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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
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11	STEVEN PATRICK WILLIAMS, No. 2:08-cv-00239-MCE-EFB P
12	Plaintiff,
13	vs. <u>ORDER</u>
14	H. WEAVER, et al.,
15	Defendants.
16	/
17	Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18	under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
19	28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.
20	On February 26, 2009, the magistrate judge filed findings and recommendations herein
21	which were served on plaintiff and which contained notice to plaintiff that any objections to the
22	findings and recommendations were to be filed within twenty days. Plaintiff has filed objections
23	to the findings and recommendations.
24	Plaintiff asserts that his complaint should not be dismissed because of his failure to
25	exhaust administrative remedies prior to filing suit because he has now exhausted all
26	administrative remedies.

However, the attachments to plaintiff's objections reveal that he did not exhaust his 1 2 administrative remedies prior to filing suit because he did not receive a denial from the Director's 3 Level of Review until March 28, 2008, two months after he commenced this action. A prisoner 4 must exhaust available administrative remedies before filing any papers in federal court and is 5 not entitled to a stay of judicial proceedings in order to exhaust. Vaden v. Summerhill, 449 F.3d 1047, 1051 (9th Cir. 2006); McKinney v. Carey, 311 F.3d 1198, 1200 (9th Cir. 2002). This 6 7 defect in plaintiff's pleading cannot be cured by amendment and thus, plaintiff's motion to amend, filed with his objections, is denied. 8 9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, 10 this court has conducted a de novo review of this case. Having carefully reviewed the entire file, 11 the court finds the findings and recommendations to be supported by the record and by proper 12 analysis. 13 Accordingly, IT IS HEREBY ORDERED that: 14 1. The findings and recommendations filed February 26, 2009, are adopted in 15 full: 16 2. Plaintiff's March 3 and March 17, 2009 motions to amend are denied; and

3. This action is dismissed without prejudice for failure to exhaust administrative remedies.

Dated: April 3, 2009

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MORRISON C. ENGLAND, JR. UNITED STATES DISTRICT JUDGE