

MINUTES

CASE NUMBER: CV 2:08-00408 LEK
ED Cal

CASE NAME: Carroll v. Adevara, et al.

ATTYS FOR PLA:

ATTYS FOR DEFT:

INTERPRETER:

JUDGE: Leslie E. Kobayashi REPORTER:

DATE: 03/22/2012 TIME:

COURT ACTION: EO: COURT ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FILED MARCH 19, 2012

On February 29, 2012, this Court issued an entering order ("2/29/12 EO") directing pro se Plaintiff Vernon D. Carroll ("Plaintiff") to serve a copy of the motion that he filed on January 23, 2012 ("1/23/12 Motion"), [dkt. no. 70,] and a copy of the motion that he filed on February 23, 2012 ("2/23/12 Motion"), [dkt. no. 73,] on Sampath Suryadevara, who has been identified in this action as Defendant S. Sury Adevara ("Defendant"). [Dkt. no. 74.] The Court ordered Plaintiff to file a declaration by March 21, 2012 clarifying whether he served the 1/23/12 Motion and the 2/23/12 Motion on Defendant. The Court cautioned Plaintiff that, if he failed to serve the motions on Defendant, the Court would deny the motions without prejudice.

On March 19, 2012, Plaintiff filed a motion entitled "Motion For: Extension of Time and Motion To: Request For Civil Complaint and Statements Facts on the Concerns for Missing Property from 2008 at CSATF State Prison" ("3/19/12 Motion"). [Dkt. no. 75.] The Court construes the 3/19/12 Motion as a request for two copies of Plaintiff's Second Amended Complaint: one copy for Plaintiff's records, and one copy that he can mail to Defendant. Plaintiff also requests an extension of time until he receives a copy of the Second Amended Complaint [filed 11/4/09 (dkt. no. 17)]. Although Plaintiff does not specify what deadline he wants extended, the Court assumes that Plaintiff is referring to the March 21, 2012 deadline set forth in the 2/29/12 EO.

First, Plaintiff does not need to serve the Second Amended Complaint on Defendant. The United States Marshals Service completed service of the Second Amended Complaint on Defendant on December 13, 2011. [Process Receipt and Return,

filed 1/24/12 (dkt. no. 71).] Plaintiff's request for a copy of the Second Amended Complaint to send to Defendant is therefore DENIED.

Second, the Court GRANTS Plaintiff's request for a copy of the Second Amended Complaint for his records. If Plaintiff wishes to attach copies of the Second Amended Complaint to future court filings, he should make additional copies and retain one copy for his own reference and use.

Third, although Plaintiff's service of the 1/23/12 Motion and the 2/23/12 Motion on Defendant does not require a copy of the Second Amended Complaint, Plaintiff was apparently confused about the service of those motions, and the Court will grant Plaintiff a brief extension. Plaintiff's 3/19/12 Motion is therefore GRANTED insofar as Plaintiff has until **April 9, 2012** to: 1) serve the 1/23/12 Motion and the 2/23/12 Motion on Defendant by mailing those motions to Defendant at 1771 North Romney Drive #C, Anaheim, CA 92801; and 2) file a declaration confirming that he has served the 1/23/12 Motion and the 2/23/12 Motion on Defendant.

The Court CAUTIONS Plaintiff that the Court will not grant any further extensions and, if Plaintiff fails to serve the motions on Defendant and/or fails to file his declaration confirming that he has served the motions on Defendant by **April 9, 2012**, the Court will deny the 1/23/12 Motion and the 2/23/12 Motion without prejudice.

Finally, the Court notes that Plaintiff's certificate of service attached to the 3/19/12 Motion indicates that Plaintiff did not serve the 3/19/12 Motion on Defendant. As this Court pointed out in the 2/29/12 EO, **even though Plaintiff is proceeding in forma pauperis, it is Plaintiff's responsibility to serve all motions, declarations, and other documents, on Defendant until there is a ruling that Defendant is in default for failure to appear.** The Court CAUTIONS Plaintiff that, if Plaintiff files future motions without the required service on Defendant, the Court will automatically deny the motion.

In conclusion, Plaintiff's 3/19/12 Motion is HEREBY GRANTED IN PART AND DENIED IN PART. The Motion is GRANTED insofar as:

- 1) The Court DIRECTS the Clerk's Office to send Plaintiff a copy of the Second Amended Complaint, as well as a copy of the 1/23/12 Motion and the 2/23/12 Motion; and
- 2) The Court GRANTS Plaintiff an extension until **April 9, 2012** to serve the 1/23/12 Motion and the 2/23/12 Motion and to file a declaration confirming that he served those motions on Defendant.

Plaintiff's 3/19/12 Motion is DENIED in all other respects.

IT IS SO ORDERED.

Submitted by: Warren N. Nakamura, Courtroom Manager