

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

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OMAR SHARRIEFF GAY,  
Plaintiff,

No. C 10-1314 WHA (PR)

v.

**ORDER PROVIDING PLAINTIFF  
NOTICE AND WARNING;  
SCHEDULING BRIEFING**

MATTHEW CATE, Director; A.  
HEDGEPEETH, Warden; J. WALKER;  
Chief Health Program Manager; K. WALL,  
Health Care Manager; M. SEPULVEDA,  
Chief Medical Officer; DR. D. JARDINI;

Defendants.

Plaintiff, a California prisoner pro se, filed this civil rights action under 42 U.S.C. 1983. Defendants have filed a motion to dismiss in which they argue that plaintiff's claims are not exhausted as required by 42 U.S.C. 1997e. Pursuant to *Woods v. Carey*, No. 09-15548, slip op. 7871, 7884-85 (9th Cir. July 6, 2012), plaintiff is given the following notice and warning for a second time:

**If defendants file an unenumerated motion to dismiss for failure to exhaust, they are seeking to have your case dismissed. If the motion is granted it will end your case.**

**You have the right to present any evidence you may have which tends to show that you did exhaust your administrative remedies. Such evidence may be in**

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

**the form of declarations (statements signed under penalty of perjury) or authenticated documents, that is, documents accompanied by a declaration showing where they came from and why they are authentic, or other sworn papers, such as answers to interrogatories or depositions.**

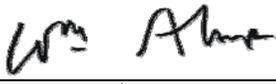
**If defendants file a motion to dismiss and it is granted, your case will be dismissed and there will be no trial.**

*See also Wyatt v. Terhune*, 315 F.3d 1108, 1120 n. 4 (9th Cir. 2003).

Plaintiff may supplement his opposition to defendants' motion on or before **August 1, 2012**. Defendants **shall** file a supplemental reply brief within **7 days** of the date any supplemental opposition is filed. If plaintiff does not supplement his opposition, defendants' motion will be decided on the papers that have already been filed.

**IT IS SO ORDERED.**

Dated: July 10, 2012.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

G:\PRO-SE\WHA\CR.10\GAY1314.WOODSFTE.wpd