

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**BRIAN SYMONETTE, SR.,**  
Appellant,

v.

**OLGA D. LOZANO, CNA SURETY, BUDGET NOTARY SERVICES, INC.,  
CRISTINA SANTAMARIA, THE KEYES COMPANY, ALEX RUIZ, and  
STATE OF FLORIDA DEPARTMENT OF FINANCIAL SERVICES**  
Appellees.

No. 4D20-2424

[October 20, 2021]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,  
Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. CACE 19-  
025360.

Brian Symonette, Sr., Moore Haven, pro se.

Edward Etcheverry and Steve Kerbel of Etcheverry Harrison, LLP, Fort  
Lauderdale, for appellee CNA Surety.

Timothy B. Elliott of Smith & Associates, Tallahassee, for appellee  
Budget Notary Services.

Bruce I. Kamelhair of Friedlander & Kamelhair, Pembroke Pines, for  
appellees The Keyes Company and Cristina Santamaria.

PER CURIAM.

Appellant appeals an order granting appellees Cristina Santamaria's  
and The Keyes Company's motion to dismiss the amended complaint with  
prejudice. He also appeals the orders granting motions to quash service  
of process on appellees CNA Surety and Alex Ruiz.

Appellees Budget Notary Services, Inc., Santamaria, and Keyes have  
filed a joint statement of "confession of error," "acknowledg[ing] that the  
decision below was in error in granting the Motions to Dismiss with  
Prejudice[.]" They agree that appellant should be given "additional time to  
attempt to correct his complaint and file and [sic] amended plead[ing]."

Pursuant to the concession, we reverse the order dismissing the complaint with prejudice and remand for the trial court to provide appellant with an additional opportunity to file an amended complaint.

As to the motions to quash service of process on appellees CNA Surety and Ruiz, we affirm.<sup>1</sup> Service on CNA did not comport with section 624.422-23, Florida Statutes (2020). And Ruiz filed an unopposed affidavit stating that he was not personally served with process, and the address on the service was not his “usual place of abode.” See § 48.031, Fla. Stat. (2020). Thus, service was not perfected on Ruiz.

Appellant also appeals the denial of his motion for default final judgment against Santamaria. That is a non-appealable non-final order. See *Westwood One, Inc. v. Flight Express, Inc.*, 940 So. 2d 1241, 1243 (Fla. 5th DCA 2006). We dismiss the appeal on that issue.

*Reversed as to order granting motion to dismiss with prejudice; affirmed as to the orders granting motion to quash service; appeal dismissed as to the denial of the motion for default final judgment.*

WARNER, GERBER and ARTAU, JJ., concur.

\* \* \*

***Not final until disposition of timely filed motion for rehearing.***

---

<sup>1</sup> The orders granting the motion to quash service of process are non-final appealable orders. Fla. R App. P. 9.130(a)(3)(C)i; See *Hernandez v. State Farm Mut. Auto. Ins. Co.*, 32 So. 3d 695 (Fla. 4th DCA 2010).