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E-Filed 4/28/11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JERMAIN MCGOWAN,
Plaintiff,

No. C 11-1682 RS (PR)

ORDER OF DISMISSAL

v.

JOHN DOE,
Defendant.

_____ /
This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state prisoner. Plaintiff has filed for an extension of time to file his complaint because he was not aware that he had to exhaust his claims prior to filing a § 1983 complaint. (*See* Docket No. 4.) Prisoners must properly exhaust their administrative remedies before filing suit in federal court. “No action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Exhaustion is mandatory and is no longer left to the discretion of the district court. *Woodford v. Ngo*, 548 U.S. 81, 84 (2006) (citing *Booth v. Churner*, 532 U.S. 731, 739 (2001)).

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1 To exhaust properly administrative remedies in California state prisons, inmates must
2 proceed through a four-step process, which consists of (1) an informal attempt at resolution;
3 (2) a first-level formal appeal; (3) a second-level appeal to the institution head; and (4) an
4 appeal to the Director of the California Department of Corrections and Rehabilitation.
5 See 15 Cal. Code Regs. § 3084.5.

6 Plaintiff admits that he has not exhausted his grievances prior to filing the instant
7 action. Accordingly, the action is hereby DISMISSED without prejudice on grounds of
8 nonexhaustion. Plaintiff may refile his action after having properly exhausted his claims
9 through the inmate grievance procedure at his penal institution. The Clerk shall enter
10 judgment in favor of defendant, and close the file. Because no complaint was filed, no filing
11 fee is due.

12 **IT IS SO ORDERED.**

13 DATED: April 27, 2011



14 RICHARD SEEBORG
15 United States District Judge
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