

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

TIBAL CLARKE,
Reg. #97273-071

PLAINTIFF

V.

2:13CV00026 KGB/JTR

JOHN DOES 1-3, Warden,
Medical Director, and
Clinical Director, FCI-FC, et al.

DEFENDANTS

ORDER

On May 16, 2013, service was on Defendant Winkler at her last known employer was returned as executed. *Doc. #45* (service address sealed). On July 17, 2013, the Court issued an Order directing Defendant Winkler to show cause why a default judgment should not be entered against her due to her failure to timely file an Answer or other responsive pleading. *Doc. #55*.

On July 29, 2013, Defendant Winkler filed a *pro se* Answer. *Doc. #57*. On July 30, 2013, counsel for Defendant Winkler filed a Response to the Show Cause Order and a Substituted Answer. *Docs. #59 and #60*. In those documents, Defendant Winkler explains that the individual who accepted service on May 16, 2013, did not have the authority to do so because Defendant Winkler no longer worked for the company where service was delivered. *Id.* Because the March 16, 2013 service was

improper, Defendant Winkler is not in default. *See* Fed. R. Civ. P. 4 and 55.

IT IS THEREFORE ORDERED THAT Defendant Winkler is not in default and that her Answer and Substituted Answer (Docs. #57 & #60) are timely filed.

Dated this 19th day of August, 2013.



UNITED STATES MAGISTRATE JUDGE