

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALONZO JAMES JOSEPH,
Plaintiff,
v.
T. PARCIASEPE, et al.,
Defendants.

No. 2:14-cv-0414 GEB AC P

ORDER

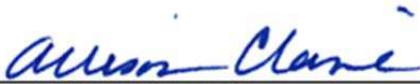
Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has filed a motion for default judgment. ECF No. 16.

In his motion for default judgment, plaintiff asserts that defendants were required to respond to the second amended complaint within thirty days of the filing of the court’s June 23, 2015 order and findings and recommendations. ECF No. 16. He argues that thirty days have now passed and defendants are in default because they have not filed a response. Id. The June 23, 2015 order and findings and recommendations did not order either defendant to respond to the second amended complaint. ECF No. 14 at 12. The undersigned recommended that if the findings and recommendations were adopted by the district judge, then defendant Parciasepe should be ordered to respond to Counts I and II, in part, within thirty days of the district judge’s adoption of the findings and recommendations and that defendant Knipp be dismissed in his entirety. Id. Since the district judge has not yet adopted the findings and recommendations and

1 ordered defendant Parciasepe to respond to the second amended complaint, Parciasepe is not
2 currently under any obligation to respond. Plaintiff's motion for default judgment therefore is
3 premature. If the findings and recommendations are adopted in full, defendant Knipp will have
4 no obligation to respond because all claims against him will be dismissed in their entirety. Id.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for default judgment
6 (ECF No. 16) is denied as premature.

7 DATED: August 5, 2015

8 
9 _____
10 ALLISON CLAIRE
11 UNITED STATES MAGISTRATE JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28