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

Oscar Amaro,

Plaintiff,

v.

Joseph M. Arpaio, et al.,

Defendants.

No. CV 14-2302-PHX-DGC (MEA)

ORDER

On October 16, 2014, Plaintiff Oscar Amaro, who is confined in the Arizona State Prison Complex ("ASPC")-Lewis, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1) and an Application to Proceed *In Forma Pauperis*. In a November 7, 2014 Order, the Court denied the deficient Application to Proceed and gave Plaintiff 30 days to pay the required fees or file a complete Application to Proceed *In Forma Pauperis*. On November 19, 2014, Plaintiff filed a second Application to Proceed. In a January 28, 2015 Order, the Court denied the deficient Application to Proceed and gave Plaintiff 30 days to pay the required fees or file a complete Application to Proceed *In Forma Pauperis*.

On March 5, 2015, Plaintiff filed a third Application to Proceed *In Forma Pauperis* (Doc. 11). The Court will grant the Application to Proceed and dismiss the Complaint with leave to amend.

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

2 Plaintiff's Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.
3 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).
4 The Court will assess an initial partial filing fee of \$7.62. The remainder of the fee will
5 be collected monthly in payments of 20% of the previous month's income credited to
6 Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C.
7 § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government
8 agency to collect and forward the fees according to the statutory formula.

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

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

16 A pleading must contain a “short and plain statement of the claim *showing* that the
17 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8
18 does not demand detailed factual allegations, “it demands more than an unadorned, the-
19 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
20 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
21 conclusory statements, do not suffice.” *Id.*

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

1 specific factual allegations may be consistent with a constitutional claim, a court must
2 assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.*
3 at 681.

4 But as the United States Court of Appeals for the Ninth Circuit has instructed,
5 courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338,
6 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less
7 stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v.*
8 *Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*)).

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

14 **III. Complaint**

15 In his two-count Complaint, Plaintiff sues the following Defendants: Joseph M.
16 Arpaio, Maricopa County Sheriff; Jane Doe, Classification Detention Officer at the
17 Maricopa County Fourth Avenue Jail; Unknown Graham, Detention Officer at the
18 Maricopa County Fourth Avenue Jail; and the Maricopa County Sheriff’s Office
19 (“MCSO”). Plaintiff seeks injunctive relief and monetary damages.

20 In Count One, Plaintiff asserts a claim for threat to safety or failure to protect. He
21 alleges the following facts: On August 13, 2013, Plaintiff was transported from the
22 ASPC-Lewis Barchey Unit, a protective segregation unit, to the Maricopa County Fourth
23 Avenue Jail to attend court. Plaintiff met with Defendant Jane Doe when he arrived at
24 the Fourth Avenue Jail and requested protective segregation housing because there is a
25 “hit” on his life by the New Mexican Mafia. Plaintiff told Defendant Doe that there had
26 been multiple attempts to kill him in the past. Defendant Doe told Plaintiff that, per her
27 supervisor, she could not house Plaintiff in the protective segregation unit due to his
28 history of violence. Plaintiff was housed at the Fourth Avenue Jail in “3C-100” and “2-C

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1 200-26,” where he was “constantly under stress [and] in a state of extreme panic and
2 worry.” Plaintiff had anxiety attacks and nausea due to the stress and panic. He lost a lot
3 of weight due to a loss of appetite. On December 25, 2013, when Plaintiff was out for
4 recreation time, an officer allegedly “accidentally” let a cell out to recreation time that
5 was not supposed to be out for recreation time at the same time as Plaintiff. Plaintiff was
6 “viciously assaulted” by two inmates. Due to this assault, Plaintiff required medical
7 treatment. Plaintiff alleges that he suffers from nightmares and “aches and pains” from
8 the assault.

9 In Count Two, Plaintiff asserts a claim for “negl[i]gent training and/or hiring.”
10 Plaintiff claims that the MCSO has a policy or custom “as to the negl[i]gence and
11 deliberate indifference they blatantly show[] in regards to [his] safety and welfare.” It
12 appears he is further claiming that Defendants MCSO, Arpaio, Graham, and Doe, and the
13 reclassification supervisor, failed to investigate and disclose facts regarding MCSO’s
14 involvement in injuries and deaths. Plaintiff contends that Defendants “should be held
15 responsible [for] not protecting the health and personal safety of any and all pre-trial
16 detainees and should be held liable . . . because the Defendants[’] conduct was motivated
17 by blatant disregard and evil intent.”

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

19 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants
20 (2) under color of state law (3) deprived him of federal rights, privileges or immunities
21 and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th
22 Cir. 2005). In addition, a plaintiff must allege that he suffered a specific injury as a result
23 of the conduct of a particular defendant and he must allege an affirmative link between
24 the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377
25 (1976).

26 **A. MCSO**

27 The Maricopa County Sheriff’s Office is not a proper defendant because it is a
28 “non-jural entity under Arizona state law.” *Melendres v. Arpaio*, No. 13-16285, 2015

1 WL 1654550 (9th Cir. Apr. 15, 2015) (citing to *Braillard v. Maricopa Cnty.*, 232 P.3d
2 1263, 1269 (Ariz. Ct. App. 2010). In Arizona, the responsibility of operating jails and
3 caring for prisoners is placed by law upon the sheriff. See Ariz. Rev. Stat. § 11-
4 441(A)(5); Ariz. Rev. Stat. § 31-101. A sheriff’s office is simply an administrative
5 creation of the county sheriff to allow him to carry out his statutory duties and not a
6 “person” amenable to suit pursuant to § 1983. Accordingly, the Maricopa County
7 Sheriff’s Office will be dismissed from this action.

8 **B. Count One**

9 A claim for threat to safety arises under the Fourteenth Amendment as to pretrial
10 detainees and under the Eighth Amendment as to convicted inmates. *Bell v. Wolfish*, 441
11 U.S. 520, 535 and n.16 (1979). The same standards are applied, requiring proof that the
12 defendant acted with deliberate indifference. See *Frost v. Agnos*, 152 F.3d 1124, 1128
13 (9th Cir. 1998). To state a claim under § 1983 for threat to safety, an inmate must allege
14 facts to support that he was incarcerated under conditions posing a substantial risk of
15 harm and that prison officials were “deliberately indifferent” to those risks. *Farmer v.*
16 *Brennan*, 511 U.S. 825, 832-33 (1994). To adequately allege deliberate indifference, a
17 plaintiff must allege facts to support that a defendant knew of, but disregarded, an
18 excessive risk to inmate safety. *Id.* at 837. That is, “the official must both [have been]
19 aware of facts from which the inference could be drawn that a substantial risk of serious
20 harm exist[ed], and he must also [have] draw[n] the inference.” *Id.*

21 Plaintiff fails to state a claim for threat to safety in Count One. Plaintiff fails to
22 link Defendant Doe’s allegedly inadequate classification to his injury. To prevail in a
23 § 1983 claim, a plaintiff must allege that he suffered a specific injury as a result of the
24 conduct of a particular defendant and he must allege an affirmative link between the
25 injury and the conduct of that defendant. *Rizzo*, 423 U.S. at 371-72, 377. Here, Plaintiff
26 does not allege that Defendant Doe knew or should have known that after her initial
27 classification, an officer would accidentally release a cell to recreation or that Plaintiff
28 would be assaulted due to this accident. These facts are not sufficient to support a claim

1 that Defendant Doe was deliberately indifferent to a substantial risk of harm to Plaintiff.
2 Moreover, Plaintiff does not allege that his assault was prompted by being on the New
3 Mexican Mafia’s “hit list.” Accordingly, Count One will be dismissed.

4 **C. Count Two**

5 **1. Failure to Train**

6 It appears that Plaintiff is attempting to assert a claim for the failure to train in
7 Count Two. To state a Fourteenth Amendment claim based on a failure to train, a
8 plaintiff must allege facts to support that the alleged failure amounted to deliberate
9 indifference. *Canell v. Lightner*, 143 F.3d 1210, 1213 (9th Cir. 1998). A plaintiff must
10 allege facts to support that not only was particular training inadequate, but also that such
11 inadequacy was the result of “a ‘deliberate’ or ‘conscious’ choice” on the part of the
12 defendant. *Id.* at 1213-14; *see Clement v. Gomez*, 298 F.3d 898, 905 (9th Cir. 2002) (a
13 plaintiff must allege facts to support that “in light of the duties assigned to specific
14 officers or employees, the need for more or different training is [so] obvious, and the
15 inadequacy so likely to result in violations of constitutional rights, that the
16 policy[]makers . . . can reasonably be said to have been deliberately indifferent to the
17 need.” (quoting *City of Canton v. Harris*, 489 U.S. 378, 390 (1989))).

18 Plaintiff’s allegations are not sufficient to state a claim for failure to train, as he
19 has not alleged facts to support that any Defendant was deliberately indifferent to the fact
20 that Plaintiff’s constitutional rights would be violated due to the inadequate training. Nor
21 has Plaintiff alleged that the injuries he suffered were the result of any Defendant’s
22 failure to train the Defendant Doe or the officer who accidentally let both units out for
23 recreation leading to Plaintiff’s alleged assault. Plaintiff does not identify what training
24 was provided, how it was inadequate, or that any such failure to train was the result of
25 any named Defendant’s deliberate or conscious choice.

26 **2. Policy, Practice, or Custom**

27 To the extent that Plaintiff is attempting to assert a claim for an alleged policy,
28 practice, or custom that resulted in a violation of his constitutional rights, he fails to state

1 a claim. For an individual to be liable in his official capacity, a plaintiff must allege
2 injuries resulting from a policy, practice, or custom of the agency over which that
3 individual has final policy-making authority. *See Cortez v. County of Los Angeles*, 294
4 F.3d 1186, 1188 (9th Cir. 2002). Plaintiff has not failed to allege facts to support that the
5 alleged policy of Defendants resulted in the December 25, 2013 assault.

6 Accordingly, Plaintiff fails to state a claim upon which relief can be granted in
7 Count Two, and the Court will dismiss Count Two.

8 **V. Leave to Amend**

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

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

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

25 Plaintiff must repeat this process for each person he names as a Defendant. If
26 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
27 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
28 failure to state a claim. **Conclusory allegations that a Defendant or group of**

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1 **Defendants has violated a constitutional right are not acceptable and will be**
2 **dismissed.**

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

10 **VI. Warnings**

11 **A. Release**

12 If Plaintiff is released while this case remains pending, and the filing fee has not
13 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
14 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
15 (2) file a non-prisoner application to proceed *in forma pauperis*. Failure to comply may
16 result in dismissal of this action.

17 **B. Address Changes**

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

22 **C. Copies**

23 Because Plaintiff is currently confined in an Arizona Department of Corrections
24 unit subject to General Order 14-17, Plaintiff is not required to submit an additional copy
25 of every filing for use by the Court, as would ordinarily be required by Local Rule of
26 Civil Procedure 5.4. If Plaintiff is transferred to a unit other than one subject to General
27 Order 14-17, he will be notified of the requirements regarding copies for the Court that
28 are required for inmates whose cases are not subject to General Order 14-17.

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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. 11) is **granted**.
- (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 \$7.62.
- (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.
- (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).

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

Dated this 27th day of April, 2015.



David G. Campbell
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 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.

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.