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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TONY ASBERRY,  
Plaintiff,  
v.  
C. RELEVANTE, et al.,  
Defendants.

Case No. 1:16-cv-01741-DAD-MJS (PC)  
**ORDER DENYING REQUEST FOR ENTRY  
OF DEFAULT AND MOTION FOR DEFAULT  
JUDGMENT AS TO DEFENDANTS FERRIS  
AND GODFREY**  
**(ECF NOS. 58, 59)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds on the following claims: an Eighth Amendment claim for deliberate indifference to a serious medical need against defendants Lozovoy and Relevante, an Eighth Amendment conditions of confinement claim against defendants Ferris and Godfrey, and a First Amendment retaliation claim against defendants Ferris and Godfrey.

On August 17, 2017, Defendants Ferris and Godfrey timely answered the complaint. (ECF Nos. 35, 49.) On August 24, and August 25, 2017, respectively, Plaintiff

1 moved for entry of default and for default judgment as to these Defendants. (ECF Nos.  
2 58, 59.)

3 Federal Rule of Civil Procedure 55(a) requires the Clerk of Court to enter default  
4 against a party when that party has “failed to plead or otherwise defend, and that failure  
5 is shown by affidavit or otherwise.” Once default has been entered, the Plaintiff may  
6 move for the entry of default judgment. Fed. R. Civ. P. 55(b)(2). Here, Defendants Ferris  
7 and Godfrey timely responded to Plaintiff’s complaint, and there is no basis for entering  
8 default against them.

9 Accordingly, Plaintiff’s request for entry of default and motion for default judgment  
10 are HEREBY DENIED.

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12 IT IS SO ORDERED.

13 Dated: September 12, 2017

*/s/ Michael J. Seng*  
14 UNITED STATES MAGISTRATE JUDGE

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