

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 21 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: ALFRED E. CARAFFA.

ALFRED E. CARAFFA,

Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA,
PHOENIX,

Respondent,

TEMPE POLICE DEPARTMENT; et al.,

Real Parties in Interest.

No. 20-71782

D.C. Nos.

2:19-cv-05492-MTL-ESW

2:20-cv-00227-MTL-ESW

District of Arizona,

Phoenix

ORDER

Exhibit
~~"A-1"~~
"B-1"

Before: THOMAS, Chief Judge, SCHROEDER and CALLAHAN, Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of the court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

Petitioner's motion to proceed in forma pauperis (Docket Entry No. 2) is denied as moot.

No further filings will be accepted in this closed case.

DENIED.

3 of 10

20-71782

Alfred E. Caraffa, #T602433
LBJ - LOWER BUCKEYE JAIL
Maricopa County Jail
3250 W. Lower Buckeye
Phoenix, AZ 85009

Exhibit
"A-2"

4 of 10

1 WO

MDR

2

3

4

5

6

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

7

8

9 Alfred E. Caraffa,

No. CV 20-00227-PHX-MTL (ESW)

10 Plaintiff,

11 v.

ORDER

12 Maricopa County Sheriff's Office, et al.,

13 Defendants.

14

15

16 On January 30, 2020, Plaintiff Alfred E. Caraffa, who is confined in a Maricopa
17 County Jail, filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 and *Bivens*
18 v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and
19 an Application to Proceed In Forma Pauperis. In a February 4, 2020 Order, the Court
20 granted the Application to Proceed and dismissed the Complaint for failure to comply with
21 Rule 8 of the Federal Rules of Civil Procedure and Rule 3.4 of the Local Rules of Civil
22 Procedure. The Court gave Plaintiff thirty days to file an amended complaint that cured
23 the deficiencies identified in the Order.

24

25 On March 3, 2020, Plaintiff filed a Motion for Default Judgment. In a March 6,
26 2020 Order, the Court dismissed the First Amended Complaint because Plaintiff had failed
27 to state a claim and denied the Motion for Default Judgment. The Court gave Plaintiff 30
28 days to file a second amended complaint that cured the deficiencies identified in the Order.

1 On March 23, 2020, Plaintiff filed a Second Amended Complaint (Doc. 10) and
 2 another Motion for Default Judgment (Doc. 11). On March 24, 2020, he filed a Motion for
 3 Injunction (Doc. 12). The Court will dismiss the Second Amended Complaint and this
 4 action and will deny the pending motions.

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

6 The Court is required to screen complaints brought by prisoners seeking relief
 7 against a governmental entity or an officer or an employee of a governmental entity. 28
 8 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
 9 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which
 10 relief may be granted, or that seek monetary relief from a defendant who is immune from
 11 such relief. 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
 14 not demand detailed factual allegations, “it demands more than an unadorned, the-
 15 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
 16 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
 17 conclusory 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 679. 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 681.

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

1 (9th Cir. 2010). A “complaint [filed by a pro se prisoner] ‘must be held to less stringent
2 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
3 U.S. 89, 94 (2007) (per curiam)).

4 **II. Second Amended Complaint**

5 In his two-count *Bivens* Complaint, Plaintiff sues Defendant United States and seeks
6 899 million dollars in damages.

7 In Count One, Plaintiff raises a due process claim, claiming the City of Tempe and
8 Tempe Police Department are subparts of the State of Arizona, which is a subpart of the
9 United States, and, therefore, “under the United States Constitution.” He asserts the City
10 of Tempe and Tempe Police Department are government entities of the United States and
11 “do not maintain policies or customs to violate the federal Constitution.”

12 In Count Two, Plaintiff raises a due process claim regarding his access to the courts.
13 He claims the Court denied him a default judgment. He asserts that his “legal documents
14 had case numbers” and that “the Court claims ‘that the City of Tempe and Tempe Police
15 Dept. are not parties under the United States to this lawsuit,’ . . . [b]ut the defendants accept
16 federally funded money.”

17 **III. Failure to State a Claim**

18 A remedy does not exist under *Bivens* against the United States because a *Bivens*
19 action is only available against federal *officers*, not against the United States or agencies
20 of the federal government. *F.D.I.C. v. Meyer*, 510 U.S. 471, 484-86 (1994). Thus, the
21 Court will dismiss Defendant United States and the Second Amended Complaint.

22 **IV. Dismissal Without Leave to Amend**

23 Because Plaintiff has failed to state a claim in his Second Amended Complaint, the
24 Court will dismiss his Second Amended Complaint. “Leave to amend need not be given
25 if a complaint, as amended, is subject to dismissal.” *Moore v. Kayport Package Express,*
26 *Inc.*, 885 F.2d 531, 538 (9th Cir. 1989). The Court’s discretion to deny leave to amend is
27 particularly broad where Plaintiff has previously been permitted to amend his complaint.
28 *Sisseton-Wahpeton Sioux Tribe v. United States*, 90 F.3d 351, 355 (9th Cir. 1996).

