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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

GERALD L. MILLER, JR.,

Plaintiff,

v.

O. RUFINO, et al.

Defendants.

Case No. 08cv1233 BTM(WMc)

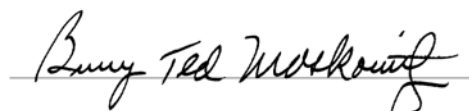
**ORDER DENYING MOTION FOR
PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING
ORDER**

Plaintiff has filed an motion for a preliminary injunction and temporary restraining order. Plaintiff, who is incarcerated at Calipatria State Prison, claims that he was given contaminated food by an officer who was retaliating against him for filing an administrative appeal. Plaintiff claims that Calipatria State Prison and its medical staff are trying to cover up the illness caused by the contaminated food and that he is being denied medical treatment at Calipatria. Plaintiff seeks an order requiring the Warden and Chief Deputy Warden of Calipatria to provide him with outside medical treatment.

The Warden and Chief Deputy Warden of Calipatria are not defendants in this action. The sole remaining defendant is O. Rufino, a Licensed Vocational Nurse with the State of California Department of Corrections and Rehabilitation ("CDCR") at Kern Valley State Prison ("KVSP"). The Court does not have jurisdiction over the Warden or Chief Deputy Warden of Calipatria State Prison. Therefore, Plaintiff's motion for a preliminary injunction and temporary restraining order are **DENIED**.

IT IS SO ORDERED.

DATED: August 22, 2011



Honorable Barry Ted Moskowitz
United States District Judge