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

LANCE L. BROWN,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

No. 2:15-CV-0370-WBS-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On November 15, 2018, the Magistrate Judge dismissed plaintiff’s complaint but granted leave to amend within 30 days, while giving instructions on how plaintiff could cure the deficiencies of the original complaint. (Docket No. 21.) Plaintiff was also warned that failure to amend the complaint within 30 days could result in dismissal of this action. Plaintiff did not file an amended complaint within 30 days, and on January 16, 2019, the Magistrate Judge filed findings and recommendations recommending that the case be dismissed without prejudice and which contained notice that the parties may file objections within the time specified therein. (Docket No. 23.) No objections to the findings and recommendations have been filed.

The court has reviewed the file and finds the Magistrate Judge’s November 15,

1 2018 dismissal with leave to amend to be supported by the record and the Magistrate Judge's
2 analysis. The court also agrees that the case should now be dismissed, as recommended by the
3 Magistrate Judge. The court construes plaintiff's failure to file an amended complaint as an
4 acknowledgment that the plaintiff cannot improve upon the allegations of the original complaint
5 consistent with the Magistrate Judge's November 15, 2018 order. Therefore, for the reasons
6 stated by the Magistrate Judge in the November 15, 2018, the court finds that plaintiff's
7 complaint fails to state a claim upon which relief may be granted, and for that reason the case will
8 be dismissed without prejudice.

9 IT IS THEREFORE ORDERED that this action be, and the same hereby is,
10 DISMISSED without prejudice. The Clerk of the Court is directed to enter judgment and close
11 this file.

12 Dated: April 5, 2019



13 **WILLIAM B. SHUBB**
14 **UNITED STATES DISTRICT JUDGE**