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

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10 Sergio Cortez Benitez,

11 Plaintiff,

12 vs.

13 Maricopa County, et al.,

14 Defendants.

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No. CV 12-0560-PHX-RCB (JFM)

ORDER

16 Plaintiff Sergio Cortez Benitez, who is confined in the Fourth Avenue Jail in Phoenix,
17 Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983, which the Court
18 dismissed for failure to state a claim with leave to amend. Plaintiff filed a First Amended
19 Complaint. (Doc. 7.) In a July 9, 2012 Order, the Court dismissed the First Amended
20 Complaint for failure to state a claim with leave to amend. (Doc. 9.) . On July 30, 2012,
21 Plaintiff filed a motion for an extension of time within which to file a second amended
22 complaint. (Doc. 10.)

23 Plaintiff seeks a 90-day extension of time to file a second amended complaint due to
24 lack of access to legal resources and difficulties in obtaining copies or, alternatively, to
25 attempt to obtain counsel. Plaintiff has not set forth any facts to support that he has been
26 prevented from timely filing an amended complaint. Moreover, the Court informed Plaintiff
27 in prior orders of the standard to state the type of claims for which he seeks relief. Therefore,
28 the Court will grant Plaintiff only an additional 45 days in which to file a second amended

1 complaint.

2 **Warnings**

3 **A. Release**

4 Plaintiff must pay the unpaid balance of the filing fee within 120 days of his release.
5 Also, within 30 days of his release, he must either (1) notify the Court that he intends to pay
6 the balance or (2) show good cause, in writing, why he cannot. Failure to comply may result
7 in dismissal of this action.

8 **B. Address Changes**

9 Plaintiff must file and serve a notice of a change of address in accordance with Rule
10 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
11 relief with a notice of change of address. Failure to comply may result in dismissal of this
12 action.

13 **C. Copies**

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

17 **D. Possible “Strike”**

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

27 **E. Possible Dismissal**

28 If Plaintiff fails to timely comply with every provision of this Order, including these

1 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at
2 1260-61 (a district court may dismiss an action for failure to comply with any order of the
3 Court).

4 **IT IS ORDERED:**

5 (1) Plaintiff's motion for an extension of time is **granted** to the extent set forth
6 below. (Doc. 10.)

7 (2) Plaintiff is granted an additional **45 days** from the filing date of this Order in
8 which to file a second amended complaint in compliance with the July 9, 2012 Order, doc.
9 9.

10 (3) If Plaintiff fails to file an amended complaint within the extension granted
11 herein, the Clerk of Court must, without further notice, enter a judgment of dismissal of this
12 action with prejudice that states that the dismissal may count as a "strike" under 28 U.S.C.
13 § 1915(g).

14 DATED this 8th day of August, 2012.

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19 Robert C. Broomfield
20 Senior United States District Judge
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