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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	DONNIE KAY SNEED,	No. 2:14-cv-2478 GEB KJN P
12	Plaintiff,	
13	v.	ORDER
14	FRED FAULK,	
15	Defendant.	
16		I
17	Plaintiff is a state prisoner, proceedin	g pro se. On December 14, 2016, the undersigned
18	recommended that this action be dismissed based on plaintiff's failure to file a second amended	
19	complaint. On December 15, 2016, plaintiff	filed a motion for extension of time to file an
20	amended complaint, which was entered on the court's docket December 16, 2016. Plaintiff	
21	signed his motion on November 30, 2016; under the mailbox rule, his motion is timely. See	
22	Jenkins v. Johnson, 330 F.3d 1146, 1149 n.2	(9th Cir. 2003) (date petition is signed may be
23	considered earliest possible date an inmate co	ould submit his petition to prison authorities for
24	filing under the mailbox rule). Thus, the find	lings and recommendations are vacated.
25	In his motion, plaintiff seeks a 90 day extension of time in which to file his second	
26	amended complaint. He claims he needs add	itional time to research his claims and to seek the
27	return of certain relevant documents that wer	e confiscated during a building search in January of
28	2016. Plaintiff also provides exhibits pertain	ing to his efforts to exhaust administrative remedies

as to various unrelated incidents.

2	This action was filed on September 29, 2014. To date, despite multiple opportunities,
3	plaintiff has failed to allege facts that state a cognizable civil rights claim. Upon review of
4	plaintiff's recent exhibits, it also appears that plaintiff has not exhausted his administrative
5	remedies as to many of his potential claims.
6	A prisoner may not bring a § 1983 action until he has exhausted such administrative
7	remedies as are available to him. 42 U.S.C. § 1997e(a). The requirement is mandatory. Booth v.
8	Churner, 532 U.S. 731, 741 (2001). California prisoners or parolees may appeal "departmental
9	policies, decisions, actions, conditions, or omissions that have a material adverse effect on the[ir]
10	welfare" Cal. Code Regs. tit. 15, §§ 3084.1, et seq. An appeal must be presented on a CDC
11	form 602 that asks simply that the prisoner "describe the problem" and "action requested." ¹
12	Therefore, this court ordinarily will review only claims against prison officials within the scope of
13	the problem reported in a CDC form 602 or an interview or claims that were or should have been
14	uncovered in the review promised by the department.
15	Plaintiff is advised that he is not required to submit evidence in support of any second
16	amended complaint. Rather, plaintiff must allege facts that demonstrate his constitutional rights
17	¹ On January 28, 2011, California prison regulations governing inmate grievances were revised.
18	Cal. Code Regs. tit. 15, § 3084.7. Now, inmates in California proceed through three levels of appeal to exhaust the appeal process: (1) formal written appeal on a CDC 602 inmate appeal
19	form, (2) second level appeal to the institution head or designee, and (3) third level appeal to the Director of the California Department of Corrections and Rehabilitation ("CDCR"). Cal. Code
20	Regs. tit. 15, § 3084.7. Under specific circumstances, the first level review may be bypassed. Id.
21	The third level of review constitutes the decision of the Secretary of the CDCR and exhausts a prisoner's administrative remedies. <u>See id.</u> § 3084.7(d)(3). Since 2008, medical appeals have
22	been processed at the third level by the Office of Third Level Appeals for the California Correctional Health Care Services. A California prisoner is required to submit an inmate appeal
23	at the appropriate level and proceed to the highest level of review available to him. <u>Butler v.</u> <u>Adams</u> , 397 F.3d 1181, 1183 (9th Cir. 2005); <u>Bennett v. King</u> , 293 F.3d 1096, 1098 (9th Cir.
24	2002). Since the 2011 revision, in submitting a grievance, an inmate is required to "list all staff
25	members involved and shall describe their involvement in the issue." Cal. Code Regs. tit. 15, § 3084.2(3). Further, the inmate must "state all facts known and available to him/her regarding
26	the issue being appealed at the time," and he or she must "describe the specific issue under appeal and the relief requested." Cal. Code Regs. tit. 15, §§ 3084.2(a)(4). An inmate now has thirty
27	calendar days to submit his or her appeal from the occurrence of the event or decision being appealed, or "upon first having knowledge of the action or decision being appealed." Cal. Code
28	Regs. tit. 15, § 3084.8(b).

1	were violated and identify the individuals who allegedly violated his rights. Moreover, plaintiff
2	must first exhaust his administrative remedies as to any such claims before the instant action was
3	filed on September 29, 2014. Thus, plaintiff may not raise in this action any claims based on
4	incidents that occurred on or after September 29, 2014.
5	In an abundance of caution, plaintiff is granted 60 days in which to file his amended
6	pleading. However, no further extensions of time will be granted. In the alternative, plaintiff
7	may choose to voluntarily dismiss this action until he can adequately plead his claims.
8	IT IS HEREBY ORDERED that:
9	1. Plaintiff's motion for an extension of time (ECF No. 33) is partially granted;
10	2. Plaintiff is granted sixty days from the date of this order in which to file an amended
11	complaint, or plaintiff may file a voluntary dismissal; and
12	3. The Clerk of the Court shall send plaintiff the form for filing a civil rights action by a
13	prisoner.
14	Dated: December 23, 2016
15	Fordall D. Newman
16	KENDALL J. NEWMAN UNITED STATES MAGISTRATE JUDGE
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