

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

CHARLES ASHFORD,
ADC #133975

PLAINTIFF

v.

5:09CV00272JLH/JTK

BOBBY WASHINGTON, et al.

DEFENDANTS

ORDER

This matter is before the Court on the plaintiff's motion for a default judgment against defendant Ezell (Doc. No. 51) and on defendant Ezell's motion for leave to file his answer out of time (Doc. No. 56). Defendant Ezell also filed a response in opposition to plaintiff's motion for default judgment (Doc. No. 55).

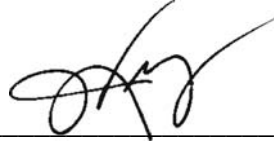
Summons was returned, executed, with respect to defendant Ezell on March 25, 2010. Plaintiff moves for a default judgment against defendant, based on his failure to file an answer or responsive pleading within the twenty-day time limit provided in the Federal Rules. In his response to the motion, defendant admits not filing an answer, but states such was due to the false impression that an answer would be filed on his behalf because of his prior employment with the Arkansas Department of Correction (ADC). Defendant states he was not aware that an answer had not been filed on his behalf until he received the plaintiff's motion for default judgment. Defendant apologizes for the delay, states he has a defense to plaintiff's allegations against him, and moves to file his answer out of time, without prejudice to any of the parties, pursuant to Fed.R.Civ.P. 6(b).

In light of defendant's response to plaintiff's motion, and in accordance with Rule 6(b), the Court finds no prejudice or delay will be caused by the granting of an extension to defendant Ezell. Accordingly,

IT IS, THEREFORE, ORDERED that plaintiff's motion for a default judgment against defendant Ezell (Doc. No. 51) is hereby DENIED.

IT IS FURTHER ORDERED that defendant Ezell's motion for leave to file his answer out of time (Doc. No. 56) is hereby GRANTED.

IT IS SO ORDERED this 3rd day of May, 2010.



UNITED STATES MAGISTRATE JUDGE