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

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|----|-----------------------|---|------------------------------|
| 10 | Van L. Wilson,        | ) | No. CV 11-2376-PHX-RCB (ECV) |
| 11 | Plaintiff,            | ) | <b>ORDER</b>                 |
| 12 | vs.                   | ) |                              |
| 13 | Richard Bock, et al., | ) |                              |
| 14 | Defendants.           | ) |                              |

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16 Plaintiff Van L. Wilson, who is confined in the Arizona State Prison-Kingman, has  
17 filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and paid the filing fee. The  
18 Court will dismiss the Complaint with leave to amend.

19 **I. Statutory Screening of Prisoner Complaints**

20 The Court is required to screen complaints brought by prisoners seeking relief against  
21 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
22 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
23 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
24 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
25 28 U.S.C. § 1915A(b)(1), (2).

26 A pleading must contain a “short and plain statement of the claim *showing* that the  
27 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not  
28 demand detailed factual allegations, “it demands more than an unadorned, the-defendant-

1 unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
2 “Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
3 statements, do not suffice.” Id.

4 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
5 claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,  
6 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
7 that allows the court to draw the reasonable inference that the defendant is liable for the  
8 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for  
9 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
10 experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual  
11 allegations may be consistent with a constitutional claim, a court must assess whether there  
12 are other “more likely explanations” for a defendant’s conduct. Id. at 1951.

13 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
14 must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th  
15 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards  
16 than formal pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89,  
17 94 (2007) (*per curiam*)).

18 If the Court determines that a pleading could be cured by the allegation of other facts,  
19 a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal of the  
20 action. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*). The Court  
21 should not, however, advise the litigant how to cure the defects. This type of advice “would  
22 undermine district judges’ role as impartial decisionmakers.” Pliler v. Ford, 542 U.S. 225,  
23 231 (2004); see also Lopez, 203 F.3d at 1131 n.13 (declining to decide whether the court was  
24 required to inform a litigant of deficiencies). The Court will dismiss Plaintiff’s Complaint  
25 for failure to state a claim, but because the Complaint may possibly be saved by amendment,  
26 will dismiss the Complaint with leave to amend.

## 27 **II. Complaint**

28 Plaintiff names the following Defendants in the Complaint: Warden Richard Bock,

1 Arizona Department of Corrections Director Charles Ryan, Chief of Security at Arizona State  
2 Prison Complex-Yuma Chester Fulton, Captain Joseph Roerink, and Facility Health  
3 Administrator Dennis Chenail.

4 Plaintiff raises two claims for relief. In Count I, Plaintiff alleges that his safety was  
5 threatened when detention officers allowed an inmate access to Plaintiff's yard and the  
6 inmate attacked Plaintiff. Plaintiff suffered permanent damage to 80% of his left orbital  
7 socket and a fractured ankle.

8 In Count II, Plaintiff claims that he was not provided with adequate medical treatment  
9 after the attack. Plaintiff claims that he was attacked on December 7, 2010, but received  
10 nothing more than an ice pack and bandage until December 30, 2010. Plaintiff's left orbital  
11 socket was eventually replaced with titanium to create a new eye socket.

12 Plaintiff seeks money damages and release from custody.

### 13 **III. Failure to State a Claim**

#### 14 **A. Failure to Link Injuries to Defendants**

15 To state a valid claim under § 1983, plaintiffs must allege that they suffered a specific  
16 injury as a result of specific conduct of a defendant and show an affirmative link between the  
17 injury and the conduct of that defendant. See Rizzo v. Goode, 423 U.S. 362, 371-72, 377  
18 (1976). There is no *respondeat superior* liability under § 1983, and therefore, a defendant's  
19 position as the supervisor of persons who allegedly violated Plaintiff's constitutional rights  
20 does not impose liability. Monell v. New York City Department of Social Services, 436 U.S.  
21 658, 691-92 (1978); Hamilton v. Endell, 981 F.2d 1062, 1067 (9th Cir. 1992); Taylor v. List,  
22 880 F.2d 1040, 1045 (9th Cir. 1989). "Because vicarious liability is inapplicable to Bivens  
23 and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the  
24 official's own individual actions, has violated the Constitution." Iqbal, 129 S. Ct. at 1948.

25 Plaintiff has not alleged that Defendants personally participated in a deprivation of  
26 Plaintiff's constitutional rights, were aware of a deprivation and failed to act, or formed  
27 policies that resulted in Plaintiff's injuries. Plaintiff has therefore failed to state claim against  
28 the named Defendants.

1           **B.     Count I-Failure to Protect**

2           The Supreme Court has held that mere negligent failure to protect an inmate from  
3 another inmate is not actionable under § 1983. Davidson v. Cannon, 474 U.S. 344 (1986).  
4 A prison official violates the Eighth Amendment in failing to protect one inmate from  
5 another only when two conditions are met. First, the alleged constitutional deprivation must  
6 be, objectively, “sufficiently serious;” the official’s act or omission must result in the denial  
7 of “the minimal civilized measure of life’s necessities.” Farmer v. Brennan, 511 U.S. 825,  
8 834 (1994). Second, the prison official must have a “sufficiently culpable state of mind,” *i.e.*,  
9 he must act with deliberate indifference to inmate health or safety. Id. In defining “deliberate  
10 indifference” in this context, the Supreme Court has imposed a subjective test:

11           the official must both be aware of the facts from which the inference could be  
12 drawn that a substantial risk of serious harm exists, and he must also draw the  
inference.

13 Id. at 839 (emphasis supplied).

14           Plaintiff has not alleged facts showing that any of the named Defendants were  
15 deliberately indifferent to a threat to Plaintiff’s safety. Plaintiff’s facts demonstrate only that  
16 staff at the Yuma complex may have been negligent in allowing the inmate who attacked  
17 Plaintiff into Plaintiff’s yard. Plaintiff has not named the officers responsible for allowing  
18 the inmate into the yard and has not alleged that those officers were aware that the inmate  
19 posed a serious risk of harm to Plaintiff. Plaintiff has failed to state a claim in Count I.

20           **B.     Count II-Medical Claims**

21           Not every claim by a prisoner relating to inadequate medical treatment states a  
22 violation of the Eighth or Fourteenth Amendment. To state a § 1983 medical claim, a  
23 plaintiff must show that the defendants acted with “deliberate indifference to serious medical  
24 needs.” Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006) (quoting Estelle v. Gamble, 429  
25 U.S. 97, 104 (1976)). A plaintiff must show (1) a “serious medical need” by demonstrating  
26 that failure to treat the condition could result in further significant injury or the unnecessary  
27 and wanton infliction of pain and (2) the defendant’s response was deliberately indifferent.  
28 Jett, 439 F.3d at 1096 (quotations omitted).

1 “Deliberate indifference is a high legal standard.” Toguchi v. Chung, 391 F.3d 1051,  
2 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must both know  
3 of and disregard an excessive risk to inmate health; “the official must both be aware of facts  
4 from which the inference could be drawn that a substantial risk of serious harm exists, and  
5 he must also draw the inference.” Farmer v. Brennan, 511 U.S. 825, 837 (1994). Deliberate  
6 indifference in the medical context may be shown by a purposeful act or failure to respond  
7 to a prisoner’s pain or possible medical need and harm caused by the indifference. Jett, 439  
8 F.3d at 1096. Deliberate indifference may also be shown when a prison official intentionally  
9 denies, delays, or interferes with medical treatment or by the way prison doctors respond to  
10 the prisoner’s medical needs. Estelle, 429 U.S. at 104-05; Jett, 439 F.3d at 1096.

11 Deliberate indifference is a higher standard than negligence or lack of ordinary due  
12 care for the prisoner’s safety. Farmer, 511 U.S. at 835. “Neither negligence nor gross  
13 negligence will constitute deliberate indifference.” Clement v. California Dep’t of  
14 Corrections, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); see also Broughton v. Cutter  
15 Labs., 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or  
16 “medical malpractice” do not support a claim under § 1983). “A difference of opinion does  
17 not amount to deliberate indifference to [a plaintiff’s] serious medical needs.” Sanchez v.  
18 Vild, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is  
19 insufficient to state a claim against prison officials for deliberate indifference. See Shapley  
20 v. Nevada Bd. of State Prison Comm’rs, 766 F.2d 404, 407 (9th Cir. 1985). The indifference  
21 must be substantial. The action must rise to a level of “unnecessary and wanton infliction  
22 of pain.” Estelle, 429 U.S. at 105.

23 In Count II, Plaintiff fails to identify and name as defendants the individuals  
24 responsible for denying him prompt medical care. Further, Plaintiff has not shown that those  
25 individuals were aware of the severity of his injuries but failed to act. Plaintiff has failed to  
26 state a claim in Count II.

#### 27 **IV. Leave to Amend**

28 For the foregoing reasons, Plaintiff’s Complaint will be dismissed for failure to state

1 a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a first  
2 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail  
3 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff fails  
4 to use the court-approved form, the Court may strike the amended complaint and dismiss this  
5 action without further notice to Plaintiff.

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

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

16 Plaintiff must repeat this process for each person he names as a Defendant. If Plaintiff  
17 fails to affirmatively link the conduct of each named Defendant with the specific injury  
18 suffered by Plaintiff, the allegations against that Defendant will be dismissed for failure to  
19 state a claim. **Conclusory allegations that a Defendant or group of Defendants have  
20 violated a constitutional right are not acceptable and will be dismissed.**

21 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963  
22 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,  
23 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as  
24 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original  
25 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d  
26 565, 567 (9th Cir. 1987).

27 **V. Summons**

28 On December 6, 2011, the Clerk of Court issued a summons as to Defendant Charles

1 L. Ryan. Because the issue of summons was premature in light of the Court’s screening  
2 obligation under 28 U.S.C. § 1915A(a), the Court will quash the summons.

3 **VI. Warnings**

4 **A. Address Changes**

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

9 **B. Copies**

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

13 **C. Possible “Strike”**

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

23 **D. Possible Dismissal**

24 If Plaintiff fails to timely comply with every provision of this Order, including these  
25 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at  
26 1260-61 (a district court may dismiss an action for failure to comply with any order of the  
27 Court).

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**IT IS ORDERED:**

- (1) The summons issued by the Clerk of Court on December 6, 2011 is **quashed**.
- (2) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with this 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).
- (4) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil rights complaint by a prisoner.

DATED this 13th day of January, 2012.

  
\_\_\_\_\_  
Robert C. Broomfield  
Senior 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.

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\_\_\_\_\_.

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 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.

|  |   |   |                                       |
|--|---|---|---------------------------------------|
| <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 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.

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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:

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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)

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\_\_\_\_\_  
(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.