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

TONY ASBERRY,

Plaintiff,

No. 2: 11-cv-2462 KJM KJN P

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER

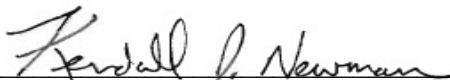
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Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s July 23, 2012 request for permission to file a motion for default judgment (Dkt. No. 57), which the court construes as a motion for entry of default. See Fed. R. Civ. P. 55(a). In this motion, plaintiff alleges that defendants have not filed a timely response to his third amended complaint.

On July 23, 2012, defendants Virga, Phelps, McCarvel, Bobbala, Nangalama, Wedell and Ali were granted thirty days to file a response to plaintiff’s Eighth Amendment and state law claims contained in the third amended complaint. (Dkt. No. 55.) In the July 23, 2012 order, the court also ordered service of defendants Elton, Dhillon, Duc and Chin. (Id.) Thirty days have not passed since July 23, 2012, and defendants Elton, Dhillon, Duc and Chin have not been served. For these reasons, defendants are not in default.

1 Accordingly, IT IS HEREBY ORDERED that plaintiff's request to file a motion
2 for default judgment (Dkt. No. 57), construed as a request for entry of default, is denied.

3 DATED: August 10, 2012

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6 KENDALL J. NEWMAN
7 UNITED STATES MAGISTRATE JUDGE

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