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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RODNEY LAMONT DOWD,

Plaintiff,

v.

J. TEATER, et al.,

Defendants.

Case No. 1:07-cv-01505-OWW-DLB (PC)

ORDER DENYING MOTION FOR ENTRY OF DEFAULT JUDGMENT

(Doc. 52)

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Plaintiff Rodney Lamont Dowd (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. This action is proceeding against defendants S. Meyst, J. Teater, J. Argurraide, M. Jenan, K. Ward, A. Defosses, and M. McCollum for violation of the Eighth Amendment. (Docs. 18, 20.) On August 10, 2009, Plaintiff filed a motion for entry of default judgment against defendants Meyst and Argurraide. (Doc. 52.)

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).

A review of the Court docket indicates that service was never effected upon defendants Argurraide or Meyst. (Docs. 29, 37). Therefore, plaintiff’s motion for entry of default and default judgment are premature and DENIED without prejudice.

IT IS SO ORDERED.

Dated: November 16, 2009

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE