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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHAWN DAMON BARTH,  
Plaintiff,  
v.  
S. BORBE,  
Defendant.

No. 2:20-cv-2202 DAD KJN P

FINDINGS AND RECOMMENDATIONS

By an order filed April 19, 2023, plaintiff's in forma pauperis status was revoked, and plaintiff was ordered to pay, within thirty days, the district court's filing fee, and was cautioned that failure to do so would result in a recommendation that this action be dismissed.

In the meantime, plaintiff filed an appeal which was processed to the Court of Appeals for the Ninth Circuit, case No. 23-15879. However, on November 16, 2023, the appellate court denied plaintiff leave to proceed in forma pauperis under 28 U.S.C. § 1915(g) and ordered him to pay the \$505.00 appellate filing fee within 21 days. No. 23-15879 (ECF No. 9). On December 29, 2023, plaintiff was granted an additional 21 days in which to pay the \$505.00 filing fee and warned that failure to pay such fees would result in the automatic dismissal of the appeal. On January 30, 2024, plaintiff's appeal was dismissed for failure to prosecute. (ECF No. 58.)


To date, according to the financial department, no monies have been received from plaintiff for either the instant case or toward plaintiff's appeal. More than thirty days have passed

1 since the order issued, and plaintiff has not paid the court's filing fee, or otherwise responded to  
2 the court's order.

3 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
4 prejudice.

5 These findings and recommendations are submitted to the United States District Judge  
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
7 after being served with these findings and recommendations, any party may file written  
8 objections with the court and serve a copy on all parties. Such a document should be captioned  
9 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
10 objections shall be filed and served within fourteen days after service of the objections. The  
11 parties are advised that failure to file objections within the specified time may waive the right to  
12 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: February 7, 2024

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16 KENDALL J. NEWMAN  
17 UNITED STATES MAGISTRATE JUDGE

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