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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JIMMIE EARL STEPHEN,
Plaintiff,
v.
ALVAREZ, et al.,
Defendants.

Case No. [14-cv-01245-SI](#)

**ORDER DENYING POST-JUDGMENT
MOTIONS**

Re: Dkt. Nos. 76, 77

In this *pro se* prisoner’s civil rights action, plaintiff sued several prison officials for deliberate indifference to his medical needs. On June 7, 2016, the court granted defendants’ motion for summary judgment based on non-exhaustion of administrative remedies and entered judgment against plaintiff.

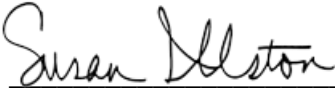
Plaintiff has filed a “‘motion to re-open’ from 6-7-16 ‘dismissal without prejudice,’” in which he appears to contend that he has exhausted administrative remedies. Attached to his motion is a third level administrative appeal decision dated September 1, 2016 referring to another cancelled appeal. *See* Docket No. 76 at 3. The motion to re-open is DENIED. Docket No. 76. Administrative remedies must be exhausted before an action is filed; a post-judgment exhaustion of administrative remedies would not satisfy the exhaustion requirement in 42 U.S.C. § 1997e(a). The September 1, 2016 third level decision did not satisfy the exhaustion requirement for this action filed in 2014. The court dismissed this action without prejudice to plaintiff *filing a new action* (rather than without prejudice to him moving to reopen this action) if he ever complies with the exhaustion requirement.

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Plaintiff's "request by 'order' FRCP Rule # 26, 34 'production' . . . forthwith" seeks discovery about an unserved defendant who was dismissed on October 20, 2015. Docket No. 77. The request is DENIED for the reasons stated at page 12 of the order granting summary judgment for defendants. *See* Docket No. 74 at 12. The request is denied for the additional reason that it is untimely. This action is closed, and it is too late to conduct discovery in it.

IT IS SO ORDERED.

Dated: September 30, 2016



SUSAN ILLSTON
United States District Judge