

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

CLAYTON LAMONT VANN,
ADC # 108062

PLAINTIFF

V.

5:14CV00118 KGB/JTR

MICHELINE OLSON, APN,
Varner Unit, ADC, et al.

DEFENDANTS

ORDER

Plaintiff, Clayton Lamont Vann, is an inmate of the Varner Unit of the Arkansas Department of Correction (“ADC”). Pending before the Court is his Motion for Default Judgment against all Defendants. *Doc. 24*. Defendants have responded and Plaintiff has replied. *Docs. 25 & 27*.

Pursuant to his Motion, Plaintiff argues that default judgment should be entered against all Defendants due to their failure to answer his Complaint within the time afforded by the Federal Rules of Civil Procedure. *Doc. 24 at 1*. All Defendants were served on May 13, 2014. *Docs. 14-17*. An Answer was filed on behalf of all Defendants on May 29, 2014. *Doc. 19*. The Federal Rules of Civil Procedure permit a defendant twenty-one (21) days to serve an answer after being served with the summons and complaint. FED. R. CIV. P. 12(a)(1)(A)(i). Accordingly, Defendants

have filed a timely answer with the Court.

Defendants admit, however, that a clerical error - namely a failure to include Plaintiff's correct ADC Number in either the Answer's caption or certificate of service - likely contributed to his failure to receive a timely copy of that Answer. *Doc. 25 ¶ 3*. Defendants note that they have since mailed Plaintiff a corrected copy. *Id. at ¶ 5*. For his part, Plaintiff rejects this contention and argues that, if Defendants' explanation were true, he would have received a "return mail notice" from the prison mail room supervisor. *Doc. 27 at 1-2*.

The Court finds it appropriate to deny Plaintiff's Motion at this time. Defendants' Answer was timely filed with the Court and, it appears, mailed in a timely fashion to Plaintiff. A clerical error may have prevented timely receipt of the filing, but such an error is not grounds to invoke default judgment against the offender. Moreover, Plaintiff has provided no indication that the delay in receiving Defendants' Answer has in any way prejudiced him.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Motion for Default Judgment (Doc. 24) is DENIED.

Dated this 30th day of July, 2014.



UNITED STATES MAGISTRATE JUDGE