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

9 Timothy Ray Johnson,  
10 Plaintiff,

No. CV 20-01824-PHX-JAT (MHB)

11 v.

**ORDER**

12 B. Jeusen, et al.,  
13 Defendants.  
14

15 Plaintiff Timothy Ray Johnson, who is confined in the Arizona State Prison  
16 Complex (ASPC)-Florence, has filed a pro se civil rights Complaint pursuant to 42 U.S.C.  
17 § 1983 (Doc. 1) and an Application to Proceed In Forma Pauperis (Doc. 2). The Court will  
18 grant the Application and dismiss the Complaint with leave to amend.

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

20 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28  
21 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C.  
22 § 1915(b)(1). The Court will not assess an initial partial filing fee. Id. The statutory filing  
23 fee will be collected monthly in payments of 20% of the previous month's income credited  
24 to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C.  
25 § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government  
26 agency to collect and forward the fees according to the statutory formula.

27 . . . .

28 . . . .

## II. Statutory Screening of Prisoner Complaints

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

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

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

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

....

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

### 6 **III. Complaint**

7           In his three-count Complaint, Plaintiff alleges that he was denied basic necessities,  
8 was deprived of his property, and had his safety threatened at ASPC-Florence. Plaintiff  
9 names Assistant Deputy Warden B. Jeusen, Lieutenant S. King, and Captain Pizano as  
10 Defendants and requests injunctive and monetary relief.

11           In Count One, Plaintiff alleges that "they will not give clothes to anybody at all,"  
12 and "they say they have no boxers, no towels, no socks, no pants." (Doc. 1 at 4.) According  
13 to Plaintiff, he had to wear the same pants without boxers for two weeks and had to "drip  
14 dry[]" after showering because he had no towel. (Id.) "In the long run," he began to "stink  
15 like [he] was a[n] animal," felt like an animal, and decided to kill himself. (Id.) After he  
16 swallowed razor blades, "the officers started making fun of [him]," so he harmed himself  
17 "again and . . . again and again." (Id.) Plaintiff has "all kinds of scars," and his "head is  
18 not right towards the officers." (Id.) "[T]he voices are very, very, bad and . . . are not  
19 happy about how these officers have treated [him]," that is, "like an animal in a feed lot."  
20 (Id.)

21           In Count Two, Plaintiff claims that "they have lost [his] property[] all kinds of  
22 times" and have "ma[d]e up reason[s] on how the property came up missing." (Id. at 6.)  
23 "Every time it is the same kind of property that comes up missing"—soap, shampoo,  
24 grease, body wash, envelopes. (Id.) According to Plaintiff, "they" allow "porters who are  
25 thieves" to roll up his property or simply give the property away to other inmates. (Id.) It  
26 makes Plaintiff "furious" to know that the officers he is supposed to trust with his life allow  
27 his property to get taken simply because they do not want to roll it up themselves, and he  
28 has tried to kill himself as a result. (Id. at 6-7.)

1 In Count Three, Plaintiff alleges that another inmate has thrown hot grease, urine,  
2 or feces on him on four occasions and the sergeants, lieutenants, and captains “all know”  
3 but have “still put [him] in the same pods, over and over.” (Id. at 9.) Plaintiff claims “they  
4 are refusing to house [him] anywhere else but the same pods” where he gets these  
5 substances thrown on him. He alleges that he wrote to “all of these people and told them  
6 the problem,” but either got no response or was told there were no moves at this time, there  
7 was no room anywhere, and the basis for his request was “not a reason to move.” (Id.)  
8 Plaintiff, who is currently in the watch pod, asked to be moved somewhere else when he  
9 was removed from watch, but “this was a no from the [lieutenant].” (Id.) After Plaintiff  
10 “told him they said he was not done [he] was told, ‘come back to our pod, you won’t get  
11 greased.’” (Id.) Plaintiff “does not know what to do.” (Id.) Plaintiff now has a “trust  
12 issue” with the officers, who have failed to “save [him] from getting thrown on.” (Id.)

