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

MAXIMILLIAN MONCLOVA-CHAVEZ,)	Case No.: 1:08-cv-00076-AWI-BAM
Plaintiff,)	
v.)	ORDER DENYING PLAINTIFF'S MOTION FOR
)	ORDER TO CLERK TO RE-ENTER DEFAULT
ERIC McEACHERN, et al.,)	AGAINST DEFENDANT McEACHERN
Defendants.)	
)	
)	
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)	

Plaintiff Maximilian Monclova-Chavez is a federal prisoner proceeding in this civil rights action filed pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971) against Defendants Miller, White, McEachern and Tincher. Following dismissal of Defendants Miller, White and Tincher, Defendant McEachern is the only remaining defendant in this action. (ECF Nos. 168, 172.) The Clerk of the Court entered default against Defendant McEachern on December 8, 2010. (ECF No. 72.) On September 6, 2013, the Court directed Plaintiff to file any motion for default judgment against Defendant McEachern or, alternatively, seek his dismissal within sixty (60) days. (ECF No. 175.)

On October 10, 2013, Plaintiff filed the instant motion requesting an order directing the clerk to re-enter default against Defendant McEachern. In making such a request, Plaintiff notes that the Clerk of the Court entered default against Defendant McEachern on August 23, 2010, but vacated that entry on August 24, 2010. (ECF Nos. 56, 57.) Plaintiff now asks that the Court order the Clerk of the

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Court to re-enter default against Defendant McEachern, which will allow Plaintiff to file a motion for default judgment in compliance with the Court's September 6, 2013 order.

Plaintiff's request is unnecessary. The Clerk of the Court entered Defendant McEachern's default on December 8, 2010. (ECF No. 72.) That entry has not been vacated and the Court finds no other basis requiring the re-entry of default. Accordingly, Plaintiff's motion for an order directing the Clerk of Court to re-enter default against Defendant McEachern is DENIED.

IT IS SO ORDERED.

Dated: October 15, 2013

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE