UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

SHAUNTAE TAYLOR,) Case No.: 1:16-cv-00698-LJO-SAB (PC)
Plaintiff,	ORDER DENYING PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT
v. C/O J. GREGORY,) [ECF No. 44]
Defendant.))
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Plaintiff Shauntae Taylor is proceeding pro se in this civil rights action pursuant to 28 U.S.C. § 1983. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

On September 18, 2017 a settlement conference was held in this matter before Magistrate Judge Barbara A. McAuliffe, at which this case settled. (ECF No. 32.) On September 20, 2017, a joint stipulation for dismissal with prejudice was filed, (ECF No. 34), and on September 21, 2017, this case was closed, (ECF No. 35).

Currently before the Court is Plaintiff's motion seeking entry of default, filed on March 16, 2018. (ECF No. 44.) On April 10, 2018, the Court ordered Defendant to respond to Plaintiff's motion. (ECF No. 45.) On April 20, 2018, Defendant responded to the motion. (ECF No. 46.) On May 3, 2018, Plaintiff filed a reply to the response. (ECF No. 47.)

Rule 55(a) of the Federal Rules of Civil Procedure requires the Clerk of the Court to enter default "when a party against whom a judgment for affirmative relief is sought has failed to plead or

otherwise defend, and that failure is shown by affidavit or otherwise." Fed. R. Civ. P. 55(a). There is no failure to defend in this action, and therefore Plaintiff's request for entry of default shall be denied.

Further, according to Plaintiff's reply, he seeks entry of default based on his current dissatisfaction with property he received as part of the settlement in this case. (ECF No. 47.) However, earlier in this case, defense counsel submitted documentation showing that Plaintiff agreed to accept the property, including a true copy of Plaintiff's updated property card as of November 17, 2017 denoting the items received and his signature accepting those items. (ECF No. 42.) Plaintiff has not refuted that he accepted the property.

Accordingly, Plaintiff's request for entry of default, filed on March 16, 2018 (ECF No. 44) is HEREBY DENIED.

IT IS SO ORDERED.

Dated: **May 14, 2018**

UNITED STATES MAGISTRATE JUDGE

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