

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 29 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CRAIG KAISER GARRETT,

No. 20-55209

Plaintiff-Appellant,

D.C. No. 2:18-cv-10754-AB-KES

v.

MEMORANDUM*

PAULETTE FINANDER, Prison Doctor,
official and individual capacity,

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
Andre Birotte, Jr., District Judge, Presiding

Submitted January 20, 2021**

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

California state prisoner Craig Kaiser Garrett appeals pro se from the district court's judgment dismissing for failure to exhaust administrative remedies his 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Albino v. Baca*,

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

747 F.3d 1162, 1171 (9th Cir. 2014) (legal rulings on exhaustion); *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012) (dismissal for failure to state a claim). We affirm.

The district court properly dismissed Garrett’s action because Garrett failed to exhaust his available administrative remedies in a timely manner as required by the Prison Litigation Reform Act (“PLRA”). *See Ross v. Blake*, 136 S. Ct. 1850, 1856 (2016) (proper administrative exhaustion under the PLRA is mandatory); *Woodford v. Ngo*, 548 U.S. 81, 88-91 (2006) (prisoner must complete the administrative review process in accordance with the applicable procedural rules, including deadlines, as a precondition to suit); *see also Albino*, 747 F.3d at 1169 (where a failure to exhaust is clear from the face of the complaint, a district court may dismiss for failure to state a claim).

All pending requests are denied as moot.

AFFIRMED.