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

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Jose Carrera-Beltran,

No. CV 12-2023-PHX-RCB (SPL)

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Plaintiff,

ORDER

10

vs.

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Rosa Martinez,

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Defendant.

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Plaintiff Jose Carrera-Beltran, who is confined in the U.S. Penitentiary in Lompoc, California, filed a *pro se* civil rights Complaint pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which the Court dismissed for failure to state a claim with leave to amend. (Doc. 1, 5.) Plaintiff filed a First Amended Complaint, which the Court also dismissed for failure to state a claim with leave to amend. (Doc. 7, 8.) Plaintiff has filed a motion for extension of time to file a second amended complaint. That motion will be granted to the extent set forth below.

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Warnings

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A. Release

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

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B. Address Changes

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Plaintiff must file and serve a notice of a change of address in accordance with Rule

1 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
2 relief with a notice of change of address. Failure to comply may result in dismissal of this
3 action.

4 **C. Copies**

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

8 **D. Possible “Strike”**

9 Because the First Amended Complaint has been dismissed for failure to state a claim,
10 if Plaintiff fails to file a second amended complaint correcting the deficiencies identified in
11 the February 11, 2013 Order, the dismissal may count as a “strike” under the “3-strikes”
12 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring
13 a civil action or appeal a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the
14 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,
15 brought an action or appeal in a court of the United States that was dismissed on the grounds
16 that it is frivolous, malicious, or fails to state a claim upon which relief may be granted,
17 unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C.
18 § 1915(g).

19 **E. Possible Dismissal**

20 If Plaintiff fails to timely comply with every provision of the February 11, 2013 Order
21 and this Order, including these warnings, the Court may dismiss this action without further
22 notice. See Ferdik, 963 F.2d at 1260-61 (a district court may dismiss an action for failure to
23 comply with any order of the Court).

24 **IT IS ORDERED:**

- 25 (1) Plaintiff’s motion for extension of time is **granted** to the extent set forth below.
26 (Doc. 9.)
- 27 (2) Plaintiff has **30 days** from the filing date of this Order to file a second amended
28 complaint in compliance with the February 11, 2013 Order, doc. 8.

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(3) If Plaintiff fails to file a second 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).

DATED this 14th day of March, 2013.



Robert C. Broomfield
Senior United States District Judge