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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Michael David Johnson,

10 Plaintiff,

11 v.

12 Maricopa County Sheriff's Office, et al.,

13 Defendants.
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No. CV 14-2519-PHX-DGC (MEA)

ORDER

15 Plaintiff Michael David Johnson, who is confined in the Maricopa County Lower
16 Buckeye Jail in Phoenix, Arizona, has filed a *pro se* civil rights Complaint pursuant to 42
17 U.S.C. § 1983 (Doc. 1) and an Application to Proceed *In Forma Pauperis* (Doc. 2). The
18 Court will dismiss the Complaint with leave to amend.

19 Plaintiff has also filed two Motions to Add Additional Counts (Docs. 5, 6), and a
20 Motion for Disclosure of Electronic Communications and Records (“Motion for
21 Disclosure”) (Doc. 7). The Court will construe the Motions to Add Additional Counts as
22 Motions to Amend and will grant the motion to the extent that it will dismiss the
23 Complaint with leave to amend. The Court will construe the Motion for Disclosure as a
24 motion for discovery and will deny it as premature.

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

25
26 Plaintiff’s Application to Proceed *In Forma Pauperis* will be granted. 28 U.S.C.
27 § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1).
28 The Court will not assess an initial partial filing fee. *Id.* The statutory filing fee will be

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

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

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

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

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

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

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

11 **III. Complaint**

12 In his one-count Complaint, Plaintiff sues the Maricopa County Sheriff’s Office
13 (“MCSO”) and the Scottsdale City Court. Plaintiff seeks punitive damages, court costs,
14 and to review transcripts and appeal an August 6, 2014 hearing in Scottsdale City Court,
15 Civil Case #M-0751-CV-2013024796.

16 Plaintiff asserts that his “due process of law” rights and his “right to appeal” have
17 been violated. Plaintiff alleges that the judge in his Scottsdale City Court civil case was
18 “very negligent” in managing a hearing on August 6, 2014, and Plaintiff has appealed.
19 According to Plaintiff, the appeals process requires him to review transcripts of the
20 hearing, and the court mailed him an audio transcript, but jail officials have refused to
21 provide a means for him to listen to the audio transcript and the court will not provide an
22 alternative. Plaintiff asserts that he has written to the court and has “exhausted the
23 internal and external appeals process at the jail,” but “neither party accepts any
24 responsibility to ensure [his] right . . . to appeal this hearing.” Plaintiff alleges that he has
25 already had his appeal of the hearing extended once, but the appeal instructions clearly
26 state that he is required to obtain and review the transcript, and because he still has no
27 access to the transcript, he fears he will lose his appeal right. Plaintiff also believes the
28 hearing at issue “may have had an impact on the sentencing in [his] current case.”

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

2 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants
3 (2) under color of state law (3) deprived him of federal rights, privileges or immunities
4 and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th
5 Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm’n*, 42 F.3d
6 1278, 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific
7 injury as a result of the conduct of a particular defendant and he must allege an
8 affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*,
9 423 U.S. 362, 371-72, 377 (1976).

10 Although *pro se* pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,
11 520-21 (1972), conclusory and vague allegations will not support a cause of action. *Ivey*
12 *v. Bd. of Regents of the Univ. of Alaska*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a
13 liberal interpretation of a civil rights complaint may not supply essential elements of the
14 claim that were not initially pled. *Id.*

15 **A. MCSO**

16 The Maricopa County Sheriff’s Office is not a proper defendant. In Arizona, the
17 responsibility of operating jails and caring for prisoners is placed by law upon the sheriff.
18 See Ariz. Rev. Stat. § 11-441(A)(5); Ariz. Rev. Stat. § 31-101. A sheriff’s office is
19 simply an administrative creation of the county sheriff to allow him to carry out his
20 statutory duties and not a “person” amenable to suit pursuant to § 1983. Accordingly, the
21 Maricopa County Sheriff’s Office will be dismissed.

22 **B. Scottsdale City Court**

23 Claims under § 1983 may be directed at “bodies politic and corporate.” *Monell v.*
24 *New York City Dept. of Social Services*, 436 U.S. 686, 688-89 (1978). “[A] municipality
25 can be sued under § 1983, but it cannot be held liable unless a municipal policy or custom
26 caused the constitutional injury.” *Leatherman v. Tarrant County Narcotics Intelligence*
27 *and Coordination Unit*, 507 U.S. 163, 166 (1993). “A municipality may be liable for
28 actions resulting in violations of constitutional rights only when the conduct of its official

1 or agent is executed pursuant to a government policy or custom.” *Lewis v. Sacramento*
2 *County*, 98 F.3d 434, 446 (9th Cir. 1996), *rev’d on other grounds*, 523 U.S. 833 (1998).
3 Although the Scottsdale City Court is an arm or agency of the City of Scottsdale, which
4 is subject to suit under § 1983, Plaintiff does not allege that his rights were violated due
5 to a policy or custom of the City of Scottsdale. There is also no *respondeat superior*
6 liability under § 1983; thus, the City of Scottsdale’s position as the employer or
7 supervisor of someone who may have violated Plaintiff’s constitutional rights does not
8 impose liability. *Monell*, 436 U.S. at 691-92. Plaintiff therefore fails to state a claim
9 against Defendant Scottsdale City Court, and it will be dismissed.¹

10 C. Plaintiff’s Due Process and Right to Appeal Claim

11 Insofar as Plaintiff attempts to assert a Fourteenth Amendment due process claim,
12 it is unclear whether he claims his due process rights were violated by the Scottsdale City
13 Court judge for his alleged negligence during the August 6, 2014 hearing, or by
14 employees or agents of either the Scottsdale City Court or the Lower Buckeye Jail for
15 allegedly denying Plaintiff’s requests to obtain or listen to his hearing transcript, or by
16 these or other individuals for actions taken during the “internal and external appeals
17 process” at the Lower Buckeye Jail. Absent facts showing specifically what right was
18 violated, by whom, in what way, and what injury resulted, Plaintiff fails to state a due
19 process claim.

20 To the extent that Plaintiff specifically asserts a violation of his “right to appeal,”
21 Plaintiff should note that the right of meaningful access to the courts prohibits officials
22 from actively interfering with inmates’ attempts to prepare or file legal documents. *Lewis*

23
24 ¹ **Error! Main Document Only.** To the extent that Plaintiff intends to sue an
25 individual Scottsdale City Court Judge, Plaintiff should be aware that judges are
26 absolutely immune from § 1983 suits for damages for their judicial acts except when they
27 are taken “in ‘the clear absence of all jurisdiction.’” *Stump v. Sparkman*, 435 U.S. 349,
28 356-57 (1978) (quoting *Bradley v. Fisher*, 80 U.S. 335, 351 (1871)); *Ashelman v. Pope*,
793 F.2d 1072, 1075 (9th Cir. 1986). An act is “judicial” when it is a function normally
performed by a judge and the parties dealt with the judge in his or her judicial capacity.
Stump, 435 U.S. at 362; *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir. 1990).

1 v. *Casey*, 518 U.S. 343, 350 (1996). The right of access to the courts is only a right to
2 bring petitions or complaints to federal court, however, and not a right to discover such
3 claims or even to litigate them effectively once filed with a court. *Id.* at 354. The right
4 “guarantees no particular methodology but rather the conferral of a capability—the
5 capability of bringing contemplated challenges to sentences or conditions of confinement
6 before the courts.” *Id.* at 356.

7 As a matter of standing, for an access-to-courts claim, a plaintiff must show that
8 he suffered an “actual injury” with respect to contemplated litigation. *Id.* at 349. To
9 show actual injury with respect to contemplated litigation, the plaintiff must demonstrate
10 that the defendants’ conduct frustrated or impeded him from bringing to court a
11 nonfrivolous claim that he wished to present. *Id.* at 352-53.

