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

Edward F. Parks,  
Plaintiff,  
vs.  
Mohave County Sheriff's Department, et  
al.,  
Defendants.

No. CV 11-8175-PCT-GMS (DKD)

**ORDER**

On November 10, 2011, Plaintiff Edward F. Parks, who was confined in the Mohave County Jail when he filed this lawsuit, but has been released, filed a *pro se* Complaint. In a December 8, 2011 Order, the Court noted that Plaintiff had not paid the \$350.00 civil action filing fee or filed an Application to Proceed *In Forma Pauperis*. The Court gave Plaintiff 30 days to pay the filing fee or file a complete Application to Proceed *In Forma Pauperis*.

On December 29, 2011, Plaintiff filed a Application to Proceed *In Forma Pauperis*. In a January 11, 2012 Order, the Court denied the deficient Application to Proceed and gave Plaintiff 30 days to either pay the filing fee or file a complete Application to Proceed *In Forma Pauperis*.

On February 9, 2012, Plaintiff filed a second Application to Proceed *In Forma Pauperis*. The Court will grant the second Application to Proceed and will dismiss this lawsuit.

1 **I. Second Application to Proceed**

2 Plaintiff's second Application to Proceed will be granted. 28 U.S.C. § 1915(a). The  
3 Court, in its discretion, will grant Plaintiff *in forma pauperis* status and will not require  
4 Plaintiff to pay the filing fee.

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

6 The Court is required to screen complaints brought by prisoners seeking relief against  
7 a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C.  
8 § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised  
9 claims that are legally frivolous or malicious, that fail to state a claim upon which relief may  
10 be granted, or that seek monetary relief from a defendant who is immune from such relief.  
11 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 does not  
14 demand detailed factual allegations, "it demands more than an unadorned, the-defendant-  
15 unlawfully-harmed-me accusation." Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009).  
16 "Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
17 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 content  
21 that allows the court to draw the reasonable inference that the defendant is liable for the  
22 misconduct alleged." Id. "Determining whether a complaint states a plausible claim for  
23 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
24 experience and common sense." Id. at 1950. Thus, although a plaintiff's specific factual  
25 allegations may be consistent with a constitutional claim, a court must assess whether there  
26 are other "more likely explanations" for a defendant's conduct. Id. at 1951.

27 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
28 must "continue to construe *pro se* filings liberally." Hebbe v. Pliler, 627 F.3d 338, 342 (9th

1 Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards  
2 than formal pleadings drafted by lawyers.’” *Id.* (quoting Erickson v. Pardus, 551 U.S. 89,  
3 94 (2007) (*per curiam*)).

### 4 **III. Lack of Jurisdiction**

5 Federal courts have limited jurisdiction, and limitations on the court’s jurisdiction  
6 must neither be disregarded nor evaded. Owen Equip. & Erection Co. v. Kroger, 437 U.S.  
7 365, 374 (1978). The Court is obligated to determine *sua sponte* whether it has subject  
8 matter jurisdiction. See Valdez v. Allstate Ins. Co., 372 F.3d 1115, 1116 (9th Cir. 2004).  
9 See also Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-  
10 matter jurisdiction, the court must dismiss the action.”).

11 Rule 8(a) of the Federal Rules of Civil Procedure requires that “[a] pleading that states  
12 a claim for relief must contain: (1) a short and plain statement of the grounds for the court’s  
13 jurisdiction . . . .” In order to proceed in federal court, Plaintiff must demonstrate some right  
14 of action and legal entitlement to the damages he seeks. In this case, the most likely source  
15 of a right to sue is **42 U.S.C. § 1983**. The Court has jurisdiction over such cases pursuant to  
16 **28 U.S.C. § 1343(a)(3)**.

17 Plaintiff has not alleged that his Complaint arises pursuant to 42 U.S.C. § 1983 or that  
18 the Court has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3). He has alleged that the case  
19 arises pursuant to “other,” but has not explained what “other” is; he has alleged no  
20 jurisdictional basis at all. Thus, the Court will dismiss Plaintiff’s Complaint, without  
21 prejudice, for lack of subject matter jurisdiction. See Watson v. Chessman, 362 F. Supp. 2d  
22 1190, 1194 (S.D. Cal. 2005) (“The court will not . . . infer allegations supporting federal  
23 jurisdiction; federal subject matter [jurisdiction] must always be affirmatively alleged.”).

### 24 **IV. Dismissal without Leave to Amend**

25 Although Plaintiff could cure by amendment the jurisdictional defect identified in this  
26 Order, the Court will not grant leave to amend. The case, even with a proper jurisdictional  
27 basis, must be dismissed under the abstention doctrine set forth in Younger v. Harris, 401  
28 U.S. 37 (1971).

