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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JEROME A. PORTER-BEY,  
Plaintiff,

CASE NO. 1:10-cv-891-LJO-MJS (PC)

v.

ORDER DENYING REQUEST FOR ENTRY  
OF DEFAULT

HARLEY G. LAPPIN, et al.,  
Defendants.

(ECF No. 13)

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Plaintiff Jerome A. Porter-Bey ("Plaintiff") is a federal prisoner proceeding pro se and in forma pauperis in this Bivens action. On August 12, 2010, Plaintiff filed a document entitled "Affidavit: Statement of Undisputable Material Facts: Pursuant to Fed. R. Civ. P. 55(a)." (ECF No. 13.) The Court construes this filing as a request to enter default against the Defendants based on their failure to plead or otherwise defend against this action.

As Plaintiff was informed in the New Case Documents issued by the Court on May 18, 2010 (ECF No. 6), the Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). Because of its large caseload, the Court has yet to screen Plaintiff's Complaint.

The Court will screen Plaintiff's Complaint in due course. The Court will direct the

1 United States Marshal to serve Plaintiff's Complaint only after the Court has screened the  
2 Complaint and determined that it contains cognizable claims for relief against the named  
3 Defendants. Defendants are required to answer or otherwise defend against Plaintiff's  
4 Complaint only after they have been properly served. Fed. R. Civ. P. 12. The default  
5 provisions of Rule 55(a) are not implicated until after service has occurred.

6 Accordingly, Plaintiff's request to enter default (ECF No. 13) is DENIED.

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11 IT IS SO ORDERED.

12 Dated: August 24, 2010

*/s/ Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE