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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRAYVONE SMITH,
Plaintiff,
v.
EMMANUEL J. FANTONE and
JASWANT KHOKHAR,
Defendants.

Case No. 1:16-cv-01179-EPG (PC)
ORDER DISCHARGING ORDER TO
SHOW CAUSE
(ECF NO. 18)
ORDER DIRECTING CLERK TO ENTER
DEFAULTS AND SERVE A COPY OF THIS
ORDER AND PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT ON SUPERVISING
DEPUTY ATTORNEY GENERAL MONICA
ANDERSON

Trayvone Smith ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983.

Both defendants in this case have executed a waiver of service of summons. (ECF Nos. 16 & 17). Both defendants have failed to file a responsive pleading within the time period laid out in the waivers. (Id.).

Because Plaintiff had not moved for a default judgment or otherwise attempted to prosecute this case after Defendants' failure to file responsive pleadings, the Court ordered Plaintiff to show cause why this case should not be dismissed, without prejudice, for failure to prosecute. (ECF No. 18). The Court noted that if Plaintiff began going through the appropriate procedure to get a default judgment, the Court would vacate the order to show cause. (Id.).

On August 21, 2017, Plaintiff filed a motion for default judgment. (ECF No. 19). Accordingly, the Court will vacate its order to show cause.

Additionally, the Court construes the motion as asking that the defaults of defendants

1 Emmanuel J. Fantone and Jaswant Khokhar be entered.¹ Because both defendants executed
2 waivers of service but have failed to plead or otherwise defend this case, the Court will grant
3 this request and direct the Clerk of Court to enter the defaults of defendants Emmanuel J.
4 Fantone and Jaswant Khokhar. Fed. R. Civ. P. 55(a).

5 Accordingly, based on the foregoing, it is HEREBY ORDERED that:

- 6 1. The order to show cause entered on August 7, 2017 (ECF No. 18), is
7 DISCHARGED;
- 8 2. The Clerk of Court is directed to enter the defaults of defendants Emmanuel J.
9 Fantone and Jaswant Khokhar; and
- 10 3. The Clerk of Court is directed to serve a copy of this order and Plaintiff's
11 motion for default judgment (ECF No. 19) on Supervising Deputy Attorney
12 General Monica Anderson.

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14 IT IS SO ORDERED.

15 Dated: August 28, 2017

16 /s/ Eric P. Grogan
17 UNITED STATES MAGISTRATE JUDGE
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28 ¹ Plaintiff erroneously states that default has already been entered. (ECF No. 19, p. 1).