

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

CHARLES ASHFORD,
ADC #133975

PLAINTIFF

v.

5:09CV00272HLJ

BOBBY WASHINGTON, et al.

DEFENDANTS

ORDER

This matter is before the Court on plaintiff's motion for a default judgment against all defendants (DE #16). In support of the motion, plaintiff states more than twenty days has elapsed since defendants were served with a copy of his complaint, and they have not yet filed an answer.

However, although summons was issued on September 29, 2009 (DE #8), summons and service were not returned, executed, with respect to defendants Bobby Washington, Walter Washington, and J. Wilson until October 21, 2009 (DE ##13-15). That date is the date to be used in calculating the proper response time of the defendants. Therefore, plaintiff's motion is premature, and will be denied.

In addition, the Court notes that summons was returned, unexecuted, with respect to defendant Ezell, and included with the return and filed under seal is a memo from defendants containing defendant Ezell's last-known address. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff's motion for a default judgment against defendants (DE #16) is hereby DENIED.

IT IS FURTHER ORDERED that the Clerk of the Court shall prepare summons for the defendant Ezell, and the United States Marshal is hereby directed to serve a copy of the summons and original and amended complaints (DE ##2, 5) on defendant at the address provided under seal,

without prepayment of fees and costs or security therefore.

IT IS SO ORDERED this 27th day of October, 2009.

Henry L. Jones, Jr.
United States Magistrate Judge