

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

JORGE A. TORRES, JR.,

Plaintiff,

v.

Case No: 5:16-cv-267-Oc-30PRL

AMY TOOLEY and FLORIDA
DEPARTMENT OF CHILDREN
AND FAMILIES,

Defendants.


ORDER

THIS CAUSE comes before the Court upon Plaintiff Jorge A. Torres's Second Request for Entry of Default against Defendant Amy Tooley (Docs. 20, 21). Under Federal Rule of Civil Procedure 12(a)(1)(A)(i), a defendant must answer a complaint within twenty-one days after being served with the summons or complaint. However, under Rule 12(b)(6), a defendant may file a motion for failure to state a claim upon which relief can be granted and such motion must be filed before a responsive pleading. On May 18, 2016, Defendant Amy Tooley filed a motion to dismiss Plaintiff's complaint, arguing, among other things, that Plaintiff failed to state a claim pursuant to Rule 12(b)(6). (Doc. 17). Accordingly, Defendant Amy Tooley is not yet required to serve a responsive pleading. Plaintiff's motion is premature and should be denied.

Accordingly, it is hereby **ORDERED AND ADJUDGED:**

1. Plaintiff Jorge A. Torres's Request for Entry of Default (Doc. 20) is
DENIED.

DONE and **ORDERED** in Tampa, Florida, this 8th day of June, 2016.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record