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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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10 John Wayne Farmer,

11 Plaintiff,

12 vs.

13 Dana Youhas, et al.,

14 Defendants.

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No. CV 09-2543-PHX-RCB (SPL)

**ORDER**

17 On February 8, 2012, this Court granted Defendant Youhas’s motion for summary  
18 judgment and dismissed her from the case, leaving what appeared to be one remaining  
19 defendant who was never served. On February 15, 2012, pursuant to this Court’s directive,  
20 the assigned Magistrate Judge issued an Order to Show Cause (Doc. 66) instructing Plaintiff  
21 to show cause why the claim against Officer #2381 should not be dismissed based on failure  
22 to serve. On March 7, 2012, Plaintiff filed a Motion to Alter the Judgment (Doc. 68),  
23 presumably in response to the order to show cause. Plaintiff indicates in his motion that  
24 Officer #2381 is actually Defendant Youhas. He explains that in Defendant Youhas’s  
25 Answer to Second Amended Complaint (Doc. 18), Defendant Youhas states that badge  
26 number 2381 belongs to her, not one of the Phoenix police officers who transported Plaintiff  
27 to jail, as suggested in the Second Amended Complaint. Doc. 18 at 6, fn.1. Plaintiff further  
28 explains that he has not been able to identify any of the Phoenix police officers who

1 transported him to jail.

2 Although Plaintiff's Second Amended Complaint clearly indicates he intended to  
3 assert a claim against one of the Phoenix police officers who transported him to the Fourth  
4 Avenue Jail, the officer will be dismissed based on Plaintiff's acknowledgment that he has  
5 been unable to locate and serve the officer. Because no other defendants remain, this action  
6 will be dismissed.

7 **IT IS THEREFORE ORDERED:**

8 That the unidentified Phoenix police officer (mistakenly identified as Officer #2381  
9 in the Second Amended Complaint) is **dismissed** from this action;

10 That this action is **dismissed** and the Clerk of Court shall enter judgment accordingly;  
11 and

12 That Plaintiff's Motion to Alter the Judgment (Doc. 68), is **denied as moot**.

13 DATED this 28th day of March, 2012.

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Robert C. Broomfield  
Senior United States District Judge