

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

ALI TAJ BEY

Plaintiff,

v.

Case No. 8:18-cv-960-T-17AAS

CRAIG ALLEN MYRICK,

Defendant.

ORDER

Ali Taj Bey moves for an entry of clerk’s default under Federal Rule of Civil Procedure 55(a). (Doc. 8). Mr. Bey claims Craig Myrick failed to respond to Mr. Bey’s complaint, which he served on the defendant on April 20, 2018. (Docs. 6, 8).

Under Rule 55(a), when a defendant fails to “plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Fed. R. Civ. P. 55(a). Before directing the clerk to enter a default, however, the court must determine whether the party requesting the default properly served the defendant. *United States v. Donald*, No. 3:09-CV-147-J-32HTS, 2009 WL 1810357, at *1 (M.D. Fla. June 24, 2009) (citations omitted). The requesting party’s proof of service should include enough information to show the opposing party was properly served. 10 James Wm. Moore et al., *Moore’s Federal Practice*, § 4.103 (3d ed. 2017).

Mr. Bey’s proof of service is deficient. In the section indicating how Mr. Myrick was served, server Arquella Howell selected the option for serving an organization. (Doc. 6). But, Mr. Bey sued Mr. Myrick individually. (Doc. 7). Mr. Bey’s proof of service also fails to state where Arquella Howell served Mr. Myrick. (Doc. 6).

Since filing the original complaint, Mr. Bey amended his complaint. (