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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LACEDRIC W. JOHNSON,

Plaintiff,

No. 2:08-cv-1609 KJM KJN P

vs.

D.K. SISTO, et al.,

Defendants.

ORDER

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding without counsel. On June 20, 2011, plaintiff filed a motion for default judgment against defendant A. Noriega. (Dkt. No. 97.) However, plaintiff's motion is premature and is denied. A person by the name of Alfred Noriega signed the waiver of service form on May 20, 2011. (Dkt. No. 92.) The waiver permits a defendant sixty days in which to file a responsive pleading. Sixty days have not yet passed. Therefore, plaintiff's motion is premature. Moreover, Alfred Noriega included a letter stating he has never been employed by the State of California or in any law enforcement or correction agency, and has no affiliation with the plaintiff or the individuals listed in plaintiff's second amended complaint. In his motion, plaintiff alleges defendant A. Noriega has attempted to commit fraud upon the court based upon this letter, but fails to explain how this letter is fraudulent.

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IT IS HEREBY ORDERED that plaintiff's June 20, 2011 motion for default judgment (dkt. no. 97) is denied without prejudice.

DATED: June 24, 2011

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

john1609.def