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

GLENN S. MARTINEZ-CASTRO,  
Plaintiff,  
v.  
C/O ELIAS,  
Defendant.

Case No. 1:14-cv-01326-BAM-PC  
ORDER DENYING PLAINTIFF’S  
REQUEST FOR ENTRY OF DEFAULT  
(ECF NO. 41)

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

On February 8, 2016, Plaintiff filed a request for entry of default against Defendant Elias. On February 9, 2016, Defendant Elias filed an answer to the complaint.

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 reasonably possible, cases should be decided upon their merits.” In re Hammer, 940 F.2d 524, 525 (9th Cir. 1991) (internal punctuation and citations omitted).

Entry of default is not appropriate here. The answer was due 60 days from the date of

1 service on December 11, 2015. The answer filed on February 9, 2016 is timely. Accordingly, IT  
2 IS HEREBY ORDERED that Plaintiff's request for entry of default is denied.

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4 IT IS SO ORDERED.

5 Dated: February 16, 2016

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE

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