

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH REAGAN CARTER-MADDOX,  
  
Plaintiff,  
  
v.  
  
CALIFORNIA SUBSTANCE ABUSE  
TREATMENT FACILITY, et al.,  
  
Defendants.

No. 1:23-cv-01632 GSA (PC)  
  
ORDER DIRECTING CLERK OF COURT TO  
APPOINT DISTRICT JUDGE TO THIS  
MATTER  
  
FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING DISMISSAL OF CASE  
FOR FAILURE TO EXHAUST  
ADMINISTRATIVE REMEDIES  
  
PLAINTIFF’S OBJECTIONS TO FINDINGS  
AND RECOMMENDATIONS DUE  
**DECEMBER 14, 2023**

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. For the reasons set below, it will be recommended that this matter be dismissed for failure to exhaust administrative remedies.

I. PLAINTIFF’S COMPLAINT  
A. Plaintiff’s Claims

Plaintiff’s complaint names the California Substance Abuse Treatment Facility (“CSATF”) and the State of California as defendants in this action. See ECF No. 1 at 1-2. In it,

1 Plaintiff raises two claims: an Eighth Amendment violation of his right safety and a violation of  
2 his rights under the Prison Rape Elimination Act (“PREA”) when, on October 14, 2023, he was  
3 raped by another inmate after he had been improperly housed. Id. at 3-4.

4 As a result of the rape, Plaintiff states that he has pain at the site of the assault; that he had  
5 to go to an outside clinic, and that he became mentally disturbed. See ECF No. 1 at 3-4. He  
6 seeks \$3,000,000.00 in damages. Id. at 5.

#### 7 B. Administrative Remedies

8 In the complaint, Plaintiff states that administrative remedies are available to him at  
9 CSATF. ECF No. 1 at 3-4. However, Plaintiff also states that he did not submit a request for  
10 administrative relief on either claim, nor did he exhaust his administrative remedies prior to  
11 bringing this action. Id. Instead, Plaintiff states that he went through the PREA process. Id.

### 12 III. EXHAUSTION REQUIREMENT

#### 13 A. The Prison Litigation Reform Act

14 Because Plaintiff is a prisoner challenging the conditions of his confinement, his claims  
15 are subject to the Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a). The PLRA  
16 requires prisoners to exhaust available administrative remedies before bringing an action  
17 challenging prison conditions under Section 1983. 42 U.S.C. § 1997e(a); see Albino v. Baca, 747  
18 F.3d 1162, 1171 (9th Cir. 2014) (quoting Woodford v. Ngo, 548 U.S. 81, 85 (2006)). Section  
19 1997e(a) states in relevant part: “No action shall be brought with respect to prison conditions  
20 under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail,  
21 prison, or other correctional facility until such administrative remedies as are available are  
22 exhausted.” Id. “An action is ‘brought’ for purposes of exhaustion under § 1997e(a) when the  
23 complaint is tendered to the district clerk, and not when it is subsequently filed.”<sup>1</sup> Akhtar v.  
24 Mesa, 698 F.3d 1202, 1210 (9th Cir. 2012) (brackets omitted) (internal quotation marks omitted)  
25 (quotation omitted); Vaden v. Summerhill, 449 F.3d 1047, 1050 (9th Cir. 2006).

26 \_\_\_\_\_  
27 <sup>1</sup> A complaint is “filed” when in forma pauperis status is granted or all required fees are paid and  
28 the matter is screened. See Ford v. Johnson, 362 F.3d 395, 398 (7th Cir. 2004); see also O’Neal  
v. Price, 531 F.3d 1146, 1151 (9th Cir. 2008) (stating complaint filed only after district court  
identifies cognizable claims).

1                   B. California Regulations Governing Exhaustion of Administrative Remedies

2                   “The California prison system's requirements ‘define the boundaries of proper  
3 exhaustion.’ ” Marella v. Terhune, 568 F.3d 1024, 1027 (9th Cir. 2009) (quoting Jones v. Bock,  
4 549 U.S. 199, 218 (2007)). In order to exhaust, the prisoner is required to complete the  
5 administrative review process in accordance with all applicable procedural rules. Woodford, 548  
6 U.S. at 90. “The California prison grievance system has three levels of review: an inmate  
7 exhausts administrative remedies by obtaining a decision at each level.” Reyes v. Smith, 810  
8 F.3d 654, 657 (9th Cir. 2016) (citation omitted); Harvey v. Jordan, 605 F.3d 681, 683 (9th Cir.  
9 2010)).

10                  IV. DISCUSSION

11                  Plaintiff alleges that his violations of right occurred in October 2023. ECF No. 1 at 3-4.  
12 He brought this action approximately one month later, in November 2023. See id. at 5 (signature  
13 date of complaint). In the complaint, Plaintiff states that CSATF has administrative remedies  
14 available at the institution. Id. at 3-4. Despite this fact, Plaintiff also clearly states that he did not  
15 submit requests for administrative relief at CSATF. See id. Thus, it is clear on its face that  
16 Plaintiff did not exhaust his administrative remedies prior to bringing this action in this Court.

17                  Moreover, the sole excuse Plaintiff provides for not having exhausted the administrative  
18 remedies available to him at CSATF is that he availed himself of the PREA process at CSATF.  
19 See ECF No. 1 at 3-4. The PREA, 42 U.S.C. § 15601-15609, “authorizes the reporting of  
20 incidents of rape in prison, allocation of grants, and creation of a study commission. It does not,  
21 however, give rise to a private cause of action.” See Porter v. Jennings, No. 1:10-cv-1811 AWI  
22 DLB PC, 2012 WL 1434986, at \*1, (E.D. Cal. Apr. 25, 2012) (collecting cases); Law v. Whitson,  
23 No. 2:08-cv-0291-SPK, 2009 WL 5029564, at \*4 (E.D. Cal. Dec. 15, 2009) (citations omitted);  
24 see generally Blessing v. Freestone, 520 U.S. 329, 340-41 (1997) (statutory provisions give rise to  
25 federal rights enforceable under Section 1983 only where they do so unambiguously and in  
26 mandatory terms).

27                  In sum, the PREA is not an alternative grievance procedure, and it does not serve to  
28 exhaust administrative remedies. Goff v. Arizona, 562 F. Supp. 3d 551, 566 (D. Ariz. 2020),

1 judgment entered, No. CV 17-01623 PHX JJT (DMF), 2021 WL 1031833 (D. Ariz. Feb. 9, 2021)  
2 (citations omitted). Consequently, Plaintiff’s use of the PREA system is irrelevant with respect to  
3 the issue of exhaustion. Therefore, because Plaintiff has neither exhausted his claims prior to  
4 bringing this case, nor has he provided an acceptable excuse for not having done so, this matter  
5 must be dismissed. See Ross v. Blake, 578 U.S. 632, 639 (2016) (“[A] court may not excuse a  
6 failure to exhaust.”) (citations omitted); Jones, 549 U.S. at 211 (stating unexhausted claims  
7 cannot be brought in court) (citation omitted).

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a  
9 District Judge to this action.

10 IT IS FURTHER RECOMMENDED that this matter be DISMISSED without prejudice  
11 for failure to exhaust administrative remedies. See 42 U.S.C. § 1997e(a).

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
14 after being served with these findings and recommendations – by **December 14, 2023** – Plaintiff  
15 may file written objections with the Court. Such a document should be captioned “Objections to  
16 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file  
17 objections within the specified time may waive the right to appeal the District Court’s order.  
18 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

19  
20 IT IS SO ORDERED.

21 Dated: November 30, 2023

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE