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

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Beauford B. Powell,

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No. CV 12-0663-PHX-GMS (DKD)

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Plaintiff,

)

ORDER

9

vs.

)

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Shawn Magness,

)

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Defendant.

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On December 2, 2011, Plaintiff Beauford B. Powell, who is confined in the Fourth Avenue Jail in Phoenix, Arizona, filed a complaint in Maricopa County Superior Court, matter No. CV2011-021375. In his Complaint, he asserted violation of his federal and state constitutional rights in connection with a stop and detention by Phoenix Detective Shawn Magness. (Doc. 1, Attach. 1.) Plaintiff sues only Magness. On March 28, 2012, Magness removed the case to federal court based on federal question subject matter jurisdiction, stating that he received notice of the Complaint on March 9, 2012. (Doc. 1.)

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The Complaint facially supports that subject matter jurisdiction is proper in federal court and that the case was timely removed. 28 U.S.C. § 1446(b). The Court will dismiss the Complaint with leave to amend.¹

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¹ Defendant filed a motion to screen the Complaint and a motion to dismiss for failure to state a claim. (Doc. 3.) Because the Prison Litigation Reform Act (PLRA) requires screening of prisoner complaints, Defendant’s motion for a screening order will be denied as moot. (Doc. 4.) Because Plaintiff may be able to amend his Complaint to state a federal claim, Defendant’s motion to dismiss will be denied. See Lopez v. Smith, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*).

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1 **I. Removal to Federal Court was Proper**

2 A defendant may remove any civil action brought in state court over which the federal
3 court would have original jurisdiction. 28 U.S.C. §1441(a). That is, a civil action that could
4 have originally been brought in federal court may be removed from state to federal court.
5 Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987). A federal court has original
6 jurisdiction “of all civil actions arising under the Constitution, laws, or treaties of the United
7 States.” 28 U.S.C. § 1331.

8 The Complaint in this case facially supports that subject matter jurisdiction exists in
9 federal court because Plaintiff alleges violation of his federal constitutional rights. 28 U.S.C.
10 §§ 1441. Further, the case was timely removed. 28 U.S.C. § 1446(b). Accordingly, the case
11 was properly removed.

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

13 The Court is required to screen complaints brought by prisoners seeking relief against
14 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.
15 § 1915A(a), (e)(2). The Court must dismiss a complaint or portion thereof if a plaintiff has
16 raised claims that are legally frivolous or malicious, that fail to state a claim upon which
17 relief may be granted, or that seek monetary relief from a defendant who is immune from
18 such relief. 28 U.S.C. § 1915A(b)(1), (2).

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

25 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
26 claim to relief that is plausible on its face.’” Id. (quoting Bell Atlantic Corp. v. Twombly,
27 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
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1 that allows the court to draw the reasonable inference that the defendant is liable for the
2 misconduct alleged.” Id. “Determining whether a complaint states a plausible claim for
3 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
4 experience and common sense.” Id. at 1950. Thus, although a plaintiff’s specific factual
5 allegations may be consistent with a constitutional claim, a court must assess whether there
6 are other “more likely explanations” for a defendant’s conduct. Id. at 1951.

7 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
8 must “continue to construe *pro se* filings liberally.” Hebbe v. Pliler, 627 F.3d 338, 342 (9th
9 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards
10 than formal pleadings drafted by lawyers.’” Id. (quoting Erickson v. Pardus, 551 U.S. 89,
11 94 (2007) (*per curiam*)).

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

21 **III. Complaint**

22 Plaintiff alleges the following in his Complaint: on September 11, 2011, Plaintiff was
23 walking when Officer Magness grabbed his arm. Magness then put Plaintiff’s arm into a
24 “tight lock.” Magness told Plaintiff that he was not under arrest, but that he resembled the
25 description of a robbery suspect. Magness questioned Plaintiff, but did not inform Plaintiff
26 of his rights under Miranda v. Arizona, 384 U.S. 436 (1966). Magness then handcuffed
27 Plaintiff, slammed him against the police car and requested consent to search Plaintiff, which
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1 Plaintiff refused. Magness nevertheless searched Plaintiff. Plaintiff was apparently arrested.
2 Plaintiff contends that Magness targeted him based on his race. Plaintiff alleges that as a
3 result of his arrest and detention, he lost his job and possessions and has suffered emotional
4 trauma.

5 **IV. Use of this District’s Approved Form Complaint**

6 Plaintiff asserts violations of his federal constitutional rights in his Complaint. A
7 plaintiff may seek relief for violations of his federal constitutional rights by filing a
8 complaint pursuant to 42 U.S.C. § 1983.² Local Rule of Civil Procedure (LRCiv) 3.4
9 requires use of a court-approved form complaint. The form must be completely filled out to
10 the extent applicable with all questions answered clearly and concisely in the appropriate
11 space on the form. The Instructions for completing the court-approved form complaint
12 provide as follows:

13 **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by**
14 **incarcerated persons must be filed on the court-approved form.** The form
15 must be typed or neatly handwritten. The form must be completely filled in
16 to the extent applicable. All questions must be answered clearly and concisely
17 in the appropriate space on the form. If needed, you may attach additional
18 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

19 (Instructions at ¶ 1.) Further, the Instructions provide:

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21 ² To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the
22 conduct about which he complains was committed by “a person” acting under the color of
23 state law and (2) the conduct deprived him of a federal constitutional or statutory right.
24 Wood v. Ostrander, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a plaintiff must allege
25 that he suffered a specific injury as a result of the conduct of a particular defendant and he
must allege an affirmative link between the injury and the conduct of that defendant. Rizzo
v. Goode, 423 U.S. 362, 371-72, 377 (1976).

26 ³ Plaintiff should *not* cite legal authority in an amended complaint. Instead, he should
27 set forth facts to support that his constitutional rights have been violated, including when,
28 where, how, and by whom.

- 1 1. Counts. You must identify which civil right was violated. **You may allege**
- 2 **the violation of only one civil right per count.**
- 3 2. Issue Involved. Check the box that most closely identifies the issue
- 4 involved in your claim. **You may check only one box per count.** If you
- 5 check the box marked "Other," you must identify the specific issue involved.
- 6 3. Supporting Facts. After you have identified which civil right was violated,
- 7 you must state the supporting facts. Be as specific as possible. You must state
- 8 what each individual defendant did to violate your rights. If there is more than
- 9 one defendant, you must identify which defendant did what act. You also
- 10 should state the date(s) on which the act(s) occurred, if possible.
- 11 4. Injury. State precisely how you were injured by the alleged violation of
- 12 your rights.

13 (Id., part C).

14 Plaintiff filed his Complaint on a state court form. In his Complaint, Plaintiff does not
15 set forth his claims in separate counts or sufficiently allege how he believes any particular
16 constitutional violation. That is, Plaintiff fails to set forth specifically when, where, and how
17 he believes the Defendant violated any of Plaintiff's federal constitutional rights. For these
18 reasons, the Court will dismiss the Complaint with leave to file a First Amended Complaint
19 on this District's approved form and in compliance with the Instructions for completing the
20 form. In a first amended complaint, Plaintiff should carefully follow the Instructions by
21 setting forth only one violation in each count, concisely describing the facts that support how,
22 when, and where the Defendant violated the right at issue in that count. Plaintiff should
23 repeat this process for each count. Plaintiff should not exceed the page limit in his amended
24 complaint.

25 **V. Leave to Amend**

26 For the foregoing reasons, Plaintiff's Complaint will be dismissed for failure to state
27 a federal claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
28 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
mail Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff
fails to use the court-approved form, the Court may strike the amended complaint and
dismiss this action without further notice to Plaintiff.

Plaintiff must clearly designate on the face of the document that it is the "First

1 Amended Complaint.” The first amended complaint must be retyped or rewritten in its
2 entirety on the court-approved form and may not incorporate any part of the original
3 Complaint by reference. Plaintiff may include only one claim per count.

4 A first amended complaint supersedes the original complaint. Ferdik v. Bonzelet, 963
5 F.2d 1258, 1262 (9th Cir. 1992); Hal Roach Studios v. Richard Feiner & Co., 896 F.2d 1542,
6 1546 (9th Cir. 1990). After amendment, the Court will treat an original complaint as
7 nonexistent. Ferdik, 963 F.2d at 1262. Any cause of action that was raised in the original
8 complaint is waived if it is not raised in a first amended complaint. King v. Atiyeh, 814 F.2d
9 565, 567 (9th Cir. 1987).

10 **VI Warnings**

11 **A. Release**

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

16 **B. Address Changes**

17 Plaintiff must file and serve a notice of a change of address in accordance with Rule
18 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
19 relief with a notice of change of address. Failure to comply may result in dismissal of this
20 action.

21 **C. Copies**

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

25 **D. Possible Dismissal**

26 If Plaintiff fails to timely comply with every provision of this Order, including these
27 warnings, the Court may dismiss this action without further notice. See Ferdik, 963 F.2d at
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1 1260-61 (a district court may dismiss an action for failure to comply with any order of the
2 Court).

3 **IT IS ORDERED:**

4 (1) The Complaint is **dismissed** for failure to state a claim. (Doc. 1.) Plaintiff has
5 **30 days** from the date this Order is filed to file a first amended complaint in compliance with
6 this Order.

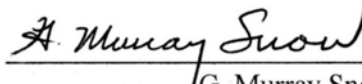
7 (2) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of Court
8 must, without further notice, enter a judgment of dismissal of this action with prejudice.

9 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
10 rights complaint by a prisoner.

11 (4) Defendant's motion to screen the Complaint is **denied** as moot. (Doc. 3.)

12 (5) Defendant's motion to dismiss is **denied**. (Doc. 4.)

13 DATED this 14th day of May, 2012.

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16 _____
17 G. Murray Snow
18 United States District Judge
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**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.

- 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 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.

<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.

_____.

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.