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

9 Michael Knaubert,

No. CV 14-0158-PHX-SMM (SPL)

10 Plaintiff,

11 vs.

ORDER

12 Last Forced Medication Committee,
13 Defendant.
14

15 On January 27, 2014, Plaintiff Michael Knaubert, who is confined in the Arizona
16 State Prison Complex-Eyman, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C.
17 § 1983 and an Application to Proceed *In Forma Pauperis*. In an April 22, 2014 Order,
18 the Court granted the Application to Proceed and dismissed the Complaint because
19 Plaintiff had failed to state a claim. The Court gave Plaintiff 30 days to file an amended
20 complaint that cured the deficiencies identified in the Order.

21 On April 28, 2014, Plaintiff filed a letter¹ and another document, which was
22 docketed as a Motion for Clarification (Doc. 16). On May 19, 2014, Plaintiff filed his
23

24
25 ¹ As the Court told Plaintiff in the April 22 Order, it is improper for a party to
26 communicate directly with court personnel. Simply mailing a letter to the Clerk of Court,
27 the judge, or any court personnel is unacceptable. Any request for action by the Court
28 must be in the form of a motion that complies with the Rules of Practice of the United
States District Court for the District of Arizona (the Local Rules). Any future letters
directed to the Clerk of Court, the judge, or any court personnel will be stricken from the
record and will be returned to Plaintiff.

1 First Amended Complaint (Doc. 17). The Court will dismiss the First Amended
2 Complaint with leave to amend.

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

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

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

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

26 But as the United States Court of Appeals for the Ninth Circuit has instructed,
27 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
28 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less

1 stringent standards than formal pleadings drafted by lawyers.” *Id.* (quoting *Erickson v.*
2 *Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

3 If the Court determines that a pleading could be cured by the allegation of other
4 facts, a *pro se* litigant is entitled to an opportunity to amend a complaint before dismissal
5 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (*en banc*).
6 Plaintiff’s First Amended Complaint will be dismissed for failure to state a claim, but
7 because it may possibly be amended to state a claim, the Court will dismiss it with leave
8 to amend.

9 **II. First Amended Complaint**

10 In his five-count First Amended Complaint, Plaintiff names the following
11 Defendants: Mertz, a mental health psych associate at SMU-1 and Eyman Complex-
12 Cook; and John Does 1 through 9, all listed as “psychrist (sic) mental health” or “mental
13 health psychrist (sic)” at SMU-1. Plaintiff seeks damages.

14 In Count One, Plaintiff asserts a claim of retaliation and alleges the following
15 facts: Defendant Mertz knew Plaintiff “was there for admin p[u]rpose and not for mental
16 health.” Mertz was apparently caught falsifying paperwork and was “removed from his
17 case load.” Mertz said, “I will put you in for forced medication” and refused to say on
18 what grounds. Mertz was almost fired and given a second chance before “putting in for
19 forced medication meds turned [Plaintiff] into a zombie.” Plaintiff was “there” until
20 housing could be found for him. Plaintiff’s injuries consist of a delay of his filings in
21 state courts, he was “put into binds,” and costs of over \$100.00.

22 In Count Two, Plaintiff asserts an access to the courts claim and alleges the
23 following: Plaintiff wrote two separate writs of habeas corpus with different issues and
24 gave them to the CO III to fax to the court. Plaintiff found out that the CO III was “a
25 phony” and he “only got 1 phony reply denying action based on phony paper.”

26 In Count Three, Plaintiff asserts a medical care claim and alleges the following:
27 Plaintiff was given medication “for a problem that does not exist.” It turned Plaintiff into
28 a zombie and he could barely think for himself.

1 In Count Four, Plaintiff alleges that he was denied a qualified legal representative
2 of his choice.

3 In Count Five, Plaintiff alleges that he was denied a competent lawyer or legal
4 representative. The DOC Officer never talked to Plaintiff in private to explain the
5 situation, to find out Plaintiff's side of the story, or to verify Plaintiff's facts, which are:
6 (1) "housing problem not a mental health situation"; and (2) "had no mental health
7 problems as put on paper every day. Like hearing no voices, no hallucinations, or not
8 seeing things. This was put on paper by Lee Foxley. Yet the medication prescribed is for
9 hearing voices."

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

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

18 Also, although *pro se* pleadings are liberally construed, *Haines v. Kerner*, 404
19 U.S. 519, 520-21 (1972), conclusory and vague allegations will not support a cause of
20 action. *Ivey v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982).
21 Further, a liberal interpretation of a civil rights complaint may not supply essential
22 elements of the claim that were not initially pled. *Id.*

23 **A. Doe Defendants**

24 Plaintiff names nine Doe Defendants. As the Court advised Plaintiff in the May
25 19 Order, Rule 10(a) of the Federal Rules of Civil Procedure requires the plaintiff to
26 include the names of the parties in the action. As a practical matter, it is impossible in
27 most instances for the United States Marshal or his designee to serve a summons and
28 complaint or amended complaint upon an anonymous defendant.

1 The Ninth Circuit has held that where identity is unknown prior to the filing of a
2 complaint, the plaintiff should be given an opportunity through discovery to identify the
3 unknown defendants, unless it is clear that discovery would not uncover the identities, or
4 that the complaint would be dismissed on other grounds. *Wakefield v. Thompson*, 177
5 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir.
6 1980)). Where the names of individual defendants are unknown at the time a complaint
7 is filed, a plaintiff may refer to the individual unknown defendants as Defendant John (or
8 Jane) Doe 1, John Doe 2, and so on, *and* allege facts to support how each particular Doe
9 defendant violated the plaintiff's constitutional rights. A plaintiff may thereafter use the
10 discovery process to obtain the names of fictitiously named defendants whom he believes
11 violated his constitutional rights and seek leave to amend to name those defendants.

12 In this case, while Plaintiff has separated his list of Defendants into John Doe 1,
13 John Doe 2, etc., he fails to allege *facts* connecting any of the Doe Defendants with an
14 alleged violation of his constitutional rights. Accordingly, Defendants John Does 1
15 through 9 are dismissed without prejudice.

16 **B. Defendant Mertz and Count One**

17 The only other Defendant named by Plaintiff is Mertz, a “mental health psych
18 associate.” The only mention of Mertz is in Count One, which Plaintiff designates as a
19 retaliation claim. However, it is unclear how Mertz or anyone else retaliated against
20 Plaintiff. Plaintiff alleges that Mertz knew Plaintiff “was there for admin p[u]rpose and
21 not for mental health,” but Plaintiff does not explain what this means. Plaintiff alleges
22 that Mertz was “caught for false paperwork lying had him removed from his case load,”
23 but these vague allegations are also unclear. Finally, Plaintiff alleges that Mertz said, “I
24 will put you in for forced medication” and that Mertz was almost fired and given a
25 second chance before “putting in for forced medication meds turned [Plaintiff] into a
26 zombie.”

27 It appears that Plaintiff may be asserting that he reported Mertz for some alleged
28 misconduct and that Mertz retaliated by recommending that Plaintiff receive medications

1 by force, but none of that is clear from the allegations. As noted, conclusory and vague
2 allegations will not support a cause of action. *Ivey*, 673 F.2d at 268. Nor will the Court
3 supply essential elements of the claim that were not initially pled. *Id.* Accordingly,
4 Defendant Mertz and Count One will be dismissed.

5 Because Plaintiff has failed to connect a properly named Defendant with any
6 alleged violation of his constitutional rights, his First Amended Complaint will be
7 dismissed.

8 **IV. Motion for Clarification**

9 In Plaintiff's Motion, he asks if he should get a court order to obtain the names of
10 the individuals on the forced medication committee. He also asks for the Court to send
11 him two more complaint forms because the form only has room to list four defendants
12 and he has approximately 12 defendants to list. Plaintiff's request for clarification is
13 granted.

