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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**8  
9 Gerald Francisco,

No. CV 14-8059-PCT-DGC (JFM)

10 Plaintiff,

11 v.

**ORDER**12 Navajo Nation Police Department, et  
13 al.,14 Defendants.  
15

16 On April 7, 2014, Plaintiff Gerald Francisco, who was then confined in the Central  
17 Utah Correctional Facility in Gunnison, Utah, filed a *pro se* civil rights Complaint  
18 pursuant to 42 U.S.C. § 1983 (Doc. 1) and an Application to Proceed *In Forma Pauperis*.  
19 Plaintiff failed to use this District's approved Application to Proceed *In Forma Pauperis*  
20 form for use by prisoners. For that reason, the Court denied Plaintiff's *in forma pauperis*  
21 application, but gave Plaintiff 30 days to either pay the filing and administrative fees or  
22 file a new Application to Proceed *In Forma Pauperis* using this District's approved form.

23 On July 17, 2014, Plaintiff filed an Application to Proceed *In Forma Pauperis*  
24 using this District's approved form. However, in his cover letter, Plaintiff stated that he  
25 was going to be released from prison on November 4, 2014 and provided the address  
26 where he would thereafter reside. In a November 19, 2014 Order, the Court denied  
27 Plaintiff's Application to Proceed *In Forma Pauperis* because he was no longer in  
28 custody and gave Plaintiff 30 days to either pay the filing and administrative fee or file a  
non-prisoner Application to Proceed in District Court Without Prepaying Fees or Costs.

1 On November 26, 2014, Plaintiff filed a non-prisoner Application to Proceed in  
2 District Court Without Prepaying Fees or Costs (Doc. 16).<sup>1</sup> The Court will grant the  
3 Application to Proceed and will dismiss the Complaint with leave to amend.

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

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

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

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

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24  
25 <sup>1</sup> On December 8, 2014, Plaintiff also sent a letter to the Court. It is improper for  
26 a party to communicate directly with court personnel. Simply mailing a letter to the  
27 Clerk of Court, the judge, or any court personnel is unacceptable. Any request for action  
28 by the Court must be in the form of a motion that complies with the Rules of Practice of  
the United States District Court for the District of Arizona (the Local Rules). Any future  
letters directed to the Clerk of Court, the judge, or any court personnel will be stricken  
from the record and will be returned to Plaintiff.

1 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 **II. Complaint**

15 In his Complaint, Plaintiff appears to allege one count of excessive force against  
16 Defendants Navajo Nation Police Department and Officer Williams. Plaintiff alleges the  
17 following facts: on November 16, 2012, Plaintiff was arrested by Defendant Williams.  
18 When Williams handcuffed Plaintiff, Williams “twisted [Plaintiff’s] wrist and snapped  
19 it.” Plaintiff told Williams several times that his wrist was broken and asked Williams to  
20 loosen the handcuffs. Williams ignored Plaintiff’s request. Plaintiff was in a lot of pain.  
21 Plaintiff was later taken to the Tuba City Indian Health Services Emergency Room where  
22 x-rays were taken that confirmed that Plaintiff’s wrist was broken.

23 Plaintiff alleges that he was injured as follows: he broke his right wrist and it was  
24 painful. Plaintiff seeks monetary relief.

## 25 **III. Failure to State a Claim**

26 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants  
27 (2) under color of state law (3) deprived him of federal rights, privileges or immunities  
28 and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th

1 Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm’n*, 42 F.3d  
2 1278, 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific  
3 injury as a result of the conduct of a particular defendant and he must allege an  
4 affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*,  
5 423 U.S. 362, 371-72, 377 (1976).

6 **A. Navajo Nation Police Department**

7 Plaintiff sues the Navajo Nation Police Department. The Navajo Nation Police  
8 Department is not a proper defendant. Section 1983 provides a cause of action against  
9 persons acting under color of state law who have violated rights guaranteed by the United  
10 States Constitution and federal law. 42 U.S.C. § 1983; *see also Buckley v. City of*  
11 *Redding*, 66 F.3d 188, 190 (9th Cir. 1995). “The Ninth Circuit Court of Appeals has  
12 determined that ‘[n]o action under 42 U.S.C. § 1983 can be maintained in federal court  
13 for persons alleging deprivation of constitutional rights under color of *tribal* law.’”  
14 *Phillips v. Salt River Police Dept*, No.CV 13-798-PHX-LOA, 2013 WL 1797340, at \*5  
15 (D. Ariz. May 15, 2012) (citing *R.J. Williams Co. v. Fort Belknap Hous. Auth.*, 719 F.2d  
16 979, 982 (9th Cir. 1983) (citations omitted; emphasis added)). “The purpose of 42 U.S.C.  
17 § 1983 is to enforce the provisions of the fourteenth amendment.” *R.J. Williams Co.*, 719  
18 F.2d at 982. Indian tribes are entitled to sovereign immunity, as they are “separate and  
19 distinct sovereignties . . . and are not constrained by the provisions of the fourteenth  
20 amendment.” *Id.* “Actions taken under color of tribal law are beyond the reach of  
21 § 1983, and may only be examined in federal court under the provisions of the Indian  
22 Civil Rights Act.” *Id.*; *see also Wallace v. N. Cheyenne Corr. Officers*, No. CV-09-116-  
23 BLG-RFC, 2009 WL 5173897, at \*1 (D.Mont. Dec. 30, 2009) (granting motion to  
24 dismiss where the plaintiff failed to allege that “the tribal entities and officers acted  
25 ‘under color of state law,’ as is required to state a claim under § 1983”); *Mullins v.*  
26 *Sycuan Band of Kumeyaay Nation*, No. 08cv0870-LAB (JMA), 2008 WL 2745260, at \*2  
27 (S.D.Cal. July 11, 2008) (dismissing § 1983 claims against Indian tribe's police  
28 department and officers where the complaint “omitted one key element: they did not act

1 ‘under color of state law,’ as is required to state a claim under that section”). “It is also  
2 well-settled in this circuit that “[t]his immunity protects tribal officials acting within the  
3 scope of their valid authority.” *Phillips*, 2013 WL 1797340, at \*5 (citing *Hardin v.*  
4 *White Mountain Apache Tribe*, 779 F.2d 476, 479–80 (9th Cir. 1985)); *but see Maxwell v.*  
5 *County of San Diego*, 708 F.3d 1075, 1089–90 (9th Cir. 2013) (“[W]e therefore hold that  
6 sovereign immunity does not bar the suit against the Viejas Fire paramedics as  
7 individuals. The Viejas Band is not the real party in interest. The Maxwells have sued  
8 the Viejas Fire paramedics in their individual capacities for money damages. Any  
9 damages will come from their own pockets, not the tribal treasury.”).

10 Accordingly, the Court will dismiss Defendant Navajo Nation Police Department.

11 **B. Excessive Force**

12 The use of excessive force by police officers in the course of an arrest can violate  
13 the arrestee’s Fourth Amendment right to be free from unreasonable seizures. *See White*  
14 *by White v. Pierce County*, 797 F.2d 812, 816 (9th Cir. 1986). The Fourth Amendment  
15 does not prohibit the use of reasonable force. *Tatum v. City & County of San Francisco*,  
16 441 F.3d 1090, 1095 (9th Cir. 2006). Whether the force was excessive depends on  
17 “whether the officers’ actions [were] ‘objectively reasonable’ in light of the facts and  
18 circumstances confronting them, without regard to their underlying intent or motivation.”  
19 *Graham v. Connor*, 490 U.S. 386, 397 (1989); *Tatum*, 441 F.3d at 1095; *Lolli v. County*  
20 *of Orange*, 351 F.3d 410, 415 (9th Cir. 2003). The Court must balance the nature and  
21 quality of the intrusion against the countervailing governmental interests at stake.  
22 *Graham*, 490 U.S. at 396; *Lolli*, 351 F.3d at 415. Moreover,

23 [t]he “reasonableness” of a particular use of force must be  
24 judged from the perspective of a reasonable officer on the  
25 scene, rather than with the 20/20 vision of hindsight. . . .

26 “Not every push or shove, even if it may later seem  
27 unnecessary in the peace of a judge’s chambers,” violates the  
28 Fourth Amendment.

*Graham*, 490 U.S. at 396 (citations omitted). “Whether a particular use of force was  
‘objectively reasonable’ depends on several factors, including the severity of the crime

1 that prompted the use of force, the threat posed by a suspect to the police or to others, and  
2 whether the suspect was resisting arrest.” *Tatum*, 441 F.3d at 1095.

3 Here, Plaintiff fails to allege sufficient facts to support a claim of excessive force.  
4 In particular, Plaintiff fails to allege why he was being arrested, whether he posed a threat  
5 to the officer or others, and whether he was resisting arrest or complying with all orders  
6 from the officer(s). Accordingly, Plaintiff has failed to state a claim upon which relief  
7 can be granted in his Complaint, and the Complaint will be dismissed.

#### 8 **IV. 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,<sup>2</sup> 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 v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

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

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27  
28 <sup>2</sup> Although Plaintiff has been released from custody, the Court will require him to  
use the court-approved form for filing a civil rights complaint by a prisoner to facilitate  
screening.

1 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for  
2 failure to state a claim. **Conclusory allegations that a Defendant or group of**  
3 **Defendants has violated a constitutional right are not acceptable and will be**  
4 **dismissed.**

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

## 12 **V. Warnings**

### 13 **A. Address Changes**

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

### 18 **B. Copies**

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

### 22 **C. Possible “Strike”**

23 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff  
24 fails to file an amended complaint correcting the deficiencies identified in this Order, the  
25 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).  
26 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil  
27 judgment *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more  
28 prior occasions, while incarcerated or detained in any facility, brought an action or appeal

1 in a court of the United States that was dismissed on the grounds that it is frivolous,  
2 malicious, or fails to state a claim upon which relief may be granted, unless the prisoner  
3 is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

4 **D. Possible Dismissal**

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

9 **IT IS ORDERED:**

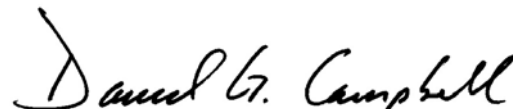
10 (1) Plaintiff’s Application to Proceed *In Forma Pauperis* (Doc. 16) is **granted**.

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

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

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

19 Dated this 13th day of January, 2015.

20  
21 

22  
23 \_\_\_\_\_  
24 David G. Campbell  
25 United States District Judge  
26  
27  
28



**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.

**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.

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4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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\_\_\_\_\_  
\_\_\_\_\_.

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)

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\_\_\_\_\_  
(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.