12 Moreover, “the injury requirement is not satisfied by just any type of frustrated
13 legal claim.” *Id.* at 354. The right of access to the courts “does not guarantee inmates the
14 wherewithal to transform themselves into litigating engines capable of filing everything
15 from shareholder derivative actions to slip-and-fall claims.” *Id.* at 355. The nonfrivolous
16 claim must be a direct or collateral attack on the inmate’s sentence or a challenge to the
17 conditions of his confinement. *Id.* “Impairment of any *other* litigating capacity is simply
18 one of the incidental (and perfectly constitutional) consequences of conviction and
19 incarceration.” *Id.* (emphasis in original).

20 Plaintiff alleges that he believes that the hearing he is attempting to challenge
21 “may have had an impact on the sentencing” in his current case. This is not enough,
22 however, to show that Plaintiff’s appeal of his civil court case is either a direct or
23 collateral attack on his criminal sentence or conditions of confinement. Even if Plaintiff
24 had alleged facts showing a direct connection between his sentence or conditions of
25 confinement and his civil case, this would nonetheless be insufficient to state an access-
26 to-courts claim for the reasons already stated. Plaintiff fails to identify who allegedly
27 violated his rights, in what way, or what injuries he suffered as a result. Thus, absent
28 additional facts, Plaintiff fails to show that anyone actively interfered with, frustrated, or

1 impeded his attempts to bring an appeal. For all these reasons, Plaintiff fails to state a
2 claim in Count One, and this count will be dismissed.

3 **V. Leave to Amend**

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

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

14 A first amended complaint supersedes the original complaint. *Ferdik v. Bonzelet*,
15 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896
16 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat an original
17 complaint as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised
18 in the original complaint and that was voluntarily dismissed or was dismissed without
19 prejudice is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa*
20 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

21 **VI. Other Matters**

22 **A. Plaintiff's Motions to Add Additional Counts**

23 Plaintiff filed a Motion on November 25, 2015, seeking to add a retaliation claim
24 based on allegedly retaliatory actions taken against him at the Lower Buckeye Jail after
25 "Inmate Legal Services" processed this Complaint. Plaintiff also filed a Motion on
26 December 8, 2014, seeking to add a count of "Retaliation-Aiding and Abetting, against
27 the Maricopa County Public Defender's Office, Maricopa County[,] and [Plaintiff's
28 public defender] Robert Dittsworth" based on allegations that Dittsworth failed to take

1 any action after Plaintiff informed him via postcard, voicemail, and a phone conversation
2 of the alleged retaliation. The Court will construe these Motions as Motions to Amend
3 and will grant them to the extent that it will grant Plaintiff leave to amend the Complaint.
4 Plaintiff should be aware that if he files a first amended complaint, any added defendants
5 or claims may be dismissed insofar as they present any of the same deficiencies identified
6 herein with respect to Defendants and Count One of this Complaint.

7 **B. Motion for Disclosure**

8 On January 5, 2015, Plaintiff filed a Motion seeking to have the Court order
9 MCSO to provide him with an audio copy of a telephone call he made on November 25,
10 2014, that he believes is relevant to his claim against the Maricopa County Public
11 Defender's Office. The Court will construe this as a Motion for Discovery and deny it as
12 premature. At this point, Plaintiff has not stated a claim against any Defendant, including
13 the Maricopa County Public Defender's Office. If Plaintiff files a first amended
14 complaint, the Court will conduct statutory screening of the first amended complaint,
15 order service of the first amended complaint, if appropriate, and issue a scheduling order
16 setting discovery deadlines *after* Defendants have answered the complaint.

17 **VI. Warnings**

18 **A. Release**

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

24 **B. Address Changes**

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

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C. Copies

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

D. Possible “Strike”

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

E. Possible Dismissal

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

IT IS ORDERED:

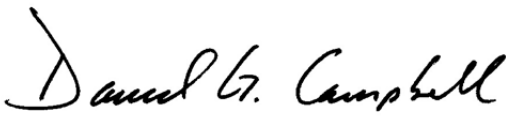
- (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. 2) is **granted**.
- (2) As required by the accompanying Order to the appropriate government agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing fee.
- (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff has **30 days** from the date this Order is filed to file a first amended complaint in compliance with this Order.

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

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

Dated this 28th day of January, 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.