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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KENNETH ARDELL SMITH,)	1:14-cv-00805-BAM
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
)	FOR DEFAULT AND DEFAULT
v.)	JUDGMENT AS PREMATURE
)	
CDC CORCORAN STATE PRISON,)	(ECF No. 9)
)	
Defendant.)	
)	
)	
)	

Plaintiff Kenneth Ardell Smith (“Plaintiff”) is a former state proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on May 27, 2014.

On November 5, 2014, Plaintiff filed an untitled document. Although not entirely clear, it appears that Plaintiff is claiming that the defendant, CDC Corcoran State Prison, has defaulted and that Plaintiff should be sent money. (ECF No. 9.) The Court construes the document as a motion for entry of default and default judgment against Defendant CDC Corcoran State Prison for failure to plead or otherwise defend this action.

Plaintiff’s motion for default and default judgment is premature and shall be denied without prejudice. The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity and/or against an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Plaintiff’s complaint, or any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim upon which relief may be

1 granted, or if it seeks monetary relief from a defendant who is immune from such relief. 28
2 U.S.C. § 1915A(b)(1), (2); 28 U.S.C. § 1915(e)(2)(B)(ii). The Court will direct the United States
3 Marshal to serve Plaintiff's complaint only after the Court has screened the complaint and
4 determined that it contains a cognizable claim for relief against the named defendant. Plaintiff's
5 complaint is currently in the screening stage and has not been served on any defendant.
6 Accordingly, Plaintiff's motion for entry of default and default judgment is HEREBY DENIED,
7 without prejudice, as premature.
8 IT IS SO ORDERED.

9 Dated: November 6, 2014

/s/ Barbara A. McAuliffe
10 UNITED STATES MAGISTRATE JUDGE
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