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

Leonard Bean,	)	No. CV 09-1966-PHX-DGC (LOA)
	)	
Plaintiff,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
Charles L. Ryan, et al.,	)	
	)	
Defendants.	)	

Plaintiff Leonard Bean, who is confined in the Arizona State Prison Complex-Florence (ASPC-Florence), has filed a *pro se* civil rights Complaint (Doc. #1), an Application to Proceed *In Forma Pauperis* (Doc. #3), and a “Motion For Notice of Service” (Doc. #4). The Court will grant Plaintiff’s Application to Proceed *In Forma Pauperis*, assess an initial partial filing fee, deny Plaintiff’s Motion as moot, and dismiss the Complaint with leave to amend.

**I. Application to Proceed *In Forma Pauperis* and Filing Fee**

Although Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. #3) has not been certified by a correctional official, his “Certified Statement Of Account,” included with Application, has been certified as required. Accordingly, in the interest of justice, the Court will overlook the lack of certification on the Application to Proceed and accept the Application to Proceed *In Forma Pauperis* as filed. Plaintiff’s Application to Proceed *In*

1 *Forma Pauperis* (Doc. #3) will be granted. Plaintiff must pay the statutory filing fee of  
2 \$350.00. 28 U.S.C. § 1915(b)(1). The Court will assess an initial partial filing fee of \$12.87.  
3 The remainder of the fee will be collected monthly in payments of 20% of the previous  
4 month's income each time the amount in the account exceeds \$10.00. 28 U.S.C.  
5 § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government  
6 agency to collect and forward the fees according to the statutory formula.

## 7 **II. Statutory Screening of Prisoner Complaints**

8 The Court is required to screen complaints brought by prisoners seeking relief against  
9 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
10 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
11 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
12 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
13 28 U.S.C. § 1915A(b)(1), (2).

14 A pleading must contain a "short and plain statement of the claim *showing* that the  
15 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not  
16 demand detailed factual allegations, "it demands more than an unadorned, the-defendant-  
17 unlawfully-harmed-me accusation." Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
18 "Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
19 statements, do not suffice." Id.

20 "[A] complaint must contain sufficient factual matter, accepted as true, to 'state a  
21 claim to relief that is plausible on its face.'" Id. (quoting Bell Atlantic Corp. v. Twombly,  
22 550 U.S. 544, 570 (2007)). A claim is plausible "when the plaintiff pleads factual content  
23 that allows the court to draw the reasonable inference that the defendant is liable for the  
24 misconduct alleged." Id. "Determining whether a complaint states a plausible claim for  
25 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
26 experience and common sense." Id. at 1950. Thus, although a plaintiff's specific factual  
27 allegations may be consistent with a constitutional claim, a court must assess whether there  
28 are other "more likely explanations" for a defendant's conduct. Id. at 1951.

1           If the Court determines that a pleading could be cured by the allegation of other facts,  
2 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
3 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
4 should not, however, advise the litigant how to cure the defects. This type of advice “would  
5 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,  
6 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was  
7 required to inform a litigant of deficiencies). Plaintiff’s Amended Complaint will be  
8 dismissed for failure to state a claim, with leave to amend because the Amended Complaint  
9 may possibly be saved by amendment.

### 10 **III. Complaint**

11           Named as Defendants in the Complaint are: (1) Charles L. Ryan, Director, Arizona  
12 Department of Corrections (ADOC); (2) C.A. McWilliams, Warden, ASPC-Florence;  
13 (3) Stacy Crabtree, Classification Manager, Central Office, ADOC; and (4) Stephen Morris,  
14 “ADW,” Central Office, ADOC. Plaintiff alleges three counts in the Complaint in which he  
15 alleges that his Fourteenth Amendment rights have been violated. Plaintiff seeks a jury trial,  
16 declaratory and injunctive relief, and punitive monetary damages.

### 17 **IV. Failure to State a Claim**

18           In all three of the counts in the Complaint, Plaintiff claims that his due process rights  
19 under the Fourteenth Amendment are being violated because he continues to be held in  
20 “maximum custody.”

