

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  
DISTRICT OF NEVADA**

MONTGOMERY CARL AKERS, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 JAMES KESZEI, *et al.*, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Case No. 2:07-cv-00572-JCM-GWF  
**ORDER**  
Motion for Status of Service (#292)  
Motion to Extend Time (#293)  
Motion for Emergency Order (#294)

This matter is before the Court on Plaintiff’s Motion for Status of Service (#292), filed May 16, 2011; Motion to Extend Time (#293), filed May 27, 2011; and Motion for Emergency Order to set up a Legal Call (#294), filed June 13, 2011.

**1. Plaintiff’s Motion for Status of Service**

By way of his Motion for Status of Service (#292), Plaintiff requests a status report regarding the Marshal’s service of the amended complaint upon Defendants James Keszei and Nicholas Voulgaris. On December 1, 2010, Plaintiff’s motion to amend his complaint was granted. (#272). On December 22, 2010, Plaintiff’s request for the United States Marshal’s office to serve the amended complaint was granted. (#277). Summons were issued as to Defendants Keszei and Voulgaris on December 23, 2010. (#278). On March 7, 2011, the Court entered an order granting Plaintiff’s motion for an extension of time (#284) and motion to supply copies of the amended complaint to the United States Marshal’s Service for service upon Defendants Keszei and Voulgaris (#285). *See* Order (#286). After review of the docket, it appears that a return of service has not been filed meaning that the amended complaint has not yet been served on Defendants Keszei and Voulgaris. Insofar as Plaintiff requests a status report, the Court will order that the Clerk of the Court provide a copy of the docket to Plaintiff.

1           **2. Plaintiff's Motion to Extend Time**

2           By way of his Motion to Extend Time (#293), Plaintiff requests an extension of time to serve  
3 Defendants Keszei and Voulgaris with the amended complaint. Pursuant to Fed. R. Civ. P. 6(b) and LR  
4 6, extensions of time may be granted for good cause shown. By court order, the U.S. Marhsal is to  
5 serve the amended complaint. Plaintiff has complied with filing all appropriate forms for the requested  
6 service and is now waiting for the Marshal's office to complete that service. The Court finds Plaintiff  
7 has shown good cause for an extension and will extend the time to serve for an additional thirty (30)  
8 days.

9           **3. Plaintiff Motion for Emergency Order to set up a Legal Call**

10          By way of his Motion for Emergency Order to set up a Legal Call (#294), Plaintiff requests that  
11 the Court enter an order compelling the Marion Penitentiary, the federal prison where Plaintiff is  
12 currently housed, to permit an unrecorded one-hour legal phone call between Plaintiff and a prospective  
13 attorney. Plaintiff sent several letters to the law firm of Patti, Sgro & Lewis in May 2011. *See* Ex. A  
14 attached to Pl.'s Mot. (#294). Mr. Erick M. Ferran, an attorney within the firm, responded to Plaintiff's  
15 letters indicating his interest in taking the case. *Id.* Mr. Ferran indicated that his office would contact  
16 the prison facility to set up a legal phone call. Plaintiff followed up with his case manager and learned  
17 that Mr. Ferran's office had called and was informed that a legal call would not be allowed because Mr.  
18 Ferran had not yet been retained and there were no pending court deadlines within two weeks.

19          The decision not to permit the legal call was based upon prison personnel's application and  
20 interpretation of prison regulations. Generally, when prison officials enforce prison regulations there is  
21 a presumption of validity. *Finck v. Schriro*, 2008 WL 2692562 \*3 (D. Ariz 2008) (citing *Shaw v.*  
22 *Murphy*, 532 U.S. 223 (2001)). As indicated in Plaintiff's motion, there are several methods available  
23 to maintain confidential contact with attorneys including special mail provisions, private visits, and the  
24 opportunity to place an occasional unmonitored phone call to his or her attorney. Plaintiff has not  
25 shown facts sufficient to convince this Court that it ought to interfere with prison administration and  
26 order an unmonitored legal phone call. Accordingly,

27           **IT IS HEREBY ORDERED** that Plaintiff's Motion for Status of Service (#292) is **granted**.  
28 The Clerk of the Court shall prepare a copy of the docket sheet regarding case 2:07-cv-00572-JCM-

1 GWF and send it to Plaintiff at the current address on file for Plaintiff.

2 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Extend Time (#293) is **granted** and  
3 Plaintiff shall have an additional thirty (30) days to complete service

4 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Emergency Order to set up a Legal  
5 Call (#294) is **denied**.

6 DATED this 24th day of June, 2011.

7  
8   
9 George Foley, Jr.  
United States Magistrate Judge

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