

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

CEDRICK SIMPSON

PLAINTIFF

v.

No. 4:14-cv-165-DPM

CITY OF LITTLE ROCK; GREG
SIEGLER, individually and in his
official capacity; and DOES, unidentified
employees of the City of Little Rock

DEFENDANTS

ORDER

Applying the *Pioneer* factors, and considering all material circumstances, the Court grants Defendants' motion, No. 8, and vacates the Clerk's default, No. 6. FED. R. CIV. P. 60(b)(1). The delay in answering Simpson's complaint was, Defendants acknowledge, preventable and within their control. Counsel's calendaring error is excusable nonetheless. *Ceridian Corp. v. SCSC Corp.*, 212 F.3d 398, 403 (8th Cir. 2000). The delay – just a few days – is short, and causes no prejudice to Simpson's ability to prosecute this young case; no evidence has been lost, no discovery opportunities foreclosed. *Stephenson v. El-Batrawi*, 524 F.3d 907, 915 (8th Cir. 2008). And the short delay here wasn't in bad faith. We all make calendaring mistakes. Under the circumstances, default is too harsh a consequence.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

16 May 2014