May 22, 2022


UNITED STATES DISTRICT JUDGE