21           In Count I, Plaintiff alleges that when he was transferred to the custody of ADOC on  
22 June 6, 2001, from the Florida Department of Corrections under the Interstate Corrections  
23 Compact, he was placed in a “maximum custody facility in Florence” and that he has  
24 “remained housed in maximum placement since his incarceration in ADOC.” Plaintiff  
25 further alleges that “normally an inmate confined to maximum status would have been  
26 reclassified to a lower custody level within a two[-]year period” but that he “has been denied  
27 any drop in custody level based on the Defendants’ claim that the sending state [Florida]  
28 specifically required that the Plaintiff remain in maximum custody.” Plaintiff also alleges

1 that his classification impacts his “ability to earn good-time credits at the rate of 20 days off  
2 of every 30 days served.”

3 Plaintiff asserts that “[a]s long as the Plaintiff remains in maximum custody he is  
4 being denied due process and a liberty interest by all the Defendants.” Plaintiff argues that  
5 the State of Arizona has “created a constitutionally protected liberty interest” with respect  
6 to the “Arizona ‘Public Objective Classification Custody Manual’” because the Manual  
7 “expressly” uses “language that is clearly mandatory in nature.” Plaintiff further argues that  
8 the Defendants have not followed the required procedures under the Manual because they  
9 have “unsupported[ly] maintained that Florida requested that the Plaintiff be placed in  
10 maximum custody indefinitely.”

11 In Count II, Plaintiff alleges that when he “was transferred to Arizona he was eligible  
12 under the reclass[ification] system to be classified to a custody level lower than maximum  
13 but the Defendants choose to place the Plaintiff in maximum custody because of his prior  
14 conviction in 1983 [and] the Defendants used [a] false allegation for years stating that Florida  
15 requested to them to keep [Plaintiff] in maximum custody indefinite[ly].” Plaintiff further  
16 alleges that “[t]his willful act by the Defendants” has “demonstrated discrimination[,] a  
17 reckless or callous indifference to the Plaintiff[’s] federally protected rights to equal  
18 protection of the laws[,] which has imposed an atypical and significant ‘hardship,’ such as  
19 that inevitably affect[s] the duration of the Plaintiff[’s] sentence[,] increasing it in a ‘notably  
20 unexpected manner.’”

21 In Count III, Plaintiff alleges that he “has been disciplinary[-]free going on six []  
22 years” and that “there is no justification” for the Defendants “to deprive Plaintiff from  
23 working whereas the Plaintiff could earn his statutory good-time credits from Florida and  
24 cannot do so in maximum custody which is a disregard to the Plaintiff[’s] due process and  
25 liberty interest.”

26 A prisoner has no constitutional right to enjoy a particular security classification.  
27 Meachum v. Fano, 427 U.S. 215, 224-25 (1976) (no liberty interest protected by the Due  
28 Process Clause is implicated in a prison’s reclassification and transfer decisions). See also

1 Hewitt v. Helms, 459 U.S. 460, 466 (1983), overruled on other grounds by Sandin v. Conner,  
2 515 U.S. 472, 482-83 (1995); Lucero v. Russell, 741 F.2d 1129 (9th Cir. 1984). “As long  
3 as the conditions or degree of confinement to which the prisoner is subjected is within the  
4 sentence imposed upon him and is not otherwise violative of the Constitution, the Due  
5 Process Clause does not in itself subject an inmate’s treatment by prison authorities to  
6 judicial oversight.” Montanye v. Haymes, 427 U.S. 236, 242 (1976). But some placements  
7 in maximum security custody may implicate liberty interests requiring due process  
8 protections. See Wilkinson v. Austin, 545 U.S. 209 (2005).

9 In analyzing a due process claim, the Court must first decide whether a plaintiff was  
10 entitled to any process, and if so, whether he was denied any constitutionally required  
11 procedural safeguard. Liberty interests that entitle an inmate to due process are “generally  
12 limited to freedom from restraint which, while not exceeding the sentence in such an  
13 unexpected manner as to give rise to protection by the Due Process Clause of its own force,  
14 nonetheless imposes atypical and significant hardship on the inmate in relation to the  
15 ordinary incidents of prison life.” Sandin, 515 U.S. at 484 (internal citations omitted). To  
16 determine whether an inmate is entitled to the procedural protections afforded by the Due  
17 Process Clause, the Court must look to the particular restrictions imposed and ask whether  
18 they “present the type of atypical, significant deprivation in which a state might conceivably  
19 create a liberty interest.” Sandin, 515 U.S. at 486.

20 To determine whether the sanctions are atypical and significant hardships, courts look  
21 to the prisoner’s conditions of confinement, the duration of the sanction, and whether the  
22 sanction will affect the duration of the prisoner’s sentence. See Keenan v. Hall, 83 F.3d  
23 1083, 1088-89 (9th Cir. 1996). “Atypicality” requires not merely an empirical comparison  
24 but turns on the importance of the right taken away from the prisoner. See Carlo v. City of  
25 Chino, 105 F.3d 493, 499 (9th Cir. 1997). See, e.g., Sandin, 515 U.S. at 472 (30 days of  
26 disciplinary segregation is not atypical and significant); Torres v. Fauver, 292 F.3d 141, 151  
27 (3rd Cir. 2002) (four months in administrative segregation is not atypical and significant);  
28 Griffin v. Vaughn, 112 F.3d 703, 706-708 (3rd Cir.1997) (fifteen months of administrative

1 segregation is not atypical and significant); Beverati v. Smith, 120 F.3d 500, 504 (4th Cir.  
2 1997) (six months of confinement in especially disgusting conditions that were “more  
3 burdensome than those imposed on the general prison population were not “atypical . . . in  
4 relation to the ordinary incidents of prison life.”); Jones v. Baker, 155 F.3d 810 (6th Cir.  
5 1998) (two and one-half years of administrative segregation is not atypical and significant).

6 In the instant action, Plaintiff argues in Count I that the State of Arizona has “created  
7 a constitutionally protected liberty interest” with respect to the “Arizona ‘Public Objective  
8 Classification Custody Manual’” because the Manual “expressly” uses “language that is  
9 clearly mandatory in nature.” However, this argument is precisely the type of argument that  
10 was considered and rejected in Sandin. 515 U.S. at 483 (“[W]e believe that the search for  
11 a negative implication from mandatory language in prisoner regulations has strayed from the  
12 real concerns undergirding the liberty protected by the Due Process Clause.”). Rather, the  
13 Supreme Court determined that only those conditions that are significant and atypical in  
14 relation to the ordinary incidents of prison life are those that create a liberty interest. Id.  
15 Accordingly, Plaintiff cannot rely on the Manual as having created a liberty interest protected  
16 by the Due Process Clause.

17 In Count II, Plaintiff argues that the Defendants’ placing him in maximum custody  
18 because of his prior conviction in 1983 and a false allegation that Florida requested that  
19 Defendants keep Plaintiff in maximum custody indefinitely “demonstrated discrimination a  
20 reckless or callous indifference to the Plaintiff[’s] federally protected rights to equal  
21 protection of the laws[,] which has imposed an atypical and significant ‘hardship,’ such as  
22 that inevitably affect[s] the duration of the Plaintiff[’s] sentence[,] increasing it in a ‘notably  
23 unexpected manner.’”

24 Although *pro se* pleadings are liberally construed, Haines v. Kerner, 404 U.S. 519,  
25 520-21 (1972), conclusory and vague allegations will not support a cause of action. Ivey v.  
26 Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982). Further,  
27 a liberal interpretation of a civil rights complaint may not supply essential elements of the  
28 claim that were not initially pled. Id. “Threadbare recitals of the elements of a cause of

1 action, supported by mere conclusory statements, do not suffice.” Iqbal, 129 S. Ct. at 1949.

2 Plaintiff’s allegation in Count II that his placement in maximum custody imposed an  
3 atypical and significant hardship is extremely conclusory and vague. Plaintiff does not  
4 describe any of his physical conditions of confinement. Moreover, his claim that the  
5 Defendants’ actions have increased the duration of his sentenced in a “notably unexpected  
6 manner” is likewise conclusory and vague. Presumably, Plaintiff is referring to the fact that  
7 he is unable to “earn good-time credits from Florida” as he points out in Count III. However,  
8 while the manner of his not being able to earn good-time credits may have been unexpected  
9 to Plaintiff, the Court does not view the manner of his not being able to earn these credits as  
10 being objectively unexpected enough to give rise to protection by the Due Process Clause of  
11 its own force. Plaintiff’s allegations in all of his counts are simply too conclusory and vague  
12 to show that Plaintiff was entitled to any due process in the first place.

13 Moreover, even if the Court were to find that Plaintiff was entitled to due process  
14 under Sandin, Plaintiff has utterly failed to show how he was denied due process under the  
15 Fourteenth Amendment. Plaintiff does not allege that his classification was not reviewed on  
16 a regular basis or that any review denied him due process protections. Indeed, it appears that  
17 Plaintiff has had numerous opportunities to challenge his custody status. In all three counts,  
18 Plaintiff alleges that every six months he appeals his reclassification and the results are  
19 always the same. His appeal is denied.

20 Accordingly, Counts I, II, and III will be dismissed for failure to state a claim upon  
21 which relief may be granted.

22 **V. Leave to Amend**

23 Because no counts now remain, Plaintiff’s Complaint will be dismissed for failure to  
24 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
25 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail  
26 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails  
27 to use the court-approved form, the Court may strike the amended complaint and dismiss this  
28 action without further notice to Plaintiff.

1 Plaintiff must clearly designate on the face of the document that it is the “First  
2 Amended Complaint.” The first amended complaint must be retyped or rewritten in its  
3 entirety on the court-approved form and may not incorporate any part of the original  
4 Complaint by reference. Plaintiff may include only one claim per count.

5 In any amended complaint, Plaintiff must write out short, plain statements telling the  
6 Court (1) the constitutional right Plaintiff believes was violated; (2) the name of the person  
7 who violated the right; (3) exactly what that individual did or failed to do; (4) how the action  
8 or inaction of that person is connected to the violation of Plaintiff’s constitutional rights; and  
9 (5) what specific injury Plaintiff suffered because of that person’s conduct. See Rizzo v.  
10 Goode, 423 U.S. 362, 371-72, 377 (1976). If the person named as a defendant was a  
11 supervisory official, Plaintiff must either state that the defendant personally participated in  
12 the constitutional deprivation (and tell the Court the five things listed above), or Plaintiff  
13 must state, if he can do so in good faith, that the defendant was aware of the similar  
14 widespread abuses, but with deliberate indifference to Plaintiff’s constitutional rights, failed  
15 to take action to prevent further harm to Plaintiff (and tell the Court some facts to support this  
16 claim). King v. Atiyeh, 814 F.2d 565, 568 (9th Cir. 1987).

17 Plaintiff must repeat this process for each person he names as a defendant. If Plaintiff  
18 fails to affirmatively link the conduct of each named defendant with the specific injury  
19 suffered by Plaintiff, the claim against that defendant will be dismissed for failure to state a  
20 claim. **Conclusory allegations that a defendant or group of defendants have violated a  
21 constitutional right are not acceptable and will be dismissed.**<sup>1</sup>

22 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963  
23 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,  
24 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as  
25 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original  
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27 <sup>1</sup>Plaintiff must be much more specific in any amended complaint about what each  
28 Defendant personally did to violate his rights than he was in the Complaint. Most of  
Plaintiff’s allegations against the Defendants in the Complaint were conclusory and vague  
and treated the Defendants as a group, rather than as individuals, as required.



1 complaint is waived if it is not raised in a first amended complaint. King, 814 F.2d at 567.

2 **VI. Motion for Notice of Service**

3 On October 15, 2009, Plaintiff filed a “Motion For Notice of Service” (Doc. #4), in  
4 which he requests that this Court issue an order instructing the United States Marshal to serve  
5 the Complaint on all named Defendants. In light of the dismissal of the Complaint with leave  
6 to amend by this Order, Plaintiff’s Motion will be denied as moot.

