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NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Benny Berryman,
Plaintiff,
vs.
John Doe,
Defendant.

No. CV 10-1035-PHX-GMS (LOA)

ORDER

Plaintiff Benny Berryman, who is confined in the Maricopa County Lower Buckeye Jail, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983¹ and an Application to Proceed *In Forma Pauperis*. The Court will dismiss the action with leave to amend.

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

Plaintiff’s Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1). The Court will assess an initial partial filing fee of \$4.00. The remainder of the fee will be

¹Because Plaintiff is suing a federal actor, his claim should be brought pursuant to Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971). “Actions under § 1983 and those under Bivens are identical save for the replacement of a state actor under § 1983 by a federal actor under Bivens.” Martin v. Sias, , 88 F.3d 774, 775 (9th Cir. 1996) (quoting Van Strum v. Lawn, 940 F.2d 406, 409 (9th Cir. 1991)).

1 collected monthly in payments of 20% of the previous month's income each time the amount
2 in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate
3 Order requiring the appropriate government agency to collect and forward the fees according
4 to the statutory formula.

5 **II. Statutory Screening of Prisoner Complaints**

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

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

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

27 If the Court determines that a pleading could be cured by the allegation of other facts,
28 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the

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

8 **III. Complaint**

9 Plaintiff names United States Marshal John Doe as Defendant to the Complaint.
10 Plaintiff’s sole ground for relief is that his equal protection rights were violated when
11 Defendant arrested him without verifying the arrest warrant. Plaintiff states that “on or about
12 September 9, 2006, Plaintiff was released from federal custody and arrested by U. S. Marshal
13 John Doe who failed to veri[f]y the arrest warrant causing Plaintiff to be held some 21 days
14 in Maricopa County illegally.” Plaintiff seeks money damages.

15 **IV. Failure to State a Claim**

16 First, the Court notes that Plaintiff’s allegations are extremely vague. Plaintiff has not
17 described the circumstances of the arrest, what agency issued the warrant or what the warrant
18 related to, what Plaintiff was arrested for, or the ultimate outcome of the arrest such as
19 whether Plaintiff was convicted or whether the arrest is related to Plaintiff’s current
20 confinement. Although *pro se* pleadings are liberally construed, Haines v. Kerner, 404 U.S.
21 519, 520-21 (1972), conclusory and vague allegations will not support a cause of action.
22 Ivey v. Board of Regents of the University of Alaska, 673 F.2d 266, 268 (9th Cir. 1982).
23 Further, a liberal interpretation of a civil rights complaint may not supply essential elements
24 of the claim that were not initially pled. Id.

25 **A. Equal Protection**

26 Generally, “[t]o state a claim . . . for a violation of the Equal Protection Clause . . . [,]
27 a plaintiff must show that the defendants acted with an intent or purpose to discriminate
28 against the plaintiff based upon membership in a protected class.” Barren v. Harrington, 152

1 F.3d 1193, 1194 (9th Cir. 1998). Plaintiff has not alleged he is a member of a protected
2 class.

3 The United States Supreme Court has also recognized “successful equal protection
4 claims brought by a ‘class of one,’ where the plaintiff alleges that [he] has been intentionally
5 treated differently from others similarly situated and that there is no rational basis for the
6 difference in treatment.” Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000); see
7 also SeaRiver Maritime Financial Holdings, Inc. v. Mineta, 309 F.3d 662, 679 (9th Cir.
8 2002). Even under this standard, Plaintiff has failed to state a claim. Plaintiff has failed to
9 allege that he was treated differently than other similarly situated individuals and that there
10 was no rational basis for treating him differently.

