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

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Douglas John Zolnierz,

No. CV 11-1182-PHX-RCB (MEA)

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Plaintiff,

ORDER

9

vs.

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Jack Harris, et al.,

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Defendants.

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Plaintiff Douglas John Zolnierz, an inmate then-confined in the Arizona Department of Corrections (ADC), filed a complaint in Maricopa County Superior Court, matter No. CV2011-091252, alleging claims pursuant to 42 U.S.C. §§ 1983 and 1985, as well as state law claims. (Doc. 1.) In an Order filed on June 28, 2011, the Court dismissed the Complaint with leave to amend. (Doc. 10.) Shortly before that Order was filed, Defendants Bernstein, Ditsworth, Donahoe, Donofrio, Gaines, Hauser, Jeanes, Kreamer, McMurdie, Mundell Nelson, Newell, Ryan, Vandenberg, and Vatz filed a motion to dismiss and Plaintiff filed a motion for extension of time to effect service and seeking a hearing. (Doc. 8, 9.)

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Both motions will be denied as moot. Defendants' motion has been mooted by the dismissal of the Complaint. Plaintiff's motion is moot because the Court has already determined that removal was proper.¹ Further, the Court will order service by the U.S. Marshal's Service when and if Plaintiff files an amended complaint using the court-approved

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¹ Plaintiff states that he should be able to litigate in the forum he chooses. However, because Plaintiff alleged constitutional violations against the Defendants, Defendants could properly remove the case to federal court. Further, a federal court may exercise supplemental jurisdiction over state law claims. 28 U.S.C. §§ 1441(c), 1367.

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1 form and the Court determines that he has stated a claim.

2 **Warnings**

3 **A. Address Changes**

4 Plaintiff must file and serve a notice of a change of address in accordance with Rule
5 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
6 relief with a notice of change of address. Failure to comply may result in dismissal of this
7 action.

8 **B. Copies**

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

12 **C. Possible Dismissal**

13 If Plaintiff fails to timely comply with every provision of this Order, including these
14 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at
15 1260-61 (a district court may dismiss an action for failure to comply with any order of the
16 Court).

17 **IT IS ORDERED** that Defendants' motion to dismiss and Plaintiff's motion for
18 extension of time to effect service and for a hearing are **denied** as moot. (Doc. 8, 9.)

19 DATED this 29th day of June, 2011.

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23 Robert C. Broomfield
24 Senior United States District Judge
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