1 Repeated failure to cure deficiencies is one of the factors to be considered in deciding
2 whether justice requires granting leave to amend. *Moore*, 885 F.2d at 538.

3 Plaintiff has made three efforts at crafting a viable complaint and appears unable to
4 do so despite specific instructions from the Court. The Court finds that further
5 opportunities to amend would be futile. Therefore, the Court, in its discretion, will dismiss
6 Plaintiff's Second Amended Complaint without leave to amend.

7 **V. Motion for Default Judgment**

8 An entry of default is only appropriate “[w]hen a party against whom a judgment
9 for affirmative relief is sought has failed to plead or otherwise defend.” Fed. R. Civ. P.
10 55(a). Defendant has not been served and, therefore, was not required to file a response.
11 *See* Fed. R. Civ. P. 12(a). Thus, the Court will deny Plaintiff's Motion for Default
12 Judgment.

13 **VI. Motion For Injunction**

14 An injunction or restraining order is appropriate to grant intermediate relief of the
15 same character as which may be granted finally, and relief is not proper when requested on
16 matters lying wholly outside the issues in suit. *See DeBeers Consol. Mines v. United*
17 *States*, 325 U.S. 212, 220 (1945); *Kaimowitz v. Orlando, Fla.*, 122 F.3d 41, 43 (11th Cir.),
18 *amended*, 131 F.3d 950 (11th Cir. 1997). To obtain injunctive relief, the party “must
19 necessarily establish a relationship between the injury claimed in the party’s motion and
20 the conduct asserted in the complaint.” *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir.
21 1994). In other words, Plaintiff must seek injunctive relief related to the merits of his
22 underlying claims. Because the Court has dismissed the Second Amended Complaint and
23 this action, the Court will deny the Motion for Injunction.

24 **IT IS ORDERED:**

25 (1) Plaintiff's Second Amended Complaint (Doc. 10) and this action are
26 **dismissed** for failure to state a claim, and the Clerk of Court must enter judgment
27 accordingly.

28

(2) The Clerk of Court must make an entry on the docket stating that the dismissal for failure to state a claim may count as a “strike” under 28 U.S.C. § 1915(g).

(3) Plaintiff's Motion for Default Judgment (Doc. 11) and Motion for Injunction (Doc. 12) are **denied**.

(4) The docket shall reflect that the Court, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rules of Appellate Procedure 24(a)(3)(A), has considered whether an appeal of this decision would be taken in good faith and certifies that an appeal would not be taken in good faith for the reasons stated in the Order and because there is no arguable factual or legal basis for an appeal.

Dated this 30th day of March, 2020.

Michael T. Fiburdi

Michael T. Liburdi
United States District Judge

1
2
3
4
5
IN THE UNITED STATES DISTRICT COURT
6
FOR THE DISTRICT OF ARIZONA
7
8

9 Alfred E Caraffa,

NO. CV-20-00227-PHX-MTL (ESW)

10 Plaintiff,

JUDGMENT IN A CIVIL CASE

11 v.

12 Maricopa County Sheriff's Office, et al.,

13 Defendants.

14
15 **Decision by Court.** This action came for consideration before the Court. The
16 issues have been considered and a decision has been rendered.

17 IT IS ORDERED AND ADJUDGED that pursuant to the Court's order filed
18 March 30, 2020, Plaintiff to take nothing, and the complaint and action are dismissed for
19 failure to state a claim. This dismissal may count as a "strike" under 28 U.S.C. §
20 1915(g).

21 Debra D. Lucas

22 Acting District Court Executive/Clerk of Court

23 March 30, 2020

24 By s/ E. Aragon
25 Deputy Clerk

26

27

28

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

In the matter of)
MANDATORY INITIAL)
DISCOVERY PILOT PROJECT)

NOTICE TO PARTIES -
MANDATORY INITIAL DISCOVERY
PILOT PROJECT

Effective May 1, 2017, this Court began participating in a Mandatory Initial Discovery Pilot ("MIDP") project approved by the Judicial Conference of the United States. This case is subject to the pilot project. The details of the MIDP are set forth in General Order 17-08, a copy of which is attached. It is the responsibility of the parties to read the General Order carefully to ensure familiarity and compliance with the requirements. Please note that the General Order was amended on November 1, 2018. The amendment eliminates the MIDP's previous requirement that parties file answers even when certain motions have been filed under Federal Rule of Civil Procedure 12, including Rule 12(b)(6). Answers – which trigger the obligation to make MIDP disclosures – are now due within the time specified in Rule 12(a). A Checklist summarizing the key features and deadlines of the MIDP is also attached to this Notice for the parties' convenience. Particular attention should be paid to the deadline for filing the initial and supplemental MIDP responses. Any party seeking affirmative relief must serve a copy of this Notice, including General Order 17-08 and the MIDP Checklist, on each new party when the Complaint, Counterclaim, Crossclaim, or Third-Party Complaint is served.

1 During the Fed. R. Civ. P. 26(f) conference, parties must discuss the MIDP
2 responses and seek to resolve any limitations or objections they have made or intend to
3 make in their responses. A description of the discussion regarding the MIDP responses
4 must be included in the Rule 26(f) report to the Court.

5 MIDP responses are not required to be filed if the parties submit (and the Court
6 approves) a written stipulation by all parties that no discovery will be conducted in the
7 case. Similarly, a party may defer the submission of MIDP responses once for 30 days if
8 all parties file a notice with the Court certifying that they are attempting to settle the case
9 and have a good faith belief that it will be resolved within 30 days of the due date of the
10 MIDP responses. The deadline for final supplementation of the MIDP responses normally
11 will be stated in the Court's Case Management Order. If no deadline is stated, final
12 supplementation must occur by the fact discovery deadline set in the Case Management
13 Order.

14 A notice must be filed with the Court when filing the MIDP responses and
15 supplements, but there is no requirement to file the documents themselves, unless there is
16 an unresolved dispute regarding the responses and supplements that the Court must
17 resolve during the Rule 16(b)(1) conference.

18 After the MIDP responses have been served, discovery under Fed. R. Civ. P. 30-
19 36 and 45 may commence.

20

21

22

23

24

25

26

27

28

X FILED LODGED
 RECEIVED COPY

NOVEMBER 1, 2018

CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

BY *s/M. Everett* DEPUTY

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

In the matter of

MANDATORY INITIAL DISCOVERY
PILOT PROJECT IN THE DISTRICT OF
ARIZONA

GENERAL ORDER 17-08

(AS AMENDED NOVEMBER 1, 2018)

IT IS HEREBY ORDERED: Effective May 1, 2017, the United States District Court for the District of Arizona will begin participation in a Mandatory Initial Discovery Pilot Project approved by the Judicial Conference of the United States.

The Mandatory Initial Discovery Pilot Project applies to all civil cases filed on or after May 1, 2017, other than cases listed in Rule 26(a)(1)(B), actions under the Private Securities Litigation Reform Act (“PSLRA”), cases transferred for consolidated administration in the District by the Judicial Panel on Multidistrict Litigation, and cases under the 1980 Hague Convention on the Civil Aspects of International Child Abduction. The discovery obligations addressed in this General Order supersede the disclosures required by Rule 26(a)(1) and are framed as court-ordered mandatory initial discovery pursuant to the Court’s inherent authority to manage cases, Rule 16(b)(3)(B)(ii), (iii), and (vi), and Rule 26(b)(2)(C). Unlike initial disclosures required by current Rule 26(a)(1)(A) & (C), this General Order does not allow the parties to opt out.

A. Instructions to Parties.

1. Any party seeking affirmative relief must serve a copy of the Notice to the Parties of Mandatory Initial Discovery Pilot Project, including this General Order and the

1 MIDP Checklist, on each new party when the Complaint, Counterclaim, Crossclaim, or
2 Third-Party Complaint is served.

3 2. The parties to this litigation are ordered to provide mandatory initial
4 discovery responses before initiating any further discovery in this case. The responses are
5 called for by the Court, not by discovery requests actually served by an opposing party.
6 Part B of this order sets forth the categories of information that must be provided in each
7 party's mandatory initial discovery responses. After the mandatory initial discovery
8 responses have been provided, additional discovery may proceed under the Federal Rules
9 of Civil Procedure and as set forth in a case management order to be entered by the Court.

10 3. Each party's response must be based on the information then reasonably
11 available to it. A party is not excused from providing its response because it has not fully
12 investigated the case, it challenges the sufficiency of another party's response, or another
13 party has not provided a response. Responses must be signed under oath by the party,
14 certifying that it is complete and correct as of the time it was made based on the party's
15 knowledge, information, and belief formed after a reasonable inquiry, and signed under
16 Rule 26(g) by the attorney.

17 4. Parties must provide the requested information as to facts that are relevant to
18 the claims and defenses in the case, whether favorable or unfavorable, and regardless of
19 whether they intend to use the information in presenting their claims or defenses. The
20 parties also must provide relevant legal theories in response to paragraph B.4 below. If a
21 party limits the scope of its response on the basis of privilege or work product, the party
22 must produce a privilege log as required by Rule 26(b)(5) unless the parties agree or the
23 Court orders otherwise. If a party limits its response on the basis of any other objection,
24 including an objection that providing the required information would involve
25 disproportionate expense or burden, it must explain with particularity the nature of the
26 objection and its legal basis, and provide a fair description of the information being
27 withheld.

28

1 5. Parties must file answers, counterclaims, crossclaims, and replies within the
2 time set forth in Rule 12(a). Upon a showing that a defendant cannot reasonably respond
3 to a complaint within the time set forth in Rule 12(a), the court may, with or without
4 awaiting a response from the opposing party, grant a one-time extension of up to 30 days
5 to respond to the complaint.

6 6. A party seeking affirmative relief must serve its responses to the mandatory
7 initial discovery no later than 30 days after the first pleading filed under Rule 12(a) in
8 response to its complaint, counterclaim, crossclaim, or third-party complaint. A party
9 filing a responsive pleading, whether or not it also seeks affirmative relief, must serve its
10 initial discovery responses no later than 30 days after it files its responsive pleading under
11 Rule 12(a). In cases removed from state court, the responses must be filed within 30 days
12 of removal if a responsive pleading was filed in state court before removal, and within 30
13 days of the response date set in Rule 81(c)(2) if a responsive pleading was not filed in state
14 court before removal. In all cases, (a) no initial discovery responses need be served if the
15 Court approves a written stipulation by the parties that no discovery will be conducted in
16 the case; or (b) initial discovery responses may be deferred, one time, for 30 days if the
17 parties jointly certify to the Court that they are seeking to settle the case and have a good
18 faith belief that it will be resolved within 30 days of the due date for their responses, and
19 the Court approves the deferral.

20 7. Unless the Court orders otherwise, initial responses and later supplements
21 shall not be filed with the Court, but Parties shall file a notice of service of their initial
22 responses and later supplements.

23 8. The duty to provide mandatory initial discovery responses set forth in this
24 order is a continuing duty, and each party must serve supplemental responses when new or
25 additional information is discovered or revealed. A party must serve such supplemental
26 responses in a timely manner, but in any event no later than 30 days after the information
27 is discovered by or revealed to the party. The Court normally will set a deadline in its Rule
28 16(b) case management order for final supplementation of responses, and full and complete

1 supplementation must occur by the deadline. If the Court fails to set a deadline, final
2 supplementation must occur by the fact discovery deadline set by the Court in its case
3 management order. If new information is revealed in a written discovery response or a
4 deposition in a manner that reasonably informs all parties of the information, the
5 information need not be presented in a supplemental response.

6 9. Parties should include in the Rule 26(f) report to the Court a concise
7 description of their discussions of the mandatory initial discovery responses. The report
8 should also include a concise description of the resolution of any limitations invoked by
9 any party in its response, as well as any existing disagreements requiring resolution by the
10 court. The parties shall attach the initial and supplemental responses and any other
11 discovery requests, objections, and responses involved in any existing disagreements.
12 During the Rule 26(f) conference, parties should discuss the mandatory initial discovery
13 responses and seek to resolve any limitations they have made or intend to make.

14 10. Production of information under this General Order does not constitute an
15 admission that information is relevant, authentic, or admissible.

16 11. Rule 37(b)(2) shall apply to mandatory discovery responses required by this
17 order.

18 **B. Mandatory Initial Discovery Requests.**

19 The parties must respond to the following Court-issued discovery requests without
20 awaiting discovery requests from the opposing parties, and at the times set forth above.

21 1. State the names and, if known, the addresses and telephone numbers of all
22 persons who you believe are likely to have discoverable information relevant to any party's
23 claims or defenses, and provide a fair description of the nature of the information each such
24 person is believed to possess.

25 2. State the names and, if known, the addresses and telephone numbers of all
26 persons who you believe have given written or recorded statements relevant to any party's
27 claims or defenses. Unless you assert a privilege or work product protection against
28 disclosure under applicable law, attach a copy of each such statement if it is in your

1 possession, custody, or control. If not in your possession, custody, or control, state the
2 name and, if known, the address and telephone number of each person who you believe
3 has custody of a copy.

4 3. List the documents, electronically stored information (“ESI”), tangible
5 things, land, or other property known by you to exist, whether or not in your possession,
6 custody or control, that you believe may be relevant to any party’s claims or defenses. To
7 the extent the volume of any such materials makes listing them individually impracticable,
8 you may group similar documents or ESI into categories and describe the specific
9 categories with particularity. Include in your response the names and, if known, the
10 addresses and telephone numbers of the custodians of the documents, ESI, or tangible
11 things, land, or other property that are not in your possession, custody, or control. For
12 documents and tangible things in your possession, custody, or control, you may produce
13 them with your response, or make them available for inspection on the date of the response,
14 instead of listing them. Production of ESI will occur in accordance with paragraph C.2
15 below.

16 4. For each of your claims or defenses, state the facts relevant to it and the legal
17 theories upon which it is based.

18 5. Provide a computation of each category of damages claimed by you, and a
19 description of the documents or other evidentiary material on which it is based, including
20 materials bearing on the nature and extent of the injuries suffered. You may produce the
21 documents or other evidentiary materials with your response instead of describing them.

22 6. Specifically identify and describe any insurance or other agreement under
23 which an insurance business or other person or entity may be liable to satisfy all or part of
24 a possible judgment in the action or to indemnify or reimburse a party for payments made
25 by the party to satisfy the judgment. You may produce a copy of the agreement with your
26 response instead of describing it.

27 7. A party receiving the list described in Paragraph 3, the description of
28 materials identified in Paragraph 5, or a description of agreements referred to in Paragraph

1 6 may request more detailed or thorough responses to these mandatory discovery requests
2 if it believes the responses are deficient. A party may also serve requests pursuant to Rule
3 34 to inspect, copy, test, or sample any or all of the listed or described items, to the extent
4 not already produced in response to these mandatory discovery requests, or to enter onto
5 designated land or other property identified or described.

6 **C. Disclosure of Hard-Copy Documents and ESI.**

7 1. *Hard-Copy Documents.* Hard-copy documents must be produced as they are
8 kept in the usual course of business.

9 2. *Electronically Stored Information (ESI).*

10 a. *Duty to Confer.* When the existence of ESI is disclosed or discovered,
11 the parties must promptly confer and attempt to agree on matters relating to
12 its disclosure and production, including:

- 13 i. requirements and limits on the preservation, disclosure, and
14 production of ESI;
- 15 ii. appropriate ESI searches, including custodians and search
16 terms, or other use of technology assisted review; and
- 17 iii. the form in which the ESI will be produced.

18 b. *Resolution of Disputes.* If the parties are unable to resolve any dispute
19 regarding ESI and seek resolution from the Court, they must present the
20 dispute in a single joint motion or, if the Court directs, in a conference call
21 with the Court. Any joint motion must include the parties' positions and the
22 separate certification of counsel required under Rule 26(g).

23 c. *Production of ESI.* Unless the Court orders otherwise, a party must
24 produce the ESI identified under paragraph B.3 within 40 days after serving
25 its initial response. Absent good cause, no party need produce ESI in more
26 than one form.

27 d. *Presumptive Form of Production.* Unless the parties agree or the
28 Court orders otherwise, a party must produce ESI in the form requested by

1 the receiving party. If the receiving party does not specify a form, the
2 producing party may produce the ESI in any reasonably usable form that will
3 enable the receiving party to have the same ability to access, search, and
4 display the ESI as the producing party.

5 DATED this 1st day of November, 2018.

6 
7

8 G. Murray Snow
9 Chief United States District Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**MANDATORY INITIAL DISCOVERY PILOT PROJECT
CHECKLIST**

- Applicability of the MIDP Project General Order:**
 - Is this a civil case filed prior to May 1, 2017?
 - Is the proceeding exempt from initial disclosure under Rule 26(a)(1)(B)?
 - Is this an action under the Private Securities Litigation Reform Act?
 - Was the case transferred for consolidation by the MDL panel?
 - If the answer is ‘yes’ to any of these questions, the case is not subject to the MIDP.
- Rule 26(f) Conference:**
 - The parties must discuss the mandatory initial discovery responses, which probably will have been made by the time of the conference, and seek to resolve any disagreements on the scope of their responses.
 - The parties should include a description of their discussions, including resolved and unresolved disagreements or other discovery issues, in their Rule 26(f) report to the Court.
 - Parties must file the Rule 26(f) report in the CM/ECF system using the *Rule 26(f) Report re MIDP* event under the “MIDP Filings” category.
- Responsive Pleadings [answer/counterclaim/crossclaim/reply]:**
 - Must be filed within the time set in Rule 12(a).

Exception: Upon a showing that a defendant cannot reasonably respond to a complaint within the time set forth in Rule 12(a), the court may, with or without awaiting a response from the opposing party, grant a one-time extension of up to 30 days to respond to the complaint.
- Initial Discovery Responses:**
 - *Party seeking affirmative relief:* must serve its initial discovery responses and file a notice of service with the Court within 30 days after the first responsive pleading filed in response to its complaint, counterclaim, crossclaim, or third-party complaint.
 - Parties must file the notice of service in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

- *Party filing a responsive pleading:* must serve its initial discovery responses and file a notice of service with the Court within 30 days after it files its responsive pleading.

- Parties must file the notice of service in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

Exceptions: *No discovery responses required if the Court approves a written stipulation by the parties that no discovery will be conducted in the case.*

Deadline for serving initial discovery responses may be deferred once for 30 days if the parties jointly certify to the Court that they are seeking to settle the case and have a good faith belief that it will be resolved within 30 days of the due date for their responses.

- Initial responses and later supplements will not be filed with the Court on the date they are served, but a notice of service must be filed with the Court.

- Parties must file the notice of service for initial responses in the CM/ECF system using the *Notice of Service of Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.
 - Parties must file the notice of service for supplements in the CM/ECF system using the *Notice of Service of Supplemental Mandatory Initial Discovery Responses* event under the “MIDP Filings” category.

Exception: *Parties must file initial responses and later supplements with their 26(f) report or discovery dispute filings if there is an unresolved dispute regarding the responses or supplements that the Court must resolve.*

- Responses must be signed by the party, under oath, and by counsel under Rule 26(g).

- Limitations to scope of initial response asserted by the parties:

- If based on a claim of privilege or work product, the party must produce a privilege log under Rule 26(b)(5).

