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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TIMOTHY BERTRAM,

CASE NO. 1:10-cv-00583-GBC (PC)

Plaintiff,

ORDER DENYING PLAINTIFF'S MOTIONS
FOR ENTRY OF DEFAULT

v.

(ECF No. 24)

J. HEINZLER, et al.,

Defendants.

/

ORDER

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Timothy Bertram, a state prisoner proceeding pro se and in forma pauperis. Plaintiff filed a request for Entry of Default on June 17, 2011. (ECF No. 24.) On June 10, 2011, Defendants Sizelove and Heinzler filed a Motion for Extension of Time, which was granted. (ECF Nos. 22 & 23.)

Default judgment is ordinarily disfavored, and cases should be decided on their merits whenever reasonably possible. Westchester Fire Ins. Co. v. Mendez, 585 F.3d 1183, 1189 (9th Cir. 2007); Eitel v. McCool, 782 F.2d 1470 (9th Cir. 1986). The decision to enter default judgment is within the discretion of the court, and factors which may be considered include (1) the possibility of prejudice to the plaintiff, (2) the merits of the plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action, (5) the possibility of a dispute concerning material facts, (6) whether the

1 default was due to excusable neglect, and (7) the strong policy favoring decisions on the
2 merits. Eitel, 782 F.2d at 1471-72 (quotations omitted).

3 Being that Defendants have appeared, have been granted an extension of time to
4 file a responsive pleading, and the strong policy that cases should be resolved on the
5 merits whenever possible, it is HEREBY ORDERED that:

6 1. Plaintiff's request for entry of default, filed June 17, 2011, is DENIED.
7 IT IS SO ORDERED.

8 Dated: June 24, 2011


UNITED STATES MAGISTRATE JUDGE

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