7 **VII. Warnings**

8 **A. Release**

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

13 **B. Address Changes**

14 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
15 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
16 relief with a notice of change of address. Failure to comply may result in dismissal of this  
17 action.

18 **C. Copies**

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

22 **D. Possible “Strike”**

23 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails  
24 to file an amended complaint correcting the deficiencies identified in this Order, the  
25 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
26 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
27 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior  
28 occasions, while incarcerated or detained in any facility, brought an action or appeal in a

1 court of the United States that was dismissed on the grounds that it is frivolous, malicious,  
2 or fails to state a claim upon which relief may be granted, unless the prisoner is under  
3 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

4 **E. Possible Dismissal**

5 If Plaintiff fails to timely comply with every provision of this Order, including these  
6 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at  
7 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
8 Court).

9 **IT IS ORDERED:**

10 (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. #3) is **granted**.

11 (2) As required by the accompanying Order to the appropriate government agency,  
12 Plaintiff **must pay** the \$350.00 filing fee and is assessed an initial partial filing fee of \$12.87.

13 (3) Plaintiff’s “Motion For Notice of Service” (Doc. #4) is **denied as moot**.

14 (4) The Complaint (Doc. #1) is **dismissed** for failure to state a claim. Plaintiff has  
15 **30 days** from the date this Order is filed to file a first amended complaint in compliance with  
16 this Order.

17 (5) **If** Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
18 Court must, without further notice, enter a judgment of dismissal of this action with prejudice  
19 that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

20 (6) The Clerk of Court **must mail** Plaintiff a court-approved form for filing a civil  
21 rights complaint by a prisoner.

22 DATED this 12th day of January, 2010.

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David G. Campbell  
United States District Judge

**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
  
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
  
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
  
4. The Filing Fee. The filing fee for this action is \$350.00. If you are unable to immediately pay the filing fee, you may request leave to proceed *in forma pauperis*. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court *In Forma Pauperis* Pursuant to 28 U.S.C. § 1915” for additional instructions.
  
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten.
  
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$350 filing fee or the application to proceed *in forma pauperis* to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed *in forma pauperis*). Each original document (except the initial complaint and application to proceed *in forma pauperis*) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. See Fed. R. Civ. P. 5(a), (d). Any document received by the Court that does not include a certificate of service may be stricken. A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court before any defendant has answered your original complaint. See Fed. R. Civ. P. 15(a). After any defendant has filed an answer, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

## 12. Completing the Civil Rights Complaint Form.

### **HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

### **Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “Bivens v. Six Unknown Federal Narcotics Agents” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

### **Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

### **Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**

2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.

3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.

4. Injury. State precisely how you were injured by the alleged violation of your rights.

5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. See 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

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

\_\_\_\_\_  
(Full Name of Plaintiff) Plaintiff,

vs.

CASE NO. \_\_\_\_\_  
(To be supplied by the Clerk)

(1) \_\_\_\_\_  
(Full Name of Defendant)

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
- Other: \_\_\_\_\_

2. Institution/city where violation occurred: \_\_\_\_\_

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_ . The first Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_ . The second Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_ . The third Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ . The fourth Defendant is employed as:  
\_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.



**D. CAUSE OF ACTION**

**COUNT I**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.  
 Basic necessities                       Mail                       Access to the court                       Medical care  
 Disciplinary proceedings                       Property                       Exercise of religion                       Retaliation  
 Excessive force by an officer                       Threat to safety                       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies:**  
a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?                       Yes                       No  
b. Did you submit a request for administrative relief on Count I?                       Yes                       No  
c. Did you appeal your request for relief on Count I to the highest level?                       Yes                       No  
d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.

**COUNT II**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____.        |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- b. Did you submit a request for administrative relief on Count II?  Yes  No
- c. Did you appeal your request for relief on Count II to the highest level?  Yes  No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.

**COUNT III**

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

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\_\_\_\_\_.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. **Administrative Remedies.**

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count III?  Yes  No

c. Did you appeal your request for relief on Count III to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_  
\_\_\_\_\_.

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

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\_\_\_\_\_  
(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.