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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 PERRY WASHINGTON, et al,

12 Plaintiffs,

13 v.

14 FRESNO COUNTY SHERIFF, et al.,

15 Defendants.  
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Case No. 1:14-cv-00129-AWI-SAB

ORDER REQUIRING PLAINTIFF TO  
EITHER SHOW CAUSE WHY THIS  
ACTION SHOULD NOT BE DISMISSED  
FOR FAILURE TO PROSECUTE OR A  
MOTION FOR ENTRY OF DEFAULT  
WITHIN THIRTY DAYS

17 This action is proceeding on Plaintiff's first amended complaint against Defendant Tony  
18 Velos for deliberate indifference in violation of the Eighth Amendment and retaliation in  
19 violation of the First Amendment. Defendant Velos filed a waiver of service of summons on  
20 April 13, 2015 and his answer to Plaintiff's first amended complaint was due within sixty days of  
21 March 20, 2015. (ECF No. 65.)

22 As of this date, Defendant Velos has not filed an answer or other pleading responsive to  
23 the first amended complaint, nor has Plaintiff filed a motion for entry of default pursuant to  
24 Federal Rule of Civil Procedure 55.<sup>1</sup>  
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26 <sup>1</sup> **Error! Main Document Only.** Pursuant to Federal Rules of Civil Procedure 55, obtaining a default judgment is a  
27 two step process. Yue v. Storage Technology Corp., No. 3:07-cv-05850, 2008 WL 361142, \*2 (N.D.Cal. Feb, 11,  
28 2008). 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). After entry of default, the plaintiff can seek entry of  
default judgment. Fed. R. Civ. P. 55(b)(1) and (2). "Default judgments are generally disfavored, and whenever it is

1           Within thirty days from the date of service of this order, Plaintiff shall either show cause  
2 why this action should not be dismissed for Plaintiff's failure to prosecute or file a motion for  
3 entry of default.

4           Accordingly, IT IS HEREBY ORDERED that:

- 5           1.       Within thirty days from the date of service of this order, Plaintiff shall file a  
6                   written response to the Court, showing cause why this action should not be  
7                   dismissed for Plaintiff's failure to prosecute or a motion for entry of default;
- 8           2.       The Clerk's Office is directed to serve a courtesy copy of this order on Fresno  
9                   County Counsel, 2220 Tulare Street, Suite 1000, Fresno, California 93721; and
- 10          3.       Plaintiff's failure to comply with this order shall result in a recommendation that  
11                   this action be dismissed for failure to prosecute.

12 IT IS SO ORDERED.

13 Dated: May 28, 2015

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16 UNITED STATES MAGISTRATE JUDGE

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28 reasonably possible, cases should be decided upon their merits.” In re Hammer, 940 F.2d 524, (9th Cir. 1991)  
(internal punctuation and citations omitted).