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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Louis Taylor,  
10 Plaintiff,  
11 v.  
12 County of Pima, et al.,  
13 Defendants.  
14

No. CV-15-00152-TUC-RM

**ORDER**

15 On July 6, 2020, the parties notified chambers of a discovery dispute pursuant to  
16 the discovery-dispute procedure set forth in this Court's Scheduling Order. (See Doc.  
17 113 at 3.) The dispute concerns Defendants' objections to notices of two 30(b)(6)  
18 depositions and six fact-witness depositions. The Court will order the parties to attempt  
19 to resolve their disputes concerning the depositions through further consultation in light  
20 of the clarification set forth below regarding the current scope of this litigation.

21 The currently operative complaint in this matter is Plaintiff's Second Amended  
22 Complaint ("SAC"). (Doc. 40.)<sup>1</sup> In the SAC, Plaintiff alleged six claims under 42  
23 U.S.C. § 1983 and three claims under Arizona law. (Id.) On March 16, 2017, the Court  
24 partially granted and partially denied Defendants' Motions to Dismiss the SAC. (Doc.  
25 63.) The Court found that *Heck v. Humphrey*, 512 U.S. 477 (1994) bars Plaintiff from  
26 premising his § 1983 claims on allegations that he "was wrongfully charged, convicted,

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28 <sup>1</sup> On April 13, 2020, Plaintiff filed a Motion for Leave to File Third Amended Complaint.  
(Doc. 103.) On June 25, 2020, the Court took that Motion under advisement pending  
supplemental briefing. (Doc. 124.) The Motion to Amend remains pending.

1 and imprisoned,” and that the two-year statute of limitations applicable to the § 1983  
2 claims bars Plaintiff from premising the claims on allegations that he “was arrested  
3 without probable cause and unlawfully interrogated.” (Id. at 13.) “However, neither the  
4 statute of limitations nor Heck bars claims based on constitutional violations that affect  
5 the validity of Plaintiff’s 1972 convictions but not the validity of his subsequent 2013  
6 convictions.” (Id. (emphasis in original).) Plaintiff’s § 1983 claims survived the  
7 interplay between Heck and the statute of limitations to the extent they alleged that  
8 “Plaintiff’s rights to due process and a constitutionally fair, racially unbiased trial were  
9 violated during [Plaintiff’s] original trial proceedings by the non-disclosure of the  
10 Truesdail Report, the hiring of an expert who believed Plaintiff was guilty because ‘black  
11 boys’ are more likely to start fires, and the presentation of false testimony from two  
12 ‘jailhouse snitches.’” (Id. at 16; see also id. at 13-16.) The Court agreed with  
13 Defendants that Heck precluded Plaintiff from obtaining incarceration-based  
14 compensatory damages, but it declined to dismiss Plaintiff’s compensatory damages  
15 claim, reasoning that “Plaintiff may be able to establish non-incarceration-based  
16 compensatory damages,” such as damages for emotional injury not resulting from  
17 incarceration. (Id. at 19-20.) After analyzing the sufficiency of the SAC’s factual  
18 allegations under the pleading standards of Federal Rule of Civil Procedure 8, the Court  
19 dismissed Count Two on the grounds that it contained insufficient non-conclusory factual  
20 allegations, but it declined to dismiss Counts One, Three, Four, Five and Six. (Id. at 16-  
21 18.)<sup>2</sup> Finally, the Court rejected Defendant Pima County’s Eleventh Amendment  
22 immunity argument, dismissed with prejudice the state-law malicious prosecution claim  
23 asserted in Count Nine, and declined to dismiss the state-law claims asserted in Counts  
24 Seven and Eight because Defendants had not made any specific arguments in their  
25 Motions to Dismiss concerning those claims. (Id. at 18-20.)

26 Plaintiff moved for reconsideration of the Court’s ruling that he was barred from

27 <sup>2</sup> The Court’s March 16, 2017 Order contained a typographical error; page 20 of the  
28 Order stated that Count Four of the SAC was dismissed without prejudice when it should  
have stated that Count Two of the SAC was dismissed without prejudice. The Court later  
amended the March 16, 2017 Order in order to fix the typographical error. (Doc. 80.)

1 seeking incarceration-based compensatory damages. (Doc. 68.) The Court denied  
2 reconsideration, finding that Plaintiff’s allegations “that he is innocent and was  
3 wrongfully incarcerated for 42 years necessarily imply the invalidity of his outstanding  
4 2013 convictions and outstanding sentence of time served.” (Doc. 81 at 10.) The Ninth  
5 Circuit Court of Appeals subsequently dismissed Pima County’s interlocutory appeal of  
6 this Court’s Eleventh Amendment ruling and affirmed this Court’s finding that Heck  
7 barred Plaintiff from seeking incarceration-related damages. *Taylor v. Pima Cnty.*, 913  
8 F.3d 930 (9th Cir. 2019).

9           Accordingly, based on this Court’s prior Orders and the Ninth Circuit’s rulings in  
10 the parties’ interlocutory appeal, the following claims are at issue in this litigation:  
11 Claims One, Three, Four, Five, and Six of the SAC to the extent they allege that  
12 Plaintiff’s “rights to due process and a constitutionally fair, racially unbiased trial were  
13 violated during his original trial proceedings by the non-disclosure of the Truesdail  
14 Report, the hiring of an expert who believed Plaintiff was guilty because ‘black boys’ are  
15 more likely to start fires, and the presentation of false testimony from two ‘jailhouse  
16 snitches’” (Doc. 63 at 16), in addition to the state-law claims asserted in Counts Seven  
17 and Eight. Plaintiff’s compensatory damages claim also remains at issue. Although  
18 Plaintiff is precluded from obtaining incarceration-based compensatory damages, he may  
19 obtain compensatory damages for other harms, such as damages for emotional injury not  
20 resulting from incarceration. Nothing in the Court’s prior orders, or in Plaintiff’s 2013  
21 no-contest plea, precludes Plaintiff from seeking damages for emotional harm caused by  
22 the alleged constitutional violations that survived Defendants’ Motions to Dismiss, even  
23 if that emotional harm relates to Plaintiff’s belief in his innocence. As this Court has  
24 previously recognized, “Plaintiff’s 2013 no-contest plea did not admit factual guilt.”  
25 (Doc. 35 at 13.)

26           In light of the above clarification regarding the current scope of this litigation,

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