

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GABRIEL CHARLES SANCHEZ,
Plaintiff,
v.
PATRICK EATON, et al.,
Defendants.

Case No. 1:21-cv-00736-JLT (PC)

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO EXHAUST**

21-DAY DEADLINE

Gabriel Charles Sanchez alleges the defendants were deliberately indifferent to his health by exposing him to COVID-19. (Doc. 1.) In his complaint, Plaintiff indicates that he has not filed an administrative grievance regarding his claims. (*Id.* at 3, 4.)

The Prison Litigation Reform Act provides that “[n]o action shall be brought with respect to prison conditions under . . . any other Federal law . . . by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Exhaustion of administrative remedies is mandatory and “unexhausted claims cannot be brought in court.” *Jones v. Bock*, 549 U.S. 199, 211 (citation omitted). The exhaustion requirement applies to all inmate suits relating to prison life, *Porter v. Nussle*, 534 U.S. 516, 532 (2002), regardless of the relief sought by the prisoner or offered by the administrative process, *Booth v. Churner*, 532 U.S. 731, 741 (2001). Inmates are required to “complete the administrative review process in accordance with the applicable procedural rules,

1 including deadlines, as a precondition to bringing suit in federal court.” *Woodford v. Ngo*, 548
2 U.S. 81, 88, 93 (2006). Generally, failure to exhaust is an affirmative defense that the defendant
3 must plead and prove. *Jones*, 549 U.S. at 204, 216. However, courts may dismiss a claim if
4 failure to exhaust is clear on the face of the complaint. *See Albino v. Baca*, 747 F.3d 1162, 1166
5 (9th Cir. 2014).

6 It is clear on the face of his complaint that Plaintiff failed to exhaust administrative
7 remedies prior to filing suit. Accordingly, **within 21 days** of the date of service of this order,
8 Plaintiff SHALL show cause in writing why this action should not be dismissed for his failure to
9 exhaust. Alternatively, within that same time, Plaintiff may file a notice of voluntary dismissal.

10
11 IT IS SO ORDERED.

12 Dated: **September 7, 2021**

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE