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

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 a “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*. The Court directed the Clerk of Court to file the Complaint and Application to Proceed, granted Plaintiff *in forma pauperis* status, and dismissed the Complaint with leave to amend.

On May 20, 2010, the Plaintiff filed an Amended Complaint (Doc. 15). On June 9, 2010, the Court dismissed the Amended Complaint with leave to amend. On July 12, 2010, Plaintiff filed a Motion for Extension of Time (Doc. 17).

I. Motion

In his Motion, Plaintiff requests an additional 60 days within which to file a second amended complaint. Plaintiff states that he needs additional time because he did not receive the Court’s June 9th order until June 16, 2010 and because the law library was closed from June 28, 2010 through July 5, 2010. The Court will grant Plaintiff’s Motion to the extent that

1 Plaintiff will be given 30 days from the day this Order is filed to file a second amended
2 complaint.

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 Amended Complaint has been dismissed for failure to state a claim, if
20 Plaintiff fails to file a second amended complaint correcting the deficiencies identified in the
21 June 9, 2010 Order, the dismissal may count as a “strike” under the “3-strikes” provision of
22 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action
23 or appeal a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on
24 3 or more prior occasions, while incarcerated or detained in any facility, brought an action
25 or appeal 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

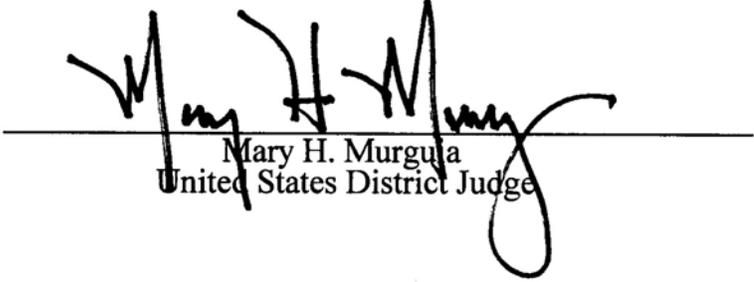
If Plaintiff fails to timely comply with every provision of the June 9, 2010 Order, or this Order, including these warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to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

IT IS ORDERED:

(1) Plaintiff’s July 12, 2010 Motion for Extension of Time (Doc. 17) is **granted** to the extent that Plaintiff has **30 days** from the date this Order is filed to file a second amended complaint in compliance with the June 9, 2010 Order. The Motion is **denied** with respect to all other relief requested.

(2) If Plaintiff fails to file a second 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 10th day of August, 2010.



Mary H. Murgula
United States District Judge