Exception: *No privilege log required if the parties agree or the Court orders otherwise.*

- If based on any other objection, the party's response must explain with particularity the nature of the objection and provide a fair description of the information withheld.

Electronically Stored Information (ESI):

- If the existence of ESI is disclosed or discovered, the parties must confer and address the issues listed in ¶(C)(2)(a)(i)-(iii) of the General Order.
- The party must produce its ESI within 40 days after serving its initial response (unless modified by the court).
 - ESI must be produced in the form requested by the receiving party, or if no form is specified, in any reasonable form that will enable the receiving party to access, search, and display the ESI.

Rule 16 Conference and Case Management Order:

- Rule 16 conference should be held within the time specified in Rule 16(b)(2) (as soon as possible but not later than the *earlier* of 90 days after any party has been *served* or 60 days after *appearance* by any party).
- Case management order should set deadline for final supplementation of responses.
 - If the Court fails to set a deadline, final supplementation must occur by the fact discovery deadline set by the Court in its case management order.
 -

Supplemental Responses:

- Must be served in a timely manner, and no later than 30 days after the information is discovered or revealed. If new information is revealed in a written discovery response or a deposition in a manner that reasonably informs all parties of the information, the information need not be presented in a supplemental response. A notice of service must be filed when a supplemental response is served.

ALFRED E. CARAFFA
T602433
3250 W. Lower Buckeye Rd.
Phoenix Arizona 85009

FILED
RECEIVED
COPY

FEB 14 2020
CLERK U.S. DISTRICT COURT
DISTRICT OF ARIZONA
BY *[Signature]* DEPUTY

IN THE UNITED STATES DISTRICT
COURT IN the District of Arizona

Alfred E. Caraffa
Plaintiff

v.
Tempe Police Dept.
Defendant

CV-19-05492-PHX-MTL-ESW

case no.

motion for

Seizure of personal
property for
payment under
Default Judgment

I ALFRED E. CARAFFA, hereby
enter to the Courts this Motion for
Seizing of All Personal property owned
by Defendant #2 in the Above Mentioned
Civil action as the Civil action is in
Default Judgment.

Alfred E. Caraffa

Alfred E. Caraffa

1/26/2020

4086
Last 4 of Social

Alfred Caraffa T602433
Name and Prisoner/Booking Number

Lower Buckeye Jail
Place of Confinement

3250 W. Lower Buckeye Rd.
Mailing Address

Phoenix, Arizona 85009
City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED	<input type="checkbox"/> LODGED	<input type="checkbox"/> COPY
FEB 14 2020			
CLERK U S DISTRICT COURT			
DISTRICT OF ARIZONA			
BY	86	DEPUTY	

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Alfred Caraffa Jr.

(Full Name of Plaintiff)

Plaintiff,

v.

(1) Tempe Police Dept.
(Full Name of Defendant)

(2) Mayor of City of Tempe

(3) Officer Guigardo

(4) Chief of Police Tempe

Defendant(s).

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

CASE NO. 19-cv-05402-PHE

(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: Tempe Arizona

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING
TO FEDERAL AND/OR LOCAL RULES AND PRACTICE
AND IS SUBJECT TO REJECTION BY THE COURT.

Revised 3/11/16

1

REFERENCE LR CIV 5.4
(Rule Number/Section)

550/555

B. DEFENDANTS

1. Name of first Defendant: Police Dept. Tempe Police Dept. The first Defendant is employed as: Tempe Arizona (Position and Title) (Institution)

2. Name of second Defendant: The Mayor of Tempe The second Defendant is employed as: City Hall of Tempe (Position and Title) (Institution)

3. Name of third Defendant: Officer Gaujardo The third Defendant is employed as: Police Officer Tempe Police Dept. (Position and Title) (Institution)

4. Name of fourth Defendant: Chief of Police The fourth Defendant is employed as: City of Tempe (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? 4. Describe the previous lawsuits:

a. First prior lawsuit:
1. Parties: Careffo v. MCSO
2. Court and case number: 20-00013-PHX-NL (ES)
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
20-00013-PL-NL (ES) - Dismissed

b. Second prior lawsuit:
1. Parties: Careffo v. MCSO
2. Court and case number: 20-00014-PHX-NL (ES)
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
20-00014-PHX-NL (ES) - Pending

c. Third prior lawsuit:
1. Parties: Careffo v. MCSO
2. Court and case number: 20-00015-PHX-NL (ES)
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
20-00015-PHX-NL (ES) - 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:

Cruel and Unusual Punishment

2. Count I. 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 checked="" 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 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 argument.

Officer Suajardo under color of law and with the authority of the Tempe Police Dept. Ran up Behind me and restrained my right Arm while Standing on the Sidewalk in front of A Bar and Grill on Mills in Tempe, AZ without stating he was an police officer and detained me against my will.

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

Unlawfully Restrained, Deprived of Life, Liberty and property.