14 As to Plaintiff's first request, a court order is not necessary to discover the
15 identities of any unnamed defendants. First, Plaintiff has failed to state a claim against
16 any Doe Defendant. Moreover, even if Plaintiff states a claim against a Doe Defendant
17 in a second amended complaint, he would be able to use the discovery process to obtain
18 the names of fictitiously named defendants whom he believes violated his constitutional
19 rights and he could seek leave to amend to name those defendants.

20 As to Plaintiff's second request, it is unnecessary to list each additional defendant
21 in a space on the form. If Plaintiff has more than four defendants to name, he may attach
22 a separate page and answer the questions listed on the form for each additional defendant.
23 Plaintiff properly did so in his First Amended Complaint, and he should follow the same
24 procedure if he files a second amended complaint. In this Order, the Court is directing
25 the Clerk of Court to send Plaintiff one court-approved form for filing a civil rights
26 complaint by a prisoner.

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1 **V. Leave to Amend**

2 For the foregoing reasons, Plaintiff’s First Amended Complaint will be dismissed
3 for failure to state a claim upon which relief may be granted. Within 30 days, Plaintiff
4 may submit a second amended complaint to cure the deficiencies outlined above. The
5 Clerk of Court will mail Plaintiff a court-approved form to use for filing a second
6 amended complaint. If Plaintiff fails to use the court-approved form, the Court may
7 strike the second amended complaint and dismiss this action without further notice to
8 Plaintiff.

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

15 Plaintiff must repeat this process for each person he names as a Defendant. If
16 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
17 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
18 failure to state a claim. **Conclusory allegations that a Defendant or group of**
19 **Defendants has violated a constitutional right are not acceptable and will be**
20 **dismissed.**

21 Plaintiff should refer to the Court’s April 22, 2014 Order for the standards to state
22 claims for denial of medical care, access to the courts, and retaliation.

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

28

1 A second amended complaint supersedes the original Complaint and First
2 Amended Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal*
3 *Roach Studios v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After
4 amendment, the Court will treat the original Complaint and First Amended Complaint as
5 nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the
6 original complaint or first amended complaint and that was voluntarily dismissed or was
7 dismissed without prejudice is waived if it is not alleged in a second amended complaint.
8 *Lacey v. Maricopa County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

9 **VI. Warnings**

10 **A. Release**

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

15 **B. Address Changes**

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

20 **C. Copies**

21 Because Plaintiff is currently confined in ASPC-Eyman and this case is subject to
22 General Order 14-08, Plaintiff is not required to submit an additional copy of every filing
23 for use by the Court, as would ordinarily be required by Local Rule of Civil Procedure
24 5.4. If Plaintiff is transferred to a prison other than ASPC-Eyman, he will be notified of
25 the requirements regarding copies for the Court that are required for inmates whose cases
26 are not subject to General Order 14-08.

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1 **D. Possible “Strike”**

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

12 **E. Possible Dismissal**

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

17 **IT IS ORDERED:**

18 (1) The First Amended Complaint (Doc. 17) is **dismissed** for failure to state a
19 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended
20 complaint in compliance with this Order.

21 (2) If Plaintiff fails to file a second amended complaint within 30 days, the
22 Clerk of Court must, without further notice, enter a judgment of dismissal of this action
23 with prejudice that states that the dismissal may count as a “strike” under 28 U.S.C.
24 § 1915(g).

25 (3) Plaintiff’s Motion for Clarification (Doc. 16) is **granted** as set forth herein.

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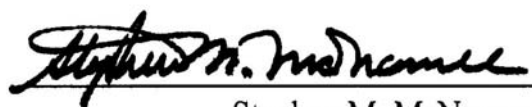
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(4) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil rights complaint by a prisoner.

DATED this 8th day of July, 2014.



Stephen M. McNamee
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. _____
_____.

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.