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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RODNEY LAMONT DOWD,  
Plaintiff,

v.

JAMES YATES, et al.,  
Defendants.

CASE NO. 1:07-cv-01505 OWW DLB PC  
ORDER DENYING MOTION FOR ENTRY OF  
DEFAULT AS PREMATURE  
(Doc. 27)

Plaintiff Rodney Dowd (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action. On March 26, 2009, Plaintiff filed a motion for entry of default against defendants J. Teater, J. Argurraide, M. Jenan, K. Ward, A. Defosses, M. McCollum and S. Meyst. (Doc. 27).

Entry of default is appropriate as to any party against whom a judgment for affirmative relief is sought who has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure and where that fact is made to appear by affidavit or otherwise. Fed. R. Civ. P. 55(a).

Plaintiff attests that defendants were served with the summons and complaint and that a proof of service was filed. A review of the docket indicates that an order directing service on defendants by the United States Marshal was filed on February 10, 2009. The docket does not reflect that defendants have yet been served pursuant to Rule 4(c) and it does not appear that their time to respond has expired. Accordingly, Plaintiff’s motion for entry of default is denied as premature.

IT IS SO ORDERED.

**Dated: March 31, 2009**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE