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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARQUES BUTLER,)	Case No.: 1:12-cv-1538-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S REQUEST
v.)	FOR ENTRY OF DEFAULT AGAINST
)	DEFENDANT WERN
R. WERN, et al.,)	
)	[ECF No. 24]
Defendants.)	
)	
)	

Plaintiff Marques Butler is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Now pending before the Court is Plaintiff’s second request for entry of default as to Defendant Wern. Plaintiff previously filed requested entry of default against Defendant Wern, which was denied on August 1, 2014. (ECF Nos. 19, 20.)

In support of his present request for entry of default, Plaintiff attaches the USM-285 forms for service of process on Defendants Montano and Stratton, and contends that Defendant Wern has failed to timely respond to his complaint.

As with Plaintiff’s prior request, he is presently not entitled to entry of default against Defendant Wern because the United States Marshal is currently in the process of serving Defendant Wern by way of personal service, and there is no evidence in the record that service has been effected, triggering Defendant’s legal obligation to respond to Plaintiff’s complaint. Fed. R. Civ. P. 4(d), (e);

1 Fed. R. Civ. P. 55(a). Accordingly, Plaintiff's request for entry of default is premature and is therefore
2 DENIED.

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4 IT IS SO ORDERED.

5 Dated: November 14, 2014



UNITED STATES MAGISTRATE JUDGE

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