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

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|--|---|-----------------------------|
| James Earl Phillips, |) | No. CV 10-235-PHX-MHM (JRI) |
| Plaintiff, |) | ORDER |
| vs. |) | |
| City of Phoenix Police Department, et al., |) | |
| Defendants. |) | |

Plaintiff James Earl Phillips, who is confined in the Arizona State Prison Complex-Douglas, filed "Motion for Leave to File Delayed Civil Rights Complaint" and lodged a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and an Application to Proceed *In Forma Pauperis*. By Order filed March 8, 2010, the Court directed the Clerk of Court to file the Complaint and Application to Proceed, granted the Application to Proceed, and dismissed the Complaint with leave to amend. On March 25, 2010, Plaintiff filed a Motion to Amend Complaint (Doc. #13).

I. Motion

In his Motion to Amend, Plaintiff states that he had difficulty understanding the screening Order and asks that the Court "allow him to file an indefinite leave in order to continue with [the] complaint after his release date from the Department of Corrections."

The Court will not stay the proceedings in this case indefinitely. If Plaintiff is not prepared to prosecute this action, he should file a Notice of Voluntary Dismissal. The Court will grant Plaintiff a 30-day extension of time to file an amended complaint; Plaintiff will

1 have 30 days from the filing date of this Order to file an amended complaint that complies
2 with the Court's March 8, 2010 Order.

3 **II. Warnings**

4 **A. Release**

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

9 **B. Address Changes**

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

14 **C. Copies**

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

18 **D. Possible "Strike"**

19 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff fails
20 to file an amended complaint correcting the deficiencies identified in the March 8, 2010
21 Order, the dismissal may count as a "strike" under the "3-strikes" provision of 28 U.S.C.
22 § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action or appeal
23 a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 "if the prisoner has, on 3 or more
24 prior occasions, while incarcerated or detained in any facility, brought an action or appeal
25 in a court of the United States that was dismissed on the grounds that it is frivolous,
26 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is
27 under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).
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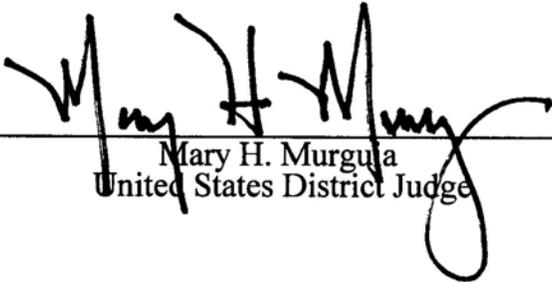
E. Possible Dismissal

If Plaintiff fails to timely comply with every provision of the March 8, 2010 Order, or this Order, including these warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to comply with any order of the Court).

IT IS ORDERED:

- (1) Plaintiff’s Motion to Amend Complaint (Doc. #13) is **denied**.
- (2) Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with the March 8, 2010 screening Order.
- (3) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of Court must, without further notice, enter a judgment of dismissal of this action with prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

DATED this 16th day of April, 2010.



Mary H. Murgula
United States District Judge