

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

HILLIARD NELSON  
ADC #95169

PLAINTIFF

V.

5:09CV00396 SWW/JTR

SKIPPY LEEK,  
Desha County Circuit Court Clerk

DEFENDANT

**ORDER**

The Court has reviewed the Proposed Findings and Recommended Partial Disposition submitted by United States Magistrate Judge J. Thomas Ray and the filed objections.<sup>1</sup> After carefully considering these documents and making a *de novo* review of the record in this case, the Court concludes that as plaintiff points out, his motion for declaratory judgment addressed only defendant Glover, not defendant Leek.<sup>2</sup> Because the Court dismissed plaintiff's claims against Judge Glover prior to service of the complaint, he is not in default for failure to answer the complaint.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Declaratory Judgment (docket entry #14), which has been construed as a Motion for Default Judgment, is DENIED.
2. The Court CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

Dated this 20<sup>th</sup> day of April, 2010.

/s/Susan Webber Wright  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>The Court considers plaintiff's reply to the response [docket entry 18] as his objections to the proposed findings and recommendation.

<sup>2</sup>Defendant Leek filed a response to the motion for declaratory judgment [docket entry 15].