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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TVARRIA DeSHAWN COLEMAN,  
Plaintiff,  
v.  
J. BILLS, et al..  
Defendants.

No. 2:19-cv-1897 DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action under 42 U.S.C. § 1983. He alleges claims for retaliation, violation of the right to marry, and failure to protect. Plaintiff states in his complaint that he did not exhaust his administrative remedies before filing this action. In an order filed November 4, 2019, this court gave plaintiff an opportunity to show why he should be excused from the exhaustion requirement of 42 U.S.C. § 1997e(a). (ECF No. 8.) In that order, this court explained the exhaustion requirement and set out the “three kinds of circumstances in which an administrative remedy, although officially on the books, is not capable of use to obtain relief” as described by the Supreme Court in Ross v. Blake, 136 S. Ct. 1850, 1859 (2016).

In a document filed December 20, 2019, plaintiff responded to the court’s order. (ECF No. 9.) Plaintiff states simply that he does not have the “evidence” to show why he failed to exhaust.  
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1 However, plaintiff makes no attempt to explain why he did not do so. He further states that he  
2 understands he must dismiss this action.


3 The exhaustion requirement is mandatory. 42 U.S.C. § 1997e(a). Plaintiff concedes that he  
4 did not exhaust his administrative remedies and cannot demonstrate that those remedies were  
5 effectively unavailable to him.

6 Accordingly, the Clerk of the Court IS HEREBY ORDERED to assign a district judge to this  
7 case; and

8 IT IS RECOMMENDED that this action be dismissed for plaintiff's failure to exhaust his  
9 administrative remedies.

10 These findings and recommendations will be submitted to the United States District Judge  
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
12 after being served with these findings and recommendations, plaintiff may file written objections  
13 with the court. The document should be captioned "Objections to Magistrate Judge's Findings  
14 and Recommendations." Plaintiff is advised that failure to file objections within the specified  
15 time may result in waiver of the right to appeal the district court's order. Martinez v. Ylst, 951  
16 F.2d 1153 (9th Cir. 1991).

17 Dated: December 26, 2019

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21 DEBORAH BARNES  
22 UNITED STATES MAGISTRATE JUDGE

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