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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,

Plaintiff,

No. 2:13-cv-0434 CKD P

vs.

A. GUTTEE,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has not paid the \$350 filing fee. Plaintiff will be provided the opportunity to submit the \$350 filing fee within 21 days. If plaintiff fails to pay the filing fee, the court will recommend that this action be dismissed.

Ordinarily, the court would allow plaintiff to apply to proceed in forma pauperis under 28 U.S.C. § 1915. However, plaintiff has “struck out” under 28 U.S.C. § 1915(g). See December 11, 2012 order in Morris v. Jennings, 2:12-cv-2240 GEB CKD P. A plaintiff who has struck out under § 1915(g) would be allowed to proceed in forma pauperis if the claims presented in their complaint are related to “imminent danger of serious physical injury.” In his complaint, plaintiff complains about the handling of his food – a familiar complaint from plaintiff (2:11-cv-0974 GEB JFM & 2:12-cv-2240 GEB CKD) – and that correctional officers have denied plaintiff

1 a new pillow despite the fact that a nurse had indicated he should be allowed one. Nothing  
2 suggests that if plaintiff were to prevail on either of his claims “imminent danger of serious  
3 physical injury” would be avoided. Further, plaintiff seeks monetary relief, not injunctive relief  
4 to alleviate a dangerous condition.

5 In accordance with the above, IT IS HEREBY ORDERED that:

6 1. Within 21 days of service of this order, plaintiff shall submit the \$350 filing  
7 fee for this action; and

8 2. Plaintiff’s failure to comply with this order will result in a recommendation  
9 that this action be dismissed.

10 Dated: March 11, 2013

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12 CAROLYN K. DELANEY  
13 UNITED STATES MAGISTRATE JUDGE

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