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

Joshua Erik Bowler,
Plaintiff,

vs.

Charles L. Ryan, et al.,
Defendants.

) No. CV 13-0046-PHX-RCB (JFM)

ORDER

Plaintiff Joshua Erik Bowler, who is confined in the Arizona State Prison Complex-Eyman, Browning Unit, in Florence, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. In an Order filed on March 26, 2012, the Court dismissed the Complaint for failure to state a claim but granted Plaintiff leave to file an amended complaint within 30 days. (Doc. 6.) Plaintiff has filed a motion for discovery and a motion for extension of time to file an amended complaint. (Doc. 8, 9.)

Plaintiff seeks an extension in which to file an amended complaint because he was recently moved to a new cell and has lacked access to his legal files. He also seeks an extension until he receives discovery. The Court will grant Plaintiff an additional 30 days in which to file an amended complaint and deny his motion for discovery as premature prior to service of an amended complaint on any defendant and referral of pre-trial matters to a magistrate judge. When preparing an amended complaint, Plaintiff should allege facts to support when, where, how, and by whom he believes his constitutional rights were violated. Plaintiff should refer to the Court’s prior Order for guidance as to the facts that need to be alleged for the claims for which Plaintiff seeks relief. The Court will grant Plaintiff an

1 additional 30 days in which to file an amended 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. 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 the March 26, 2013
16 Order, the dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C.
17 § 1915(g). Under the 3-strikes provision, a prisoner may not bring a civil action or appeal
18 a civil judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more
19 prior occasions, while incarcerated or detained in any facility, brought an action or appeal
20 in a court of the United States that was dismissed on the grounds that it is frivolous,
21 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is
22 under 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).

28 / / /

1 **IT IS ORDERED:**


2 (1) Plaintiff's motion for an extension of time is **granted** to the extent set forth
3 below. (Doc. 9.)

4 (2) Plaintiff is granted an additional **30 days** from the filing date of this Order in
5 which to file a first amended complaint in compliance with the March 26, 2013 Order, doc. 6.

6 (3) If Plaintiff fails to file an amended complaint within the extension granted
7 herein, the Clerk of Court must, without further notice, enter a judgment of dismissal of this
8 action with prejudice that states that the dismissal may count as a "strike" under 28 U.S.C.
9 § 1915(g).

10 (4) Plaintiff's motion for discovery is **denied**. (Doc. 8.)

11 DATED this 22nd day of April, 2013.

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16 Robert C. Broomfield
17 Senior United States District Judge
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