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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

David S. Martinez,
Plaintiff,
vs.
Corrections Corporation of America, et al.,
Defendants.

No. CV 09-956-PHX-MHM (ECV)

ORDER

I. Background

On May 4, 2009, Plaintiff David S. Martinez, who is confined in the Corrections Corporation of America’s La Palma Correctional Center, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. In a June 18, 2009 Order, the Court granted the Application to Proceed and dismissed the Complaint because Plaintiff had failed to state a claim. The Court gave Plaintiff 30 days to submit an amended complaint that cured the deficiencies identified in the Order.

II. Application for Enlargement of Time to Amend Complaint

On July 14, 2009, Plaintiff filed an Application for Enlargement of Time to Amend Complaint (Doc. #6). He seeks an extension of time, until August 18, 2009, to file his amended complaint, claiming that he is not familiar with the rules and laws pertaining to this case and that institutional lockdowns have caused the law library to be inaccessible.

The Court, in its discretion, will grant Plaintiff’s request for an extension of time to file his amended complaint.

1 **III. Warnings**

2 **A. Release**

3 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.
4 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay
5 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result
6 in dismissal of this action.

7 **B. Address Changes**

8 Plaintiff must file and serve a notice of a change of address in accordance with Rule
9 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
10 relief with a notice of change of address. Failure to comply may result in dismissal of this
11 action.

12 **C. Copies**

13 Plaintiff must submit an additional copy of every filing for use by the Court. See
14 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice
15 to Plaintiff.

16 **D. Possible “Strike”**

17 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails
18 to file an amended complaint correcting the deficiencies identified in the Court’s June 18th
19 Order, the dismissal will count as a “strike” under the “3-strikes” provision of 28 U.S.C.
20 § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action or appeal
21 a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more
22 prior occasions, while incarcerated or detained in any facility, brought an action or appeal
23 in a court of the United States that was dismissed on the grounds that it is frivolous,
24 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is
25 under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

26 **E. Possible Dismissal**

27 If Plaintiff fails to timely comply with every provision of the Court’s June 18th Order
28 and this Order, including these warnings, the Court may dismiss this action without further

1 notice. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may
2 dismiss an action for failure to comply with any order of the Court).

3 **IT IS ORDERED:**

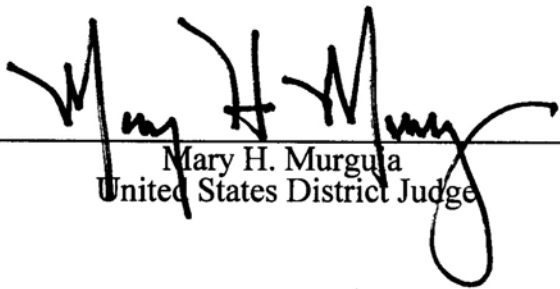
4 (1) Plaintiff's Application for Enlargement of Time to Amend Complaint (Doc.
5 #6) is **granted**.

6 (2) Plaintiff shall have until **August 18, 2009**, to file a first amended complaint in
7 compliance with the June 18, 2009 Order and this Order.

8 (3) If Plaintiff fails to file an amended complaint **on or before August 18, 2009**,
9 the Clerk of Court must, without further notice, enter a judgment of dismissal of this action
10 with prejudice that states that the dismissal counts as a "strike" under 28 U.S.C. § 1915(g).

11 DATED this 11th day of August, 2009.

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Mary H. Murgula
United States District Judge