#### 13 **IV. Failure to State a Claim**

14 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants  
15 (2) under color of state law (3) deprived him of federal rights, privileges or immunities and  
16 (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th Cir.  
17 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm’n*, 42 F.3d 1278,  
18 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific injury  
19 as a result of the conduct of a particular defendant and he must allege an affirmative link  
20 between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-  
21 72, 377 (1976).

##### 22 **A. Counts One and Two**

23 Plaintiff has not alleged any facts against a particular individual in Counts One and  
24 Two. Accordingly, he has failed to state a claim in these counts, and they will be dismissed  
25 without prejudice.

##### 26 **B. Count Three**

27 A convicted prisoner’s claim for threat to safety or failure to protect arises under the  
28 Eighth Amendment. *Bell v. Wolfish*, 441 U.S. 520, 535 & n.16 (1979). To state a claim

1 for failure to protect or threats to safety, a prisoner must allege facts to support that he was  
2 incarcerated under conditions posing a substantial risk of harm and that prison officials  
3 were “deliberately indifferent” to those risks. *Farmer v. Brennan*, 511 U.S. 825, 832-33  
4 (1994). To adequately allege deliberate indifference, a plaintiff must allege facts to support  
5 that a defendant knew of, but disregarded, an excessive risk to inmate safety. *Id.* at 837.  
6 That is, “the official must both [have been] aware of facts from which the inference could  
7 be drawn that a substantial risk of serious harm exist[ed], and he must also [have] draw[n]  
8 the inference.” *Id.*

9 In Count Three, Plaintiff has largely alleged vague and conclusory allegations  
10 against an unquantified group of individuals, without any factual specificity as to what any  
11 particular Defendant did or failed to do. Such allegations are not sufficient to state a claim.  
12 See *Marcilis v. Township of Redford*, 693 F.3d 589, 596 (6th Cir. 2012) (upholding  
13 dismissal of Bivens complaint that referred to all defendants “generally and categorically”  
14 because the plaintiff had failed to “‘allege, with particularity, facts that demonstrate what  
15 each defendant did to violate the asserted constitutional right.’” (quoting *Lanman v.*  
16 *Hinson*, 529 F.3d 673, 684 (6th Cir. 2008))); *Robbins v. Oklahoma*, 519 F.3d 1242, 1250  
17 (10th Cir. 2008) (“Given the complaint’s use of either the collective term ‘Defendants’ or  
18 a list of the defendants named individually but with no distinction as to what acts are  
19 attributable to whom, it is impossible for any of these individuals to ascertain what  
20 particular unconstitutional acts they are alleged to have committed.”).

21 To the extent Plaintiff’s allegations against unidentified sergeants, lieutenants, and  
22 captains can be construed as allegations against the named Defendants, they are  
23 nevertheless inadequate. Plaintiff has not alleged specific facts describing each instance in  
24 which grease, urine, or feces were thrown at him; how these incidents posed a substantial  
25 risk of harm to his safety; when and how each particular Defendant became aware of these  
26 incidents; what, if anything, that Defendant did or said in response; and how that  
27 Defendant’s response or lack of response caused him injury. In the absence of such  
28

1 information, Plaintiff cannot state a claim for relief. Count Three will therefore be  
2 dismissed without prejudice.

3 **V. Leave to Amend**

4 Within 30 days, Plaintiff may submit a first amended complaint to cure the  
5 deficiencies outlined above. The Clerk of Court will mail Plaintiff a court-approved form  
6 to use for filing a first amended complaint. If Plaintiff fails to use the court-approved form,  
7 the Court may strike the amended complaint and dismiss this action without further notice  
8 to Plaintiff.

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

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

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

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

1 failure to state a claim. **Conclusory allegations that a Defendant or group of**  
2 **Defendants has violated a constitutional right are not acceptable and will be**  
3 **dismissed.**

4 Plaintiff should note that in order to state an Eighth Amendment conditions-of-  
5 confinement claim, a plaintiff must meet a two-part test. “First, the alleged constitutional  
6 deprivation must be, objectively, sufficiently serious” such that the “official’s act or  
7 omission must result in the denial of the minimal civilized measure of life’s necessities.”  
8 Farmer, 511 U.S. at 834 (internal quotations omitted). Second, the prison official must  
9 have a “sufficiently culpable state of mind,” i.e., he must act with “deliberate indifference  
10 to inmate health or safety.” Id. (internal quotations omitted). Deliberate indifference is a  
11 higher standard than negligence or lack of ordinary due care for the prisoner’s safety. Id.  
12 at 835. In defining “deliberate indifference” in this context, the Supreme Court has  
13 imposed a subjective test: “the official must both be aware of facts from which the  
14 inference could be drawn that a substantial risk of serious harm exists, and he must also  
15 draw the inference.” Id. at 837 (emphasis added).

16 Plaintiff should also be aware that in Parratt v. Taylor, 451 U.S. 527, 541 (1981),  
17 the Supreme Court held that due process is not violated when a state employee negligently  
18 deprives an individual of property, as long as the state makes available a meaningful post-  
19 deprivation remedy. Parratt’s underlying logic—that pre-deprivation procedures are  
20 impractical where the state does not know a deprivation is going to occur—has been  
21 extended to intentional unauthorized deprivations of property. Hudson v. Palmer, 468 U.S.  
22 517, 533 (1984). As with negligent deprivations, where a state makes available a  
23 meaningful post-deprivation remedy, such as a common-law tort suit against a state  
24 employee for intentional unauthorized deprivations, a federal due process claim is  
25 precluded. Id. at 534-35; King v. Massarweh, 782 F.2d 825, 826 (9th Cir. 1986).

26 The availability of a common-law tort suit against a state employee constitutes an  
27 adequate postdeprivation remedy. Hudson, 468 U.S. at 533. Arizona provides meaningful  
28 and adequate postdeprivation remedies through both the prison grievance system and the

1 state tort process. See *Wright v. Riveland*, 219 F.3d 905, 918 (9th Cir. 2000) (both state  
2 tort claims and prison grievance procedures provide adequate postdeprivation remedies);  
3 Ariz. Rev. Stat. § 12-821.01; Arizona Department of Corrections Order 909.8.0.

#### 4 **VI. Warnings**

##### 5 **A. Release**

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

##### 11 **B. Address Changes**

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

##### 16 **C. Possible “Strike”**

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

##### 26 **D. Possible Dismissal**

27 If Plaintiff fails to timely comply with every provision of this Order, including these  
28 warnings, the Court may dismiss this action without further notice. See *Ferdik*, 963 F.2d

1 at 1260-61 (a district court may dismiss an action for failure to comply with any order of  
2 the Court).

3 **IT IS ORDERED:**

4 (1) Plaintiff's Application to Proceed In Forma Pauperis (Doc. 2) is **granted**.

5 (2) As required by the accompanying Order to the appropriate government  
6 agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing  
7 fee.

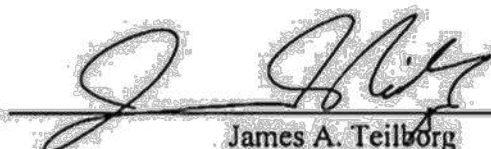
8 (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff  
9 has **30 days** from the date this Order is filed to file a first amended complaint in compliance  
10 with this Order.

11 (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
12 Court must, without further notice, enter a judgment of dismissal of this action with  
13 prejudice that states that the dismissal may count as a "strike" under 28 U.S.C. § 1915(g)  
14 and deny any pending unrelated motions as moot.

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

17 Dated this 13th day of October, 2020.

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James A. Teilborg  
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 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. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
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. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

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 within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See* Fed. R. Civ. P. 15(a). Thereafter, 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,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO.** \_\_\_\_\_  
(To be supplied by the Clerk)

**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.  
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\_\_\_\_\_.
4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
5. **Administrative Remedies:**
- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes      ☐ No
- b. Did you submit a request for administrative relief on Count I? ☐ Yes      ☐ No
- c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes      ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_.

## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_.
  
  2. **Count II.** 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 II. 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 II? ☐ Yes ☐ No
    - c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
    - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_.

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_.
  2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.  

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	
  3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.  
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  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:

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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.