

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

RODNEY J. MURPHY,)
)
 Plaintiff,)
)
 v.)
)
 SECRETARY OF UNITED STATES)
 DEPARTMENT OF H.U.D.,)
 et al.,)
)
 Defendants.)

CIVIL ACTION NO.
2:15cv308-MHT
(WO)

RODNEY MURPHY,)
)
 Plaintiff,)
)
 v.)
)
 SECRETARY OF UNITED STATES)
 DEPARTMENT OF H.U.D.,)
)
 Defendant.)

CIVIL ACTION NO.
2:15cv397-MHT
(WO)

OPINION AND ORDER

Pending before the court are defendant State of
Alabama's motion to dismiss and plaintiff Rodney J.

Murphy's motions for default judgment. For the reasons below, these motions will be denied.

Previously, these cases were referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636 for consideration and disposition or recommendation on all pretrial matters as may be appropriate. The magistrate judge granted Murphy's amended motions to proceed in forma pauperis. See Orders (Civ. Action No. 2:15-cv-308 doc. no. 20; Civ. Action No. 2:15-cv-397 doc. no. 17.) However, to allow for the mandatory review required by 28 U.S.C. § 1915, the magistrate judge also stayed service of process pending a review of the complaints. Service of process is not issued until the magistrate judge reviews the complaint for any procedural or substantive deficiencies, a process which is not yet complete. As the defendants have not been officially served, Murphy's motions for default judgment are premature and cannot be granted.

Further, the magistrate judge ordered Murphy to amend his complaint on or before March 11, 2016. Defendant State of Alabama's motion to dismiss will be rendered moot upon filing of the amended complaint.

* * *

Accordingly, it is ORDERED as follows:

(1) Plaintiff Rodney J. Murphy's motions for default judgment in Civ. Action No. 2:15-cv-308 (doc. no. 15) and Civ. Action No. 2:15-cv-397 (doc. no. 14) are denied.

(2) Defendant State of Alabama's motion to dismiss in Civ. Action No. 2:15-cv-308 (doc. no. 7) is denied without prejudice.

DONE, this the 22nd day of February, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE