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

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Mark E. Dixon,

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No. CV-10-325-PHX-DGC

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Plaintiff,

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ORDER

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vs.

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Pinal County, a political subdivision;
James Walsh, Pinal County Attorney;
and Paul Babeu, Pinal County Sheriff,

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Defendants.

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Plaintiff claims to be the sole and lawful owner of an Australian sheppard named Shiloh. He alleges that Pinal County officials wrongfully seized Shiloh and turned the dog over to his ex-wife. He filed suit against Defendants on February 16, 2010, alleging violations of his civil rights under 42 U.S.C. § 1983. Doc. 1. The amended complaint purports to assert eight separate counts (Doc. 60 ¶¶ 11-18), but those “counts” consist of the “statement of facts” (*id.* at 3 & ¶ 19) supporting unspecified § 1983 claims (*id.* ¶ 5).

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Defendants have filed a motion to dismiss pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure. Doc. 61. The motion is fully briefed. Docs. 63, 64, 65. No party has requested oral argument. The motion will be granted in part and denied in part.

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The Court is without subject matter jurisdiction, Defendants argue, because the amended complaint alleges no “case or controversy” sufficient to establish Article III standing. Doc. 61 at 2-4. Defendants assert in the alternative that the amended complaint fails to state a claim to relief. *Id.* at 4.

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1 To sue in federal court, a plaintiff must have standing under Article III of the United
2 States Constitution, that is, the plaintiff “must have suffered, or be threatened with, an actual
3 injury traceable to the defendant and likely to be redressed by a favorable judicial decision.”
4 *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990); *see Lujan v. Defenders of*
5 *Wildlife*, 504 U.S. 555, 560-61 (1992). These core requirements of Article III standing are
6 satisfied with respect to one part of the § 1983 claim: Plaintiff’s request that his dog Shiloh
7 be returned to him (Doc. 60 ¶ 22(c)). The amended complaint alleges an actual injury as
8 Plaintiff claims to be the lawful owner of Shiloh and asserts that Shiloh was seized without
9 due process of law and otherwise in violation of Plaintiff’s civil rights. *Id.* ¶ 11 & n.1.
10 Defendants are alleged to have caused that injury by conspiring to have Shiloh taken from
11 Plaintiff and turned over to his ex-wife and by denying Plaintiff post-deprivation relief. *Id.*
12 ¶¶ 12-13. The alleged injury can be redressed, at least in part, by an order requiring that
13 Shiloh be returned to Plaintiff. *See United States v. U.S. Currency, \$81,000.00*, 189 F.3d 28,
14 35 (1st Cir. 1999) (“An owner or possessor of property that has been seized necessarily
15 suffers an injury that can be redressed, at least in part, by return of the seized property.”).
16 The motion to dismiss will be denied with respect to Plaintiff’s § 1983 claim asserting
17 violations of his civil rights and seeking the return of his dog (Doc. 60 ¶ 22(a), (c)). *See Culp*
18 *v. Martin*, 471 F.2d 814, 815 (5th Cir. 1973) (prisoners had standing to assert § 1983 claim
19 against sheriff and jail personnel for return of confiscated property).

20 The motion will be granted, however, with respect to the requests for injunctive relief
21 in the form of orders enjoining Defendants from committing future civil rights violations
22 (Doc. 60 ¶ 22(b), (i)), requiring Defendants or others to investigate alleged wrongs
23 (*id.* ¶ 22(d)-(f)), and requiring Defendants to arrest and prosecute alleged wrongdoers
24 (*id.* ¶ 22(g)-(h)). The amended complaint contains no facts from which it plausibly can be
25 inferred that the alleged civil rights violations are likely to occur in the future. *See City of*
26 *L.A. v. Lyons*, 461 U.S. 95, 102-06 (1983) (requiring a plaintiff who seeks equitable relief
27 under § 1983 to demonstrate a realistic likelihood of being subject to unconstitutional
28 practice in the future). Nor has Plaintiff demonstrated a right to equitable relief in the form