11 **B. Statute of Limitations**

12 Although not clear, it appears that Plaintiff’s claims are barred by the statute of
13 limitations. In § 1983 or Bivens actions, the applicable statute of limitations is the forum
14 state’s statute of limitations for personal injury actions. Wilson v. Garcia, 471 U.S. 261, 266,
15 274-76 (1985); Vaughan v. Grijalva, 927 F.2d 476, 478 (9th Cir. 1991). The Arizona statute
16 of limitations for personal injury actions is two years. See Ariz. Rev. Stat. § 12-542(1);
17 Madden-Tyler v. Maricopa County, 943 P.2d 822, 824 (Ariz. Ct. App. 1997); Vaughan, 927
18 F.2d at 478.

19 “[A] claim generally accrues when a plaintiff knows or has reason to know of the
20 injury which is the basis of his action.” Cabrera v. City of Huntington Park, 159 F.3d 374,
21 379 (9th Cir. 1998). It appears that the arrest at issue occurred in September 2006. If this
22 is correct, Plaintiff’s claims are barred by the statute of limitations.

23 **C. Heck v. Humphrey**

24 A prisoner’s claim for damages cannot be brought under 42 U.S.C. § 1983 or Bivens
25 if “a judgment in favor of the plaintiff would necessarily imply the invalidity of his
26 conviction or sentence,” unless the prisoner demonstrates that the conviction or sentence has
27 previously been reversed, expunged, or otherwise invalidated. Heck v. Humphrey, 512 U.S.
28 477, 486-87 (1994). Plaintiff’s claim that he was arrested without a proper warrant implies

1 the invalidity of his conviction, if he was convicted. Plaintiff has not alleged whether his
2 arrest resulted in a conviction, and if so, whether his conviction or sentence was reversed,
3 expunged, or otherwise invalidated.

4 **V. Leave to Amend**

5 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to state
6 a claim upon which relief may be granted. Within 45 days, Plaintiff may submit a first
7 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail
8 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails
9 to use the court-approved form, the Court may strike the amended complaint and dismiss this
10 action without further notice to Plaintiff.

11 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements
12 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) **the name of**
13 **the Defendant who violated the right**; (3) exactly what that Defendant did or failed to do;
14 (4) how the action or inaction of that Defendant is connected to the violation of Plaintiff's
15 constitutional right; and (5) what specific injury Plaintiff suffered because of that
16 Defendant's conduct. See Rizzo v. Goode, 423 U.S. 362, 371-72, 377 (1976).

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 allegations against that Defendant will be dismissed for failure to
20 state a claim. **Conclusory allegations that a Defendant or group of Defendants have**
21 **violated a constitutional right are not acceptable and will be dismissed.**

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

26 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963
27 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,
28 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as

1 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original
2 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d
3 565, 567 (9th Cir. 1987).

4 **VI. Warnings**

5 **A. Release**

6 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.
7 Also, within 45 days of his release, he must either (1) notify the Court that he intends to pay
8 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result
9 in dismissal of this action.

10 **B. Address Changes**

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

15 **C. Copies**

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

19 **D. Possible “Strike”**

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

1 **E. Possible Dismissal**

2 If Plaintiff fails to timely comply with every provision of this Order, including these
3 warnings, the Court may dismiss this action without further notice. See *Ferdik*, 963 F.2d at
4 1260-61 (a district court may dismiss an action for failure to comply with any order of the
5 Court).

6 **IT IS ORDERED:**

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

8 (2) As required by the accompanying Order to the appropriate government agency,
9 Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee of \$4.00.

10 (3) The Complaint (Doc. #1) is **dismissed** for failure to state a claim. Plaintiff has
11 **45 days** from the date this Order is signed to file a first amended complaint in compliance
12 with this Order.

13 (4) If Plaintiff fails to file an amended complaint within 45 days, the Clerk of
14 Court must, without further notice, enter a judgment of dismissal of this action with prejudice
15 that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g).

16 (5) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
17 rights complaint by a prisoner.

18 DATED this 4th day of June, 2010.

19
20 *G. Murray Snow*
21 _____
 G. Murray Snow
 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.

_____.

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.

_____.

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.
 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 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.

_____.

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:

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)

(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.