5. Administrative Remedies:

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- Did you submit a request for administrative relief on Count I? Yes No
- Did you appeal your request for relief on Count I to the highest level? Yes No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

Does Not Apply

COUNT II

1. State the constitutional or other federal civil right that was violated:

UNUSUAL PUNISHMENT

Cruel and

2. Count II. 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: False Arrest

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.

Officer Guajardo under color of Law Detained me, placing me UNDER Arrest for Disorderly Conduct Fighting (AS Per Tempe Police Report) while I was standing on the sidewalk in front of A Bar and Grill on Mills in TEMPE, AZ. I was given a one page report (the complaint) on 10-22-19. I was NOT fighting with ANY PERSON

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

Deprived of Life, Liberty and Property and violations of U.S.C.A

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.

Does Not Apply

COUNT III

1. State the constitutional or other federal civil right that was violated:

UNUSUAL PUNISHMENT

CRUEL AND

2. Count III. 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: FALSE IMPRISONMENT

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.

Alfred E. Caraffa was arrested by Officer Guajardo for Disorderly Conduct - Fighting. Officer Guajardo Acting Under Color of Law handcuffed detained, Arrested and Placed in the County Jail. The Judge later released me from Confinement Days later until the prosecutor dismissed the Charge on 11-15-19 for INSUFFICIENT evidence

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

DEPRIVATION OF LIFE, LIBERTY AND PROPERTY / VIOLATIONS OF U.S.C.A.

5. Administrative Remedies.

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- Did you submit a request for administrative relief on Count III? Yes No
- Did you appeal your request for relief on Count III to the highest level? Yes No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

Does Not Apply

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:

**Against City of Tempe, Arizona
for the claim I seek 440
million Dollars in Relief. And the
returning of my cash collection and**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/7/2020

DATE

Alfred E. Caraffa
SIGNATURE PLAINTIFF

Alfred E. Caraffa

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

None

(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.

Part C

Fourth prior lawsuit Cont.

Caraffa v. CHS

No./court Pending (PHX)

Result - Awaiting Case Number

Fifth prior lawsuit.

Caraffa v. Taco Bell Cantina

No./court - N/A on case no.
in Phoenix Court.

Result - went to leave to Amend.
was incarcerated with all my legal
papers impounded by Phoenix Police
Dept.

Sixth prior lawsuit

Caraffa v. Phoenix Police Dept.

No./court - PHX / case no. N/A

Result - went to leave to Amend

Same as Result in #5

Cause of Action

Count II continued.

Before the officer ran up behind me and restrained me with NO probable cause to arrest Alfred Caraffa for fighting-disorderly conduct. which was the only charge I was given after the arrest by the Tempe Police officer. the Courts (prosecutor) dismissed the charge on insufficient evidence on 12-15-19.

the arrest was not supported by probable cause under the charge in which Alfred E. Caraffa was charged, there was NO probable cause for any arrest. there was ONLY ONE (And NO other charges brought against the Plaintiff for anything) charge. that one charge cited "fighting" as the disorderly conduct.

2.5.15

In which Alfred Caraffa was arrested
the Chief of Police is in charge of
training of the Police officers
and responsible under color of Law
for Being the Superior officer of the
Police Department of Tempe AZ.

His/Her Superior is the Mayor of
the City of Tempe Arizona

therefore Alfred Caraffa was
falsely Arrested and falsely detained
by Officer Guajardo a Police officer
for the Tempe Police Dept. In the
City of Tempe Arizona which violates
Alfred Caraffa's United States
Constitutional Rights. And is an
denial of his Basic rights as an
American in the United States of
America

COUNT III

continued:

therefore Alfred Caraffa was
falsely imprisoned and held illegally
and confined to the Lower Buckeye
County Jail Based on "insufficient
evidence" of the statement and
Document of tempe city court and
the Prosecutor in the case number
19-038379-2 of Alfred Caraffa
in the Tempe Municipal Court
the City of Tempe Arizona, the
tempe Police Dept. and officer
Guajardo violated Alfred Caraffa's
United States Constitutional rights
As An American in the United
States of America.

~~Cause of Action~~

Count IV

1- Constitutional violation of Due process of the law.

2- no probable Cause

3. Supporting Facts - Due to the fact that Tempe Municipal Court dismissed the case Alfred Gaffa (19-038377-2) against him, for INSUFFICIENT evidence to prosecute with the facts in the default Judgment, which was relied on By Tempe Municipal Court. To dismiss the case, the evidence clearly shows that there is NO probable cause for an Arrest for Fighting- disorderly Conduct or no probable cause for any Arrest to have been made or for handcuffing Alfred Gaffa and Detaining Alfred Gaffa.

1 INJURY-

Officer Guajardo violated Alfred Carrotta's United States Constitutional rights to Due process under NO PROABLE CAUSE for Arrest, NO PROABLE CAUSE for detainment and NO PROABLE CAUSE for the use of force (Restraining and handcuffing) which lead to imprisonment of confinement in Maricopa County's Lower Buckeye Jail in Phoenix, Arizona. (And MCSO is not liable due to the facts of non-involvement in the process).

