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

9 Jeffrey Alan Taylor,

No. CV 13-2393-PHX-RCB (JFM)

10 Plaintiff,

11 vs.

ORDER

12 Peoria Police Department, et al.,
13 Defendants.
14

15 On November 20, 2013, Plaintiff Jeffrey Alan Taylor, who is confined in the
16 Maricopa County Lower Buckeye Jail, filed a *pro se* civil rights Complaint (Doc. 1) and
17 an “Application for Deferral or Waiver of Court Fees and/or Costs and Consent to Entry
18 of Judgment.” Plaintiff also filed a state court form “Request and Order for Hearing,”
19 which the Clerk of Court docketed as a Motion for Hearing (Doc. 5). In an Order dated
20 December 12, 2013, the Court denied without prejudice Plaintiff’s Application and
21 granted Plaintiff 30 days to either pay the \$400.00 filing and administrative fees or to file
22 a complete *Application to Proceed In Forma Pauperis*. On December 19, 2013, Plaintiff
23 filed a new *Application to Proceed In Forma Pauperis* (Doc. 9). The Court will grant the
24 Application to Proceed, will deny the Motion, and will dismiss the Complaint with leave
25 to amend using the court-approved form.

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

27 Plaintiff’s Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.
28 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).

1 The Court will assess an initial partial filing fee of \$6.10. *Id.* The remainder of the
2 statutory filing fee will be collected monthly in payments of 20% of the previous month's
3 income credited to Plaintiff's trust account each time the amount in the account exceeds
4 \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the
5 appropriate government agency to collect and forward the fees according to the statutory
6 formula.

7 **II. Failure to File Complaint on Court-Approved Form**

8 Pursuant to Local Rule of Civil Procedure 3.4, "[a]ll complaints and applications
9 to proceed *in forma pauperis* by incarcerated persons shall be signed and legibly written
10 or typewritten on forms approved by the Court." Plaintiff has not filed his Complaint on
11 the court-approved form and the Court is unable to determine the precise number and
12 nature of Plaintiff's claims. Also, although Plaintiff discusses several individuals in his
13 Complaint, he fails to specifically identify the Defendants he is suing, as required in
14 Section B of the court-approved form. The Court will therefore dismiss the Complaint
15 and grant Plaintiff 30 days to file a first amended complaint on the court-approved form.

16 **III. Leave to Amend**

17 For the foregoing reasons, the Complaint will be dismissed for failure to comply
18 with Local Rule of Civil Procedure 3.4. Within 30 days, Plaintiff may submit a first
19 amended complaint to cure the deficiencies outlined above. The Clerk of Court will mail
20 Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff
21 fails to use the court-approved form, the Court may strike the first amended complaint
22 and dismiss this action without further notice to Plaintiff.

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

27 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
28 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896

1 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
2 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
3 in the original complaint and that was voluntarily dismissed or was dismissed without
4 prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa*
5 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

6 **IV. Warnings**

7 **A. Release**

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

12 **B. Address Changes**

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

17 **C. Copies**

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

21 **D. Possible Dismissal**

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

26 **IT IS ORDERED:**

27 (1) Plaintiff's Application to Proceed *In Forma Pauperis* (Doc. 9) is **granted**.
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(2) As required by the accompanying Order to the appropriate government agency, Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee of \$6.10.


(3) The Complaint (Doc. 1) is **dismissed** for failure to comply with Local Rule of Civil Procedure 3.4. Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with this Order.

(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 without prejudice.

(5) The Motion for Hearing (Doc. 5) is **denied** as premature.

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

DATED this 25th day of February, 2014.



Robert C. Broomfield
Senior United States District Judge