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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TIMOTHY HOWARD,

Plaintiff,

vs.

C. GONZALES,

Defendant.

) 1:12cv00487 LJO DLB PC
)
) ORDER DENYING PLAINTIFF’S
) MOTIONS FOR ENTRY OF DEFAULT
) JUDGMENT
)
) (Documents 33 and 34)
)
)
)

Plaintiff Timothy Howard (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action filed on March 30, 2012. This action is proceeding against Defendant Gonzales for violation of the First and Eighth Amendments.

On March 19, 2013, the Court ordered the United States Marshal to serve Defendant.

On February 7, 2014, the United States Marshal filed a proof of service indicating that Defendant was served personally.

On May 1, 2014, Plaintiff filed a motion requesting that the Court order Defendant Gonzales to file an answer. On May 9, 2014, the Court granted the motion in part. Instead of ordering Defendant to answer the complaint, the Court issued an order to show cause why default should not be entered.

1 On May 22, 2014, Defendant filed an answer along with a declaration. In her
2 declaration, Defendant stated that she was not aware of the action until May 14, 2014, and had
3 not been served either personally or by mail. Therefore, on May 23, 2014, the Court discharged
4 the order to show cause.

5 On June 6, 2014, Plaintiff filed a motion for reconsideration of the Court's May 23, 2014,
6 order discharging the order to show cause. The motion has been denied by separate order.

7 Also on June 6, 2014, Plaintiff filed requests for entry of default judgment. The requests
8 assume that the Clerk of the Court has already entered default. However, as explained above, the
9 Court has denied Plaintiff's request for reconsideration and this action will proceed on the
10 merits. Therefore, default has not been entered and Plaintiff's request for entry of default
11 judgment is procedurally improper.

12 Accordingly, Plaintiff's motions are DENIED.

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15 IT IS SO ORDERED.

16 Dated: July 3, 2014

17 /s/ Dennis L. Beck
18 UNITED STATES MAGISTRATE JUDGE