5- Remedies Do Not Apply in this Civil action case.

Cause of Action

Count II

1. Constitutional violation of Due process of law.

2-Count II: Illegal search and seizures.

3. Supporting Facts - Due to the facts based on the evidence there was NO Due process of the law to probable cause for detainment or arrest of Alfred Garza, so his property was illegally searched by officials at Tempe Police Dept. and illegally Impounded by the tempe Police Dept. for Almost 3 days (Approx.) under color of law by officer Guajardo and other officers unknown to myself at Tempe Police Dept. under authority of the Chief of Police and the Mayor of the City of Tempe Arizona.

4. Injury - Because the Arrest should not

have happen Due to NO Probable cause to Arrest, the illegal search and Seizure (Impounding) shouldn't have happen. But it did out of Actions of Officer Guajardo. Deprived of personal property and Liberty to my personal property.

5- Remedies Don't Apply to this Claim.

Case of Count (GVI)

1- Federal Rights violated- Retaliation

2- Count 6- Retaliation

3- Supporting facts- on the day in question in October 2019. Four Tempe Police officers stopped to check Alfred Graff's I.D. at the place where Alfred Graff was arrested by Officer Guajardo a few hours later. Tempe Police officers (3 males and one female) detained Alfred Graff. And told him "they didn't care about any judges ruling, you are not to set foot on ANC/char SC ANC not to property. Also Alfred Graff had donated to the Tempe Public Museum/Library an 1992 Sporting News (Golow collection) MLB Trading

Card, which the player had Died in
Tempe Arizona, (As Stated/ Listed on
Reverse Side of Trading Card).

Alfred Garoffa had Asked if they
wanted to use the card in the
Museum in Tempe that his Name
be displayed as the Donor to the
Tempe Library/museum. the woman
At the front desk took two pictures
With her cell phone of two baseballs
Cards Alfred Garoffa had. (the other
Card was A player who died in Scottsdale
AZ. thru people on the Street. I
had a card conversation that the Tempe
Card in question was
Valued at \$30,000⁰⁰ dollars. for
Historical Value to Tempe Arizona.

Alfred Careffa later Restoried
Several Colon Collection Baseball
Cards at the Federal Courthouse
In Phoenix AZ. Due to Red Spots
that Formed on the Back of EACH
Card. one of those Cards had
the Last Name of Liburdi as
one of the players.

4- Injury- Deprived of Life, Liberty
and property/ violations of my U.S.C.
rights over the Baseball card owned by
A transgender and homeless. kept her-
less and tormented by lies from tongue
and deprive me of re claiming
Police Dept. To Deprive me of A M.B card.
My personal Property of A M.B card.
And Deprive me of the honor of that
Dollation by NAME sake of the claim.

5- Remedies Do Not Apply.

D- Request for Relief
Continued-

1- Trading and For being the entity
Responsible for the Tempe Police Dept.

2- Against Tempe Police Dept. for
being the Governmental Department
which employs Officer Guajardo
who under colors of Law violated
my U.S.C. rights as stated in this
Amended Complaint I am seeking
15 million Dollars in Relief.

3- Against the Mayor of the City of
Tempe Arizona For being the person
in charge of and responsible for
the actions of Tempe Police Dept.
and the Chief of Police I am seeking
\$2500 dollars in Relief

4- Against the Chief of Police of the
Tempe Police Dept. For being responsi-
ble for the orderly running and
Discipline of the Police officers in the
Tempe Police Dept. I am seeking \$3500⁰⁰
dollars.

~~Request for Relief~~
Continued

5- Against officer Guajardo of
the Tempe Police Dept. for under
color of Law his actions, violated
My United States Constitutional
Rights AS An AMERICAN of the
United States I am seeking
\$ 299,000.⁰⁰ Dollars. in Relief!

B- Defendants
Continued

5. The fifth defendant is the
City of Tempe Arizona which
is the City of Tempe Arizona in
Tempe Arizona.

MARICOPA COUNTY SHERIFF'S OFFICE
CERTIFICATION

I hereby certify that on this date February 11, 2020

In accordance with the instruction received from the inmate and the rules of this Court, I mailed the original to the Clerk of the United States District Court, District of Arizona.

I further certify that copies of the original have been forwarded to:

Hon _____ United States District Court, District of Arizona.
 Hon _____ United States District Court, District of Arizona.
 Attorney General, State of Arizona, _____
 Judge _____ Superior Court, Maricopa County, State of Arizona.
 County Attorney, Maricopa County, State of Arizona _____
 Public Defender, Maricopa County, State of Arizona _____
 Attorney _____
 Other _____



Legal Support Specialist Signature B1300
S/N

INMATE LEGAL SERVICES
Maricopa County Sheriff's Office
3250 W. Lower Buckeye Rd.
Phoenix, AZ 85009

**Additional material
from this filing is
available in the
Clerk's Office.**