

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

BALJIT SINGH,  
Plaintiff,  
v.  
AGUILERA NICOLAS, et al.,  
Defendants.

No. 2: 18-cv-1852 KJN P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. The undersigned has separately issued an order screening the complaint. In that order, the undersigned found that it was clear from the face of the complaint that plaintiff failed to exhaust administrative remedies with respect to claim two.

Accordingly, for the reasons stated in that order, the undersigned herein recommends that claim two be dismissed for failure to state a claim, based on plaintiff's failure to exhaust administrative remedies. See Albino v. Baca, 747 F.3d 1162, 1169 (9th Cir. 2014) (in cases where a failure to exhaust is clear from the face of the complaint, it may be dismissed for failure to state a claim).

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall assign a district judge to this action; and

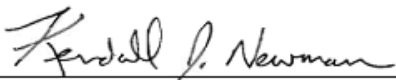
///

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

IT IS HEREBY RECOMMENDED that claim two be dismissed for failure to state a claim.

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 fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: August 30, 2018

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

Singh1852.56