

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

RONALD FAY BROWN

PLAINTIFF

v.

Civil No. 08-2102

CORPORAL HICKS, Sebastian County
Adult Detention Center; and DETECTIVE
SAMSON, Fort Smith Police Department

DEFENDANTS

ORDER

On June 8, 2009, a show cause order (Doc. 24) was issued directing Detective Samson to show cause why default should not be entered against him. On June 15, 2009, he filed his response (Doc. 25). According to the response, Courtney Minton, a customer service assistant for the Fort Smith Police Department, assigned to the information desk, accepted a letter from United States Deputy Marshal Covey addressed to Detective Samson. Minton then placed the letter in Samson's mailbox in the patrol division area. Samson maintains he never received the letter containing the summons and complaint in this case.

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, the court may enlarge the time provided by the rules to, among other things, answer a complaint. If the time provided in the applicable rule, here the 20 days set forth in Rule 12(a)(1)(A) of the Federal of Civil Procedure, has expired, the court may extend the time allowed "where the failure to act was the result of excusable neglect." Fed. R. Civ. P. 6(b). In other words, the court has the authority to allow late filings when the moving party demonstrates excusable neglect.

The court believes Samson should be allowed to file an answer out of time in this case. Accordingly, Samson is given until **July 6, 2009**, to answer the complaint.

IT IS SO ORDERED this 25th day of June 2009.

/s/ J. Marschewski

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE