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6 IN THE UNITED STATES DISTRICT COURT FOR THE  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 BRADY K. ARMSTRONG,

1:12-cv-01498-AWI-SAB (PC)

10 Plaintiff,

11 vs.

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING THIS ACTION BE  
DISMISSED, WITH PREJUDICE, FOR  
FAILURE TO STATE A CLAIM

12 C. ETCHEBEHERE, et al.,

13 Defendants.

(ECF Nos. 6 & 18.)

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(THIRTY-DAY OBJECTION DEADLINE)

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16 Plaintiff Brady K. Armstrong ("Plaintiff") is a prisoner proceeding pro se and in forma  
17 pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. On November 5, 2012, the Court  
18 dismissed Plaintiff's complaint with leave to amend. (ECF No. 6.) In this order, Plaintiff  
19 received notice that the failure to file an amended complaint would result in the dismissal of his  
20 action, with prejudice, for failure to state a claim. (ECF No. 6.) On November 28, 2012, Plaintiff  
21 filed a motion requesting an extension of time to file an amended complaint. (ECF No. 9.) On  
22 November 30, 2012, the Court granted the extension and cautioned Plaintiff that he would  
23 receive no further extensions. (ECF No. 10.) On December 13, 2012, Plaintiff filed a second  
24 motion for an extension of time, which was granted on December 19, 2012. (ECF Nos. 11 & 12.)  
25 Subsequently, on December 26, 2012, Plaintiff filed his third motion for an extension of time.  
26 (ECF No. 13.) Plaintiff's third motion was granted on January 8, 2013, and gave Plaintiff until  
February 11, 2013 to file his amended complaint. (ECF No. 15.)

1 On January 28, 2013, Plaintiff filed a fourth motion to extend time to amend  
2 his complaint. (ECF No. 16.) Due to the fact that Plaintiff had not yet exhausted his third  
3 extension of time and because Plaintiff was advised by the Court order of November 30, 2012  
4 that no further extensions would be granted, the Court denied Plaintiff's motion to extend time.  
5 (ECF No. 17.) On January 28, 2013, the Court ordered that Plaintiff must file an amended  
6 complaint by February 11, 2013 or his case would be dismissed pursuant to 28 U.S.C. § 1915A  
7 for failure to state any claims upon which relief may be granted. (ECF No. 17.) On February 15,  
8 2013, Plaintiff filed a fifth motion to extend time to file an amended complaint. (ECF No. 18.)  
9 On February 19, 2013, the Court denied Plaintiff's fifth motion for extension of time. (ECF No.  
10 19.)

11 Plaintiff received two separate warnings on November 30, 2012 and January 28, 2013  
12 that no further extensions of time would be granted and that failure to file an amended complaint  
13 would result in the dismissal of his case. (ECF Nos. 10 & 17.) Plaintiff's deadline to file an  
14 amended complaint has passed and Plaintiff has not complied with or otherwise responded to the  
15 Court's order. As a result, there is no pleading on file which sets forth any claims upon which  
16 relief may be granted.

17 Accordingly, pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), it is HEREBY  
18 RECOMMENDED that this action BE DISMISSED, with prejudice, based on Plaintiff's failure  
19 to state any claims upon which relief may be granted.

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1           These findings and recommendations will be submitted to the United States District  
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **thirty**  
3 **(30) days** after being served with these findings and recommendations, Plaintiff may file written  
4 objections with the Court. The document should be captioned "Objections to Magistrate Judge's  
5 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
6 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
7 F.2d 1153 (9th Cir. 1991).

8 IT IS SO ORDERED.

9       **Dated: February 25, 2013**

  
UNITED STATES MAGISTRATE JUDGE