

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT JAMES DIXON,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:09-CV-00657-AWI-DLB PC

ORDER DENYING REQUEST FOR ENTRY
OF DEFAULT

(DOC. 21)

Plaintiff Robert James Dixon ("Plaintiff") is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's first amended complaint, filed October 15, 2009, against Defendants J. Diep and F. Igbinosa. Pending before the Court is Plaintiff's request for entry of default, filed September 8, 2010.

Plaintiff contends that Defendant J. Diep has failed to answer or otherwise respond to Plaintiff's complaint, and requests an entry of default accordingly. Plaintiff is correct that Defendant J. Diep has not responded. However, Plaintiff is incorrect when he asserts that Defendant J. Diep has been served. As indicated on the USM-285 service form returned to the Court, Defendant J. Diep was not served. (Doc. 19.) Thus, entry of default against Defendant Diep at this time is premature as he is not yet a party to this action. Accordingly, it is HEREBY ORDERED that Plaintiff's request for entry of default, filed September 8, 2010, is DENIED.

IT IS SO ORDERED.

Dated: September 10, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE