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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ramone Trammell,

No. CV 13-1135-PHX-GMS (SPL)

10 Plaintiff,

11 vs.

ORDER

12 Tim Spruyt, et al.,

13 Defendants.
14

15 Plaintiff Ramone Trammell, who is confined in the Maricopa County Jail in
16 Phoenix, Arizona, has filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983
17 (Doc. 1) and has paid the administrative and filing fees. The Court will dismiss the
18 Complaint with leave to amend.

19 **I. Statutory Screening of Prisoner Complaints**

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

26 A pleading must contain a “short and plain statement of the claim *showing* that the
27 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8
28 does not demand detailed factual allegations, “it demands more than an unadorned, the-

1 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
2 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
3 conclusory statements, do not suffice.” *Id.*

4 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
5 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
6 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual
7 content that allows the court to draw the reasonable inference that the defendant is liable
8 for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible
9 claim for relief [is] . . . a context-specific task that requires the reviewing court to draw
10 on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s
11 specific factual allegations may be consistent with a constitutional claim, a court must
12 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
13 at 681.

14 But as the United States Court of Appeals for the Ninth Circuit has instructed,
15 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
16 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
17 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v.*
18 *Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

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

28

1 **II. Complaint**

2 In his two-count Complaint, Plaintiff sues Tempe police officer Tim Spruyt,
3 Maricopa County Jail correctional officers John and Jane Doe 1-10, and Maricopa
4 County Jail medical staff John and Jane Doe 1-10.

5 In Count I, Plaintiff asserts a Fourth Amendment claim for excessive force.
6 Plaintiff does not say when, but alleges that Spruyt pulled over a vehicle in which
7 Plaintiff was a passenger because Spruyt smelled marijuana and because the vehicle had
8 failed to stop. As Spruyt approached the vehicle, Plaintiff ran away because he had
9 almost \$6,000 in his pocket and had been robbed by a police officer in the past. Spruyt
10 shot Trammell in the back. Plaintiff says he was unarmed but that Spruyt said he thought
11 Plaintiff had a gun. Spruyt continued firing shots at Plaintiff, who ran down an alley and
12 flagged down a marked police cruiser. Plaintiff was handcuffed and the police called an
13 EMS. Plaintiff was taken to a hospital where he had surgery to extract the bullet and
14 spent two days in a coma. Due to complications, Plaintiff underwent colostomy surgery.

15 In Count II, Plaintiff asserts violations of his Eighth and Fourteenth Amendment
16 rights to constitutionally adequate medical care. In support of this claim, Plaintiff alleges
17 that the jail failed to provide hygiene items he needed to keep the area of the colostomy
18 clean and the jail failed to take Plaintiff to his appointments (presumably, Plaintiff is
19 referring to follow-up care for the colostomy, but that is not clear in his Complaint).
20 Plaintiff says the site became infected and caused him pain, discomfort, psychological
21 issues, embarrassment, fear of disability, and left him unable to protect himself. Plaintiff
22 alleges that he was eligible for a colostomy reversal nine months ago, but has not
23 received the procedure and his life continues to be at risk by the jail's "failure to reverse
24 the surgery and/or provide other adequate care." (Doc. 1 at 4.)

25 Plaintiff seeks compensatory and punitive damages and any equitable relief the
26 Court deems fitting and proper.

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1 **Additional Background**

2 According to records available online, Plaintiff is being held on criminal charges
3 of aggravated assault and misconduct involving weapons in Maricopa County Superior
4 Court case, #CR2012-132289, with an offense date of June 7, 2012.¹ Plaintiff’s trial is
5 currently scheduled for October 14, 2013.²

6 **III. Failure to State a Claim**

7 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege facts supporting
8 that (1) the conduct about which he complains was committed by a person acting under
9 the color of state law and (2) the conduct deprived him of a federal constitutional or
10 statutory right. *Wood v. Outlander*, 879 F.2d 583, 587 (9th Cir. 1989). In addition, a
11 plaintiff must allege that he suffered a specific injury as a result of the conduct of a
12 particular defendant and he must allege an affirmative link between the injury and the
13 conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

14 **A. Excessive Force**

15 Plaintiff designates Count I as a claim for the excessive use of force. A claim that
16 police officers used excessive force in the course of an arrest arises under the Fourth
17 Amendment. *See Graham v. Connor*, 490 U.S. 386, 395 (1989); *Hooper v. County of*
18 *San Diego*, 629 F.3d 1127, 1133 (9th Cir. 2011); *Bryan v. MacPherson*, 630 F.3d 805,
19 823-24 (9th Cir. 2010). To state an excessive force claim, a plaintiff must allege facts to
20 support that the force used by police officers was objectively unreasonable under the
21 circumstances. *Graham*, 490 U.S. at 395. The pertinent question is whether the use of
22 force was “objectively reasonable in light of the facts and circumstances confronting [the
23 officers], without regard to their underlying intent or motivation.” *Id.* at 397. Further, an
24 arrestee’s resistance may support the use of force regardless of whether of probable cause
25 for an arrest exists. *Brooks v. City of Seattle*, 599 F.3d 1018, 1022 (9th Cir. 2010). But

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27 ¹See <http://www.superiorcourt.maricopa.gov/docket/CriminalCourtCases/caseInfo.asp?caseNumber=CR2012-132289> (last visited Sept. 3, 2013).

28 ²See <http://www.courtminutes.maricopa.gov/docs/Criminal/072013/m5866059.pdf> (last visited Sept. 3, 2013).

1 the existence of probable cause may be considered as a part of the totality of the
2 circumstances. *Id.* Other relevant circumstances include the severity of the suspected
3 crime at issue, whether the suspect posed an immediate threat to the safety of officers or
4 others, and whether the suspect was actively resisting arrest or attempting to evade arrest.
5 *Miller v. Clark County*, 340 F.3d 959, 964 (9th Cir. 2003); *see Bryan*, 630 F.3d at 823-24.

6 Plaintiff fails to allege when the alleged use of excessive force by Spruyt occurred.
7 Presumably, Plaintiff is referring to a use of force by Spruyt in the course of his arrest in
8 relation to case #CR2012-132289, but that is not clear from the Complaint. Moreover,
9 Plaintiff acknowledges that he was running away from the officer after the vehicle in
10 which he was a passenger had been stopped and the officer said he thought Plaintiff had a
11 gun. Plaintiff does not allege that use of force against him was objectively unreasonable
12 in light of the facts and surrounding circumstances. Nor does he allege that force was
13 used against him despite his compliance with instructions from the officer(s). Absent
14 additional factual allegations, Plaintiff fails to state a claim for excessive force.

15 **B. Medical Care**

16 In Count II of his Complaint, Plaintiff alleges that he was denied constitutionally
17 adequate medical care. Not every claim by a prisoner relating to inadequate medical
18 treatment states a violation of the Eighth or Fourteenth Amendment. To state a § 1983
19 medical claim, a plaintiff must show that the defendants acted with “deliberate
20 indifference to serious medical needs.” *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir.
21 2006) (quoting *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). A plaintiff must show (1) a
22 “serious medical need” by demonstrating that failure to treat the condition could result in
23 further significant injury or the unnecessary and wanton infliction of pain and (2) the
24 defendant’s response was deliberately indifferent. *Jett*, 439 F.3d at 1096 (quotations
25 omitted).

26 “Deliberate indifference is a high legal standard.” *Toguchi v. Chung*, 391 F.3d
27 1051, 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must
28 both know of and disregard an excessive risk to inmate health; “the official must both be

1 aware of facts from which the inference could be drawn that a substantial risk of serious
2 harm exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825,
3 837 (1994). Deliberate indifference in the medical context may be shown by a
4 purposeful act or failure to respond to a prisoner’s pain or possible medical need and
5 harm caused by the indifference. *Jett*, 439 F.3d at 1096. Deliberate indifference may
6 also be shown when a prison official intentionally denies, delays, or interferes with
7 medical treatment or by the way prison doctors respond to the prisoner’s medical needs.
8 *Estelle*, 429 U.S. at 104-05; *Jett*, 439 F.3d at 1096.

9 Deliberate indifference is a higher standard than negligence or lack of ordinary
10 due care for the prisoner’s safety. *Farmer*, 511 U.S. at 835. “Neither negligence nor
11 gross negligence will constitute deliberate indifference.” *Clement v. California Dep’t of*
12 *Corrs.*, 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); *see also Broughton v. Cutter Labs.*,
13 622 F.2d 458, 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or
14 “medical malpractice” do not support a claim under § 1983). “A difference of opinion
15 does not amount to deliberate indifference to [a plaintiff’s] serious medical needs.”
16 *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care,
17 without more, is insufficient to state a claim against prison officials for deliberate
18 indifference. *See Shapley v. Nevada Bd. of State Prison Comm’rs*, 766 F.2d 404, 407
19 (9th Cir. 1985). The indifference must be substantial. The action must rise to a level of
20 “unnecessary and wanton infliction of pain.” *Estelle*, 429 U.S. at 105.

21 A plaintiff must allege facts that connect a defendant to the claim that he was
22 denied constitutionally adequate medical care. Here, Plaintiff has failed to allege facts
23 against any named Defendant relating to his medical care. For that reason, Plaintiff fails
24 to state a claim and Count II will be dismissed without prejudice.

25 **C. Doe Defendants**

26 Plaintiff names as Defendants Maricopa County Jail correctional officers John and
27 Jane Doe 1-10 and Maricopa County Jail medical staff John and Jane Doe 1-10, but he
28 fails to allege any facts against any of those John and Jane Doe Defendants.

1 Rule 10(a) of the Federal Rules of Civil Procedure requires the plaintiff to include
2 the names of the parties in the action. As a practical matter, it is impossible in most
3 instances for the United States Marshal or his designee to serve a summons and
4 complaint or amended complaint upon an anonymous defendant. The Ninth Circuit has
5 held that where identity is unknown prior to the filing of a complaint, the plaintiff should
6 be given an opportunity through discovery to identify the unknown defendants, unless it
7 is clear that discovery would not uncover the identities, or that the complaint would be
8 dismissed on other grounds. *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir.
9 1999) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). Where the names
10 of individual defendants are unknown at the time a complaint is filed, a plaintiff may
11 refer to the individual unknown defendants as Defendant John (or Jane) Doe 1, John Doe
12 2, and so on, *and* allege facts to support how each particular Doe defendant violated the
13 plaintiff's constitutional rights.

14 In this case, Plaintiff fails to allege that any of the Doe Defendants violated a
15 constitutional right. Accordingly, they will be dismissed without prejudice.

16 **IV. Leave to Amend**

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

23 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements
24 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name
25 of the Defendant who violated the right; (3) exactly what that Defendant did or failed to
26 do; (4) how the action or inaction of that Defendant is connected to the violation of
27 Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of
28 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**
5 **Defendants has violated a constitutional right are not acceptable and will be**
6 **dismissed.**

7 Plaintiff must clearly designate on the face of the document that it is the “First
8 Amended Complaint.” The first amended complaint must be retyped or rewritten in its
9 entirety on the court-approved form and may not incorporate any part of the original
10 Complaint by reference. Plaintiff may include only one claim per count.

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

17 **V. Warnings**

18 **A. Address Changes**

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

23 **B. Copies**

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

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C. 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).

D. 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) 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.

(2) 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).

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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 and Administrative Fees. The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to immediately pay the fees, 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 \$400 filing and administrative fees 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.