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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MORRIS MESTER,

Plaintiff,

No. 2:09-cv-3307 KJM KJN P

vs.

MILLER¹ AND REED,

Defendants.

FINDINGS & RECOMMENDATIONS

_____ /

By order filed August 9, 2011, plaintiff was ordered to show cause, within thirty days, why plaintiff's claims against defendant Reed should not be dismissed based on plaintiff's failure to exhaust his administrative remedies prior to filing the instant action. The thirty day period has now expired, and plaintiff has not shown cause or otherwise responded to the court's order.


Accordingly, IT IS HEREBY RECOMMENDED that defendant Reed be dismissed from this action, and this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-

¹ The court recommended that defendant Miller be dismissed from this action by findings and recommendations issued August 8, 2011. (Dkt. No. 98.)

1 one days after being served with these findings and recommendations, plaintiff may file written
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's
3 Findings and Recommendations." Any response to the objections shall be filed and served
4 within fourteen days after service of the objections. Plaintiff is advised that failure to file
5 objections within the specified time may waive the right to appeal the District Court's order.
6 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

7 DATED: September 19, 2011

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10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE

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