

1 **WO**

2

3

4

5

6

**IN THE UNITED STATES DISTRICT COURT**

7

**FOR THE DISTRICT OF ARIZONA**

8

9

Eric Greer,

No. CV-23-00528-TUC-RM

10

Plaintiff,

**ORDER**

11

v.

12

State of Arizona,

13

Defendant.

14

15

Plaintiff Eric Greer initiated this action on November 20, 2023, by filing a

16

Complaint (Doc. 1) and an Application for Leave to Proceed in Forma Pauperis (Doc. 2).

17

The Court granted Plaintiff's Application for Leave to Proceed in Forma Pauperis and, on

18

screening under 28 U.S.C. § 1915(e)(2), dismissed the Complaint with leave to amend for

19

failure to state a claim. (Doc. 5.) On April 4, 2024, Plaintiff filed a First Amended

20

Complaint. (Doc. 6.) The Court dismissed the First Amended Complaint with leave to

21

amend for failure to state a claim. (Doc. 7.) On May 13, 2024, Plaintiff filed a Second

22

Amended Complaint. (Doc. 8.)

23

**I. Statutory Screening**

24

The Prison Litigation Reform Act states that a district court "shall dismiss" an in

25

forma pauperis complaint if, at any time, the court determines that the action "is frivolous

26

or malicious" or that it "fails to state a claim on which relief may be granted." 28 U.S.C.

27

§ 1915(e)(2). "[S]ection 1915(e) applies to all in forma pauperis complaints, not just

28

those filed by prisoners." *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc);

1 *see also Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (per curiam).

2 A pleading must contain a “short and plain statement of the claim showing that the  
3 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8  
4 does not demand detailed factual allegations, “it demands more than an unadorned, the-  
5 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
6 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere  
7 conclusory statements, do not suffice.” *Id.*

8 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
9 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
10 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual  
11 content that allows the court to draw the reasonable inference that the defendant is liable  
12 for the misconduct alleged.” *Id.*

13 Although pro se pleadings are liberally construed, *Haines v. Kerner*, 404 U.S. 519,  
14 520-21 (1972), conclusory and vague allegations will not support a cause of action, *Ivey*  
15 *v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982). Further, a liberal interpretation of a  
16 civil rights complaint may not supply essential elements of the claim that were not  
17 initially pled. *Ivey*, 673 F.2d at 268. If the Court determines that a pleading could be  
18 cured by the allegation of other facts, a pro se litigant is entitled to an opportunity to  
19 amend a complaint before dismissal of the action. *See Lopez v. Smith*, 203 F.3d 1122,  
20 1127-29 (9th Cir. 2000) (en banc).

## 21 **II. Second Amended Complaint**

22 In his Second Amended Complaint, Plaintiff sues the State of Arizona. (Doc. 8.)  
23 Plaintiff does not specify the factual basis of his claim or the relief requested, but it  
24 appears he challenges an Arizona law that requires him to register as a sex offender due  
25 to a Pennsylvania conviction. (*See id.* at 3, 5-6.)

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

27 Because Plaintiff has not identified the factual basis of his claim, he has failed to  
28 state a claim. Furthermore, as previously explained (*see* Doc. 7), the Eleventh


1 Amendment bars Plaintiff from seeking damages or injunctive relief against the State of  
2 Arizona. *See Franceschi v. Schwartz*, 57 F.3d 828, 831 (9th Cir. 1995) (per curiam)  
3 (“[t]he Eleventh Amendment bars suits which seek either damages or injunctive relief  
4 against a state”). In addition, to the extent Plaintiff is attempting to state a claim under 42  
5 U.S.C. § 1983 for an alleged violation of his constitutional rights arising from his  
6 Pennsylvania conviction or any Arizona convictions for failure to register as a sex  
7 offender, a § 1983 plaintiff cannot “recover damages for allegedly unconstitutional  
8 conviction or imprisonment, or for other harm caused by actions whose unlawfulness  
9 would render a conviction or sentence invalid,” unless the plaintiff proves “that the  
10 conviction or sentence has been reversed on direct appeal, expunged by executive order,  
11 declared invalid by a state tribunal authorized to make such determination, or called into  
12 question by a federal court’s issuance of a writ of habeas corpus.” *Heck v. Humphrey*,  
13 512 U.S. 477, 486-87 (1994).

14 For the above reasons, the Court will dismiss the Second Amended Complaint for  
15 failure to state a claim. Plaintiff has made three attempts at crafting a viable complaint  
16 and has been unable to do so. Accordingly, the Court declines to grant further  
17 opportunities to amend and will dismiss this case with prejudice.

18 **IT IS ORDERED** that the Second Amended Complaint (Doc. 8) and this action  
19 are **dismissed with prejudice**. The Clerk of Court is directed to enter judgment  
20 accordingly and close this case.

21 Dated this 4th day of June, 2024.

22  
23  
24  
25  
26  
27  
28



---

Honorable Rosemary Márquez  
United States District Judge