

AUG 4 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RAYMOND NEWSOM,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>JOHN CHOKATOS, MD,</p> <p>Defendant - Appellee.</p>

No. 13-15454

D.C. No. 1:11-cv-00403-LJO-DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted July 22, 2014**

Before: GOODWIN, CANBY and CALLAHAN, Circuit Judges.

California state prisoner Raymond Newsom appeals pro se from the district court’s judgment dismissing for failure to exhaust his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Albino v. Baca*, 747 F.3d 1162,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

1168 (9th Cir. 2014). We affirm.

The district court properly dismissed Newsom’s action because Newsom failed properly to exhaust administrative remedies and failed to demonstrate that administrative remedies were effectively unavailable to him. *See Woodford v. Ngo*, 548 U.S. 81, 85, 93-95 (2006) (holding that “proper exhaustion” is mandatory and requires adherence to administrative procedural rules); *Nunez v. Duncan*, 591 F.3d 1217, 1224-26 (9th Cir. 2010) (where defendant establishes failure to exhaust, burden shifts to plaintiff to prove that administrative remedies were unavailable to him).

AFFIRMED.