

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TERRELL D. CURRY,
Plaintiff,

No. C 07-775 MHP (pr)

ORDER RE. SERVICE OF PROCESS

v.

JAMES TILTON; et al.,
Defendants.

Service of process was ordered on five defendants, including the California Department of Corrections & Rehabilitation ("CDCR") many months ago. Although the other four defendants have been served and appeared in this action, service of process was not accomplished as to the CDCR due to an oversight at the courthouse. Therefore, the court again will direct the U.S. Marshal to attempt service of process on this defendant.

Plaintiff has moved to postpone the discovery cut-off in this case (now set for August 27, 2010) because he has been unable to propound discovery requests on the CDCR. The motion is GRANTED. (Docket # 28.) Any service of process problems with the CDCR would not have interfered with plaintiff's discovery requests to other defendants, so only minor adjustments will be made in the discovery and motion schedule. Further, although plaintiff may wish to wait until the CDCR has been served with process to send the written discovery requests to it, he certainly can prepare those requests in advance of the service of process.

For the foregoing reasons, the court now orders service of process on the CDCR and resets the deadlines that were previously set in the July 28, 2010 Order Denying Motion To

United States District Court
For the Northern District of California

1 Dismiss And Setting Schedule as follows:

2 1. The clerk shall issue a summons and the United States Marshal shall serve,
3 without prepayment of fees, the summons, a copy of the complaint and amendment, a copy
4 of this order, and a copy of all the other documents in the case file upon the California
5 Department of Corrections and Rehabilitation. The service of process must be by hand-
6 delivery and may not be service by mail.

7 2. As soon as plaintiff receives notice that the CDCR has been served with
8 process, he may propound discovery request(s) on it by mailing his request(s) to the CDCR
9 and sending a courtesy copy to the attorney for the other defendants (who may or may not
10 eventually represent the CDCR).

11 3. No later than **October 1, 2010**, plaintiff and defendants must propound any
12 written discovery requests (e.g., requests for production of documents, interrogatories, and
13 requests for admissions) they wish to make on each other.

14 4. If defendants wish to take plaintiff's deposition, they must do so no later than
15 **September 30, 2010**.

16 5. All discovery must be completed no later than **December 23, 2010**. Plaintiff is
17 cautioned that the court generally is not involved in the discovery process and only becomes
18 involved when there is a dispute between the parties about discovery responses. Discovery
19 requests and responses normally are exchanged between the parties without any copy sent to
20 the court. See Fed. R. Civ. P. 5(d) (listing discovery requests and responses that "must not"
21 be filed with the court until they are used in the proceeding or the court orders otherwise).

22 6. Any motion to compel discovery must be filed and served by **January 7, 2011**.
23 If a motion to compel is filed, any opposition to it must be filed and served no later than
24 **fourteen days** after the motion is filed and any reply in support of the motion must be filed
25 and served no later than **fourteen days** after the opposition is filed. The parties are
26 reminded that they must make a good faith effort to meet and confer to attempt to resolve any
27 discovery dispute before filing any motion to compel.

28 7. Any motion for summary judgment (or other dispositive motion) must be filed

1 and served no later than **February 4, 2011.**

2 8. Any opposition to the dispositive motion must be filed and served no later than
3 **March 4, 2011.** Plaintiff is cautioned to read the notice regarding summary judgment
4 motions in the order of service as he prepares any opposition to a motion for summary
5 judgment.

6 9. Any reply brief in support of the motion must be filed and served no later than
7 **March 18, 2011.**

8 IT IS SO ORDERED.

9 Dated: August 24, 2010


Marilyn Hall Patel
United States District Judge

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