

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 LEONARD A. HASKIN,

No. C 08-2226 CW (PR)

5                                    Plaintiff,

ORDER DIRECTING DEFENDANTS  
TO PRODUCE DOCUMENTS IN  
SUPPORT OF MOTION TO DISMISS

6                                    v.

7 ROBERT AYERS, JR., et al.,

8                                    Defendants.  
\_\_\_\_\_ /

9  
10            Before the Court is a motion to dismiss by Defendants Warden  
11 R. Ayers, Jr., Dr. Bui, Dr. Gershbein, Dr. Martin, Sgt. Nguyen,  
12 Officer Perry, Dr. Udenyi, Dr. William and Dr. Wilson for failure  
13 to exhaust administrative remedies. Defendants allege Plaintiff  
14 did not exhaust available administrative remedies because he  
15 "submitted two inmate appeals for review at the Director's Level of  
16 Review, and neither of those appeals involves Haskin's deliberate  
17 indifference claims found in his complaint." (Mot. Dismiss at 2.)  
18 Plaintiff alleges that "every time [he] tried to file an inmate  
19 appeal, they either deliberately lost my appeal, or refused to  
20 honor my appeal." (Pl.'s Jan. 3, 2011 Letter at 1.) Plaintiff  
21 attached to his amended complaint documents relating to inmate  
22 appeal log no. 07-00209, which raised the deliberate indifference  
23 claims found in his complaint. (Am. Compl. at 44.<sup>1</sup>) The record  
24 does not show whether there was a second level response to his  
25

26            \_\_\_\_\_  
27            <sup>1</sup> Plaintiff has not numbered his amended complaint. Although  
28 he has numbered the pages of his exhibits, the pages are not in  
numerical order. Therefore, the Court has renumbered his complaint  
and exhibits, beginning with page one as the first page of the  
complaint form.

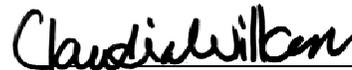
1 appeal. Defendants do not address inmate log no. 07-00209 in their  
2 motion to dismiss.

3 No later than seven (7) days from the date of this Order,  
4 Defendants must provide the Court with any and all relevant  
5 supporting documents showing whether there was a second level  
6 response to inmate appeal log no. 07-00209, and if so, whether the  
7 appeal progressed to the Director's level.

8 The Court will resolve the pending motion to dismiss in a  
9 separate written Order.

10 IT IS SO ORDERED.

11 Dated: 2/1/2011



CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 LEONARD A HASKINS,

5 Plaintiff,

6 v.

7 ROBERT AYERS JR et al,

8 Defendant.

Case Number: CV08-02226 CW

**CERTIFICATE OF SERVICE**

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on February 1, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
14 receptacle located in the Clerk's office.

15 Leonard A. Haskins  
16 800 Main St., Apt. #207  
17 Redwood City, CA 94063

Dated: February 1, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk