

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 31 2026

FOR THE NINTH CIRCUIT

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

BRADLEY W. MONICAL,

Plaintiff - Appellant,

v.

JEREMY NOFZIGER; R. FOSS; CRAIG
PRINS; CHERYL LENEX; J.
ROCHESTER; JUDY GILMORE;
MICHEAL GOWER; TAYLOR; JOHN
DOE 1; JOHN DOE 2; JOHN DOE 3,

Defendants - Appellees.

No. 25-229

D.C. No.

6:18-cv-02214-YY

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Youlee Yim You, Magistrate Judge, Presiding**

Submitted August 25, 2026***

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

Oregon state prisoner Bradley W. Monical appeals pro se from the district

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

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

court's summary judgment for failure to exhaust administrative remedies in his 42 U.S.C. § 1983 action alleging First and Eighth Amendment claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Fordley v. Lizarraga*, 18 F.4th 344, 350 (9th Cir. 2021). We affirm in part, vacate in part, and remand.

The district court properly granted summary judgment on Monical's First Amendment retaliation claim because Monical failed to exhaust his administrative remedies and failed to raise a genuine dispute of material fact as to whether administrative remedies were effectively unavailable to him. *See Ross v. Blake*, 578 U.S. 632, 642-44 (2016) (explaining that an inmate must exhaust such administrative remedies as are available before bringing suit, and describing limited circumstances in which administrative remedies are unavailable); *Griffin v. Arpaio*, 557 F.3d 1117, 1121 (9th Cir. 2009) (explaining that a grievance must "provide enough information . . . to allow prison officials to take appropriate responsive measures" (citation and internal quotation marks omitted)).

The district court concluded that Monical failed to exhaust administrative remedies on his Eighth Amendment conditions-of-confinement claim regarding denial of exercise shoes. However, the record shows that Monical filed two grievances requesting appropriate footwear for exercise. The response to the first grievance stated "satisfied and requires no further action." The response to the second grievance stated "[prison officials] will ensure you have been issued

appropriate footwear for exercising.” Because Monical received all available remedies within the administrative process, he was not required to continue to appeal this issue for purposes of exhaustion. *See Brown v. Valoff*, 422 F.3d 926, 935 (9th Cir. 2005) (concluding that “a prisoner need not press on to exhaust further levels of review once he has [] received all ‘available’ remedies”).

We vacate the district court’s judgment in part and remand to the district court to consider in the first instance the merits of Monical’s conditions-of-confinement claim and defendants’ qualified immunity defense. *See Hargis v. Foster*, 312 F.3d 404, 411-12 (9th Cir. 2002) (declining to address qualified immunity where the district court did not reach the issue).

In light of our disposition, we vacate the district court’s order denying Monical’s discovery motions to the extent they relate to his conditions-of-confinement claim. In all other respects, we affirm the district court’s order denying Monical’s discovery motions. *See Klingele v. Eikenberry*, 849 F.2d 409, 412 (9th Cir. 1988) (setting forth standard of review and explaining that “[t]he burden is on the nonmoving party . . . to show what material facts would be discovered that would preclude summary judgment”). On remand, the district court may reconsider Monical’s discovery motions in relation to the merits of the conditions-of-confinement claim.

The district court did not abuse its discretion in denying Monical’s motion

for sanctions based on alleged spoliation of evidence because Monical failed to establish any basis for such a sanction. *See Ryan v. Editions Ltd. W., Inc.*, 786 F.3d 754, 759, 766 (9th Cir. 2015) (setting forth standard of review and explaining that it is the plaintiff's burden of establishing spoliation).

The district court did not abuse its discretion in denying Monical's motion for default judgment. *See Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (setting forth standard of review and factors that courts may consider in determining whether to enter default judgment).

AFFIRMED in part, VACATED in part, and REMANDED.