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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOWELL FINLEY,

Plaintiff,

v.

A. D. OLIVE, et al.,

Defendants.

CASE NO. 1:10-cv-00778-LJO-BAM PC

ORDER DENYING PLAINTIFF’S MOTION FOR ENTRY OF DEFAULT

(ECF No. 46)

Plaintiff Jowell Finley (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Following the revocation of Plaintiff’s in forma pauperis status, the filing fee was paid, and Defendants Olive and Pena were ordered to file a responsive pleading on October 18, 2011. Defendants filed an answer on November 7, 2011. On November 18, 2011, Plaintiff filed a request for the entry of default.

Entry of default is appropriate as to any party against whom a judgment for affirmative relief is sought that 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). Since Defendants have filed an answer, they have not failed to plead or defend as Plaintiff states in his motion. Accordingly, it is HEREBY ORDERED that Plaintiff’s motion for entry of default is DENIED.

IT IS SO ORDERED.

Dated: November 22, 2011

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE