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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Christian Ronnell Thomas,
10 Plaintiff,

No. CV 13-0753-PHX-RCB (MEA)

11 vs.

ORDER

12 Sheriff Wilmot, et al.,
13 Defendants.
14

15 On April 15, 2013, Plaintiff Christian Ronnell Thomas, who is confined in the
16 Arizona State Prison-Florence West, in Florence, Arizona, filed a *pro se* civil rights
17 Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and an incomplete Application to
18 Proceed *In Forma Pauperis*. In an Order dated May 29, 2013, the Court noted the
19 deficiencies in Plaintiff's Application to Proceed *In Forma Pauperis* and granted Plaintiff
20 30 days to either pay the filing fee or file a complete Application to Proceed *In Forma*
21 *Pauperis*.

22 On June 6, 2013, Plaintiff filed a new Application to Proceed *In Forma Pauperis*
23 (Doc. 5). The Court will grant the Application and dismiss the Complaint with leave to
24 amend.

25 **I. Application to Proceed *In Forma Pauperis* and Filing Fee**

26 Plaintiff's Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.
27 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).
28 The Court will not assess an initial partial filing fee. 28 U.S.C. § 1915(b)(1). The

1 statutory fee will be collected monthly in payments of 20% of the previous month's
2 income each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2).
3 The Court will enter a separate Order requiring the appropriate government agency to
4 collect and forward the fees according to the statutory formula.

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

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

12 A pleading must contain a “short and plain statement of the claim *showing* that the
13 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8
14 does not demand detailed factual allegations, “it demands more than an unadorned, the-
15 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
16 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
17 conclusory statements, do not suffice.” *Id.*

18 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
19 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
20 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual
21 content that allows the court to draw the reasonable inference that the defendant is liable
22 for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible
23 claim for relief [is] . . . a context-specific task that requires the reviewing court to draw
24 on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s
25 specific factual allegations may be consistent with a constitutional claim, a court must
26 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
27 at 681.

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

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

16 **III. Complaint**

17 Plaintiff asserts two counts for violating his rights to basic necessities and for
18 constitutionally adequate medical care. Plaintiff names as Defendants Yuma County
19 Sheriff Wilmot, Extradition Transport of America, and employees of Extradition
20 Transport of America Jane Doe Driver One and John Doe Driver Two. Plaintiff seeks
21 compensatory and punitive damages.

22 Plaintiff alleges the following in his Complaint: In 2005, Plaintiff injured his left
23 Achilles tendon, which “disabled” him. (Doc. 1 at 3.) Around June 28, 2012, Plaintiff
24 was extradited from Hampton City Jail and “driven around the country for more than 96
25 hours” in metal shackles and belly chains. (*Id.* at 4.) Plaintiff asserts that he is to be
26 transported in hard plastic or leather-padded shackles and that his repeated complaints
27 were ignored. Because Plaintiff was kept in the metal shackles for 96 hours without them
28 being removed at any time, he suffered injuries to his wrist, “major pain a[nd]

1 inflammation to [his] ankles and feet to the point [he] could hardly walk” and had blood
2 in his stool. (*Id.* at 3.) Also, during the 96-hour transport, Plaintiff was only allowed to
3 use the restroom twice a day, and once had to urinate in a bottle to relieve himself. He
4 further asserts that he was not “given any opportunity to do any hygienic processes”
5 during those 96 hours and was “forced to eat, sleep and stay in a cramped, hot, muggy,
6 smelly wanton state.” (*Id.* at 4.) He felt “like a kidnapped victim” and was “helpless,
7 distressed, depressed, [and in] extreme anguish.” (*Id.*)

8 **IV. Failure to State a Claim**

9 To state a claim under § 1983, a plaintiff must allege facts supporting that (1) the
10 conduct about which he complains was committed by a person acting under the color of
11 state law and (2) the conduct deprived him of a federal constitutional or statutory right.
12 *Wood v. Outlander*, 879 F.2d 583, 587 (9th Cir. 1989). Negligence is not sufficient to
13 state a claim under § 1983. *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986).
14 Moreover, a plaintiff must allege that he suffered a specific injury as a result of the
15 conduct of a particular defendant and he must allege an affirmative link between the
16 injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377
17 (1976).

18 **A. Defendants Wilmot, Jane Doe One and John Doe Two**

19 Plaintiff sues Sheriff Wilmot and Extradition Transport of America drivers Jane
20 Doe One and John Doe Two. While all three individuals may be sued under § 1983,
21 Plaintiff fails to state a claim against any of them.

22 To state a claim against a defendant, “[a] plaintiff must allege facts, not simply
23 conclusions, that show that an individual was personally involved in the deprivation of
24 his civil rights.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998). For an
25 individual to be liable in his official capacity, a plaintiff must allege that the official acted
26 as a result of a policy, practice, or custom. *See Cortez v. County of Los Angeles*, 294 F.3d
27 1186, 1188 (9th Cir. 2001). Further, there is no *respondeat superior* liability under
28 § 1983, so a defendant’s position as the supervisor of someone who allegedly violated a

1 plaintiff's constitutional rights does not make him liable. *Monell v. Dep't of Soc. Servs.*,
2 436 U.S. 658, 691 (1978); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). A
3 supervisor in his individual capacity, "is only liable for constitutional violations of his
4 subordinates if the supervisor participated in or directed the violations, or knew of the
5 violations and failed to act to prevent them." *Taylor*, 880 F.2d at 1045. In addition,
6 where a defendant's only involvement in allegedly unconstitutional conduct is the denial
7 of administrative grievances, the failure to intervene on a prisoner's behalf to remedy the
8 alleged unconstitutional behavior does not amount to active unconstitutional behavior for
9 purposes of § 1983. *See Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999); *accord*
10 *Proctor v. Applegate*, 661 F. Supp.2d 743, 765 (W.D. Mich. 2009); *Stocker v. Warden*,
11 No. 1:07-CV-00589, 2009 WL 981323, at *10 (E.D. Cal. Apr. 13, 2009); *Mintun v.*
12 *Blades*, No. CV-06-139, 2008 WL 711636, at *7 (D. Idaho Mar. 14, 2008); *see also*
13 *Gregory v. City of Louisville*, 444 F.3d 725, 751 (6th Cir. 2006) (a plaintiff must allege
14 that a supervisor defendant did more than play a passive role in an alleged violation or
15 mere tacit approval thereof; a plaintiff must allege that the supervisor defendant somehow
16 encouraged or condoned the actions of their subordinates).

17
18 Plaintiff fails to allege *any* facts to support that Wilmot violated his constitutional
19 rights. Plaintiff has not alleged that Wilmot directly violated his constitutional rights, nor
20 has he alleged that his rights have been violated under a policy or practice promulgated,
21 endorsed, or condoned by Wilmot. For these reasons, Plaintiff fails to state a claim
22 against Wilmot and he will be dismissed.

23 Nor has Plaintiff alleged any specific facts against Jane Doe Driver One or John
24 Doe Driver Two. Presumably, they were the drivers when Plaintiff was shackled and
25 transported, but Plaintiff does not state that. Nor does he link any constitutional violation
26 to either of them. He states that he complained repeatedly during his transport, but he
27 does not allege to whom those complaints were directed, what he said, and what
28 response, if any, he received. For these reasons, Plaintiff fails to state a claim against
either Jane Doe Driver One or John Doe Driver Two and they will be dismissed.

1 **B. Extradition Transport of America**

2 Plaintiff sues Extradition Transport of America. While Plaintiff does not state any
3 facts against this Defendant, presumably Extradition Transport of America is the entity
4 responsible for transporting Plaintiff during the relevant time period since Plaintiff
5 alleges the two drivers were employed by Extradition Transport of America. Claims
6 under § 1983 may be directed at “bodies politic and corporate.” *Monell*, 436 U.S. at 688-
7 89 (1978). Under the Civil Rights Act of 1871, Congress intended municipal
8 corporations and other local government units to be included among those persons to
9 whom § 1983 applies. *Id.* at 689-90. That proposition has been extended to corporations
10 that act under color of state law. *See Sable Commc’s of Cal. Inc. v. Pac. Tel. & Tel Co.*,
11 890 F.2d 184, 189 (9th Cir. 1989) (willful joint participation of private corporation in
12 joint activity with state or its agent taken under color of state law).

13 There are four ways to find state action by a private entity for purposes of § 1983:
14 (1) the private actor performs a public function, (2) the private actor engages in joint
15 activity with a state actor, (3) a private actor is subject to governmental compulsion or
16 coercion, or (4) there is a governmental nexus with the private actor. *Kirtley v. Rainey*,
17 326 F.3d 1088, 1093 (9th Cir. 2003). Under the public function test, “the function
18 [performed by the private actor] must traditionally be the exclusive prerogative of the
19 state.” *Parks Sch. of Bus., Inc. v. Symington*, 51 F.3d 1480, 1486 (9th Cir. 1995); *see*
20 *Kirtley*, 326 F.3d at 1093; *Lee v. Katz*, 276 F.3d 550, 554-555 (9th Cir. 2002). A
21 privately owned corporation that provides medical care to state inmates under contract
22 with a state performs a public function that is traditionally the exclusive prerogative of
23 the state.

24 To state a claim under § 1983 against a private entity performing a traditional
25 public function, a plaintiff must allege facts to support that his constitutional rights were
26 violated as a result of a policy, decision, or custom promulgated or endorsed by the
27 private entity. *See Buckner v. Toro*, 116 F.3d 450, 452 (11th Cir. 1997); *Street v. Corrs.*
28 *Corp. of Am.*, 102 F.3d 810, 814 (6th Cir. 1996); *Wall v. Dion*, 257 F. Supp.2d 316, 319

1 (D. Me. 2003); *see also Austin v. Paramount Parks, Inc.*, 195 F.3d 715, 727 (4th Cir.
2 1999); *Rojas v. Alexander's Dep't Store, Inc.*, 924 F.2d 406, 408 (2d Cir. 1990); *Lux by*
3 *Lux v. Hansen*, 886 F.2d 1064, 1067 (8th Cir. 1989).

4 Extradition Transport of America does provide a traditional public function by
5 transporting prisoners under contracts with various law enforcement agencies and may be
6 sued. However, Plaintiff fails to allege facts to support that Extradition Transport of
7 America promulgated or endorsed a policy or custom that resulted in the alleged violation
8 of Plaintiff's federal rights. Moreover, because there is no *respondeat superior* liability
9 under § 1983, a defendant's position as the employer of someone who allegedly violated
10 a plaintiff's constitutional rights does not make it liable. *Monell*, 436 U.S. at 691; *Taylor*,
11 880 F.2d at 1045. Because Plaintiff fails to allege facts to support that Extradition
12 Transport of America promulgated or endorsed a policy or practice resulting in a
13 violation of his rights, he fails to state a claim against it and Extradition Transport of
14 America will be dismissed.

15 **V. Leave to Amend**

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

22 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements
23 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name
24 of the Defendant who violated the right; (3) exactly what that Defendant did or failed to
25 do; (4) how the action or inaction of that Defendant is connected to the violation of
26 Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of
27 that Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

1 Plaintiff must repeat this process for each person he names as a Defendant. If
2 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
3 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
4 failure to state a claim. Conclusory allegations that a Defendant or group of Defendants
5 has violated a constitutional right are not sufficient and will be dismissed.

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 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
11 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
12 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
13 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
14 in the original complaint is waived if it is not raised in a first amended complaint. *King v.*
15 *Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987).

16 **VI. Warnings**

17 **A. Release**

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

22 **B. Address Changes**

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

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C. Copies

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

D. Possible “Strike”

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

E. Possible Dismissal

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

IT IS ORDERED:

- (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. 5) is **granted**.
- (2) As required by the accompanying Order to the appropriate government agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing fee.
- (3) 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.

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(4) 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).

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

DATED this 2nd day of July, 2013.



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.

_____.

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.

_____.

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.