

1 concerning prison life, whether such actions involve general conditions or particular episodes,
2 whether they allege excessive force or some other wrong, and even if they seek relief not
3 available in grievance proceedings, such as money damages. *Porter v. Nussle*, 534 U.S. 516,
4 524 (2002). The exhaustion requirement requires “proper exhaustion” of all available
5 administrative remedies. *Ngo*, 548 U.S. at 93.

6 Because exhaustion under Section 1997e(a) is an affirmative defense, a complaint may be
7 dismissed for failure to exhaust only if failure to exhaust is obvious from the face of the
8 complaint and/or any attached exhibits. *Wyatt v. Terhune*, 315 F.3d 1108, 1119-20 (9th Cir.
9 2003). The court may dismiss a complaint for failure to exhaust where the prisoner “conce[des]
10 to nonexhaustion” and “no exception to exhaustion applies.” *Id.* at 1120. Here, it is obvious
11 from the face of the complaint that plaintiff did not exhaust his administrative remedies and no
12 exception to exhaustion is alleged or apparent in the complaint.

13 In plaintiff’s complaint, he concedes that he did not present his claims for review through
14 the prison’s grievance procedure. Rather, he claims that waiting to go through the “regular
15 appeal process” could cause serious and irreparable harm. (Compl. at 1-2.) Plaintiff concedes
16 that he did not pursue administrative relief at any level. (*Id.* at 1.)

17 Accordingly, the court issues an order to plaintiff to show cause as to why this case
18 should not be dismissed for failure to exhaust his administrative remedies prior to filing this
19 action. Plaintiff shall file a response to the order to show cause **within fourteen days** from the
20 date this order is filed. The court notes if plaintiff has not fully exhausted his administrative
21 remedies prior to filing this action, the complaint will be dismissed without prejudice.

22 CONCLUSION

23 Plaintiff is ordered to show cause why this case should not be dismissed for failure to
24 exhaust his administrative remedies prior to filing this action. Plaintiff shall file a written
25 response to the order to show cause **within fourteen days** of the date this order is filed. **Failure**
26 **to comply with this order within the deadline provided will result in the dismissal of this**
27 **action pursuant to Federal Rule of Civil Procedure 41(b).**

28 It is plaintiff’s responsibility to prosecute this case. Plaintiff must keep the

1 court informed of any change of address by filing a separate paper with the clerk headed "Notice
2 of Change of Address." He must comply with the court's orders in a timely fashion or ask for an
3 extension of time to do so.

4 IT IS SO ORDERED.

5 DATED: 3/21/14

Lucy H. Koh

LUCY H. KOH
United States District Judge

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