1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 REBIO RONNIE TOWNSEND, Case No. 1:19-cv-01054-NONE-BAM (PC) 12 Plaintiff. ORDER DISCHARGING ORDER REOUIRING DEFENDANT HEMELA TO 13 SHOW CAUSE WHY DEFAULT SHOULD v. NOT BE ENTERED 14 HEMELA, et al., (ECF No. 21) 15 Defendants. 16 17 Plaintiff Rebio Ronnie Townsend ("Plaintiff") is a civil detainee proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983. Plaintiff is being detained 18 pursuant to California's Mentally Disordered Offender ("MDO") law, California Penal Code 19 20 §§ 2970, et seq. Individuals detained under the MDO law are considered civil detainees and are 21 not prisoners within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 22 1136, 1140 (9th Cir. 2000). This action proceeds against Defendants Hemela, Kilcrease, and Gill for the claim that the manner by which Plaintiff's forced medication has been carried out is in 23 violation of the Fourteenth Amendment. 24 On March 18, 2020, the Court ordered the United States Marshal to initiate service of 25 26 process on Defendants Hemela, Kilcrease, and Gill. (ECF No. 16.) In response to the complaint, 27 both Defendants Gill and Kilcrease have filed motions to dismiss. (ECF No. 21, 26.) 28 ///

Defendant Hemela was personally served at a residential address in Thousand Oaks, California on July 9, 2020. (ECF No. 27.) After the deadline for Defendant Hemela to file a response to the complaint had expired, the Court issued an order for Defendant Hemela to show cause why default should not be entered against her and extended the deadline for Defendant Hemela to respond to the complaint. (ECF No. 28.)

On September 8, 2020, Defendant Hemela filed an answer to the complaint, a response to the order to show cause, and a declaration in support of her response. (ECF Nos. 31, 32, 33.) In her response, Defendant Hemela states that her failure to timely respond was not intentional, but due to a lack of understanding regarding the importance of the paperwork and the associated deadlines. Defendant Hemela attempted to contact a former colleague regarding what response was necessary, but did not receive a response until after receiving the Court's August 7, 2020 order to show cause. Upon receiving the Court's order to show cause, Defendant Hemela again reached out to her former colleagues and was eventually put in contact with her former employer's legal department, who arranged for her current legal representation. (ECF Nos. 32, 33.) Further, Defendant Hemela argues that Plaintiff will not be prejudiced by allowing her to respond to the complaint because the delay has been short, and it will avoid proceedings seeking to set aside the default. Finally, Defendant Hemela states that she has a meritorious defense to Plaintiff's claims, which she should be allowed to present to the Court. (ECF No. 32.)

Based on the prompt filing of the answer to the complaint in response to the order to show cause and the assertion that Defendant Hemela has meritorious defenses to Plaintiff's claims, the Court finds that Defendant Hemela has demonstrated an intent to defend the suit on its merits. The Court can discern no prejudice to Plaintiff as a result of the brief delay, particularly in light of the motions to dismiss filed by Defendants Gill and Kilcrease and Plaintiff's failure to respond as of the date of this order.¹

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¹ On September 3, 2020, the Court issued an order for Plaintiff to respond to the motions to dismiss within twenty-one days. (ECF No. 30.) Plaintiff's oppositions or statements of non-opposition are currently due on or before October 6, 2020. (Id.)

Accordingly, the Court's August 7, 2020 order requiring Defendant Hemela to show cause why default should not be entered, (ECF No. 28), is HEREBY DISCHARGED. The Court will issue a Discovery and Scheduling Order, if necessary, following resolution of Defendants Gill and Kilcrease's motions to dismiss. IT IS SO ORDERED. Dated: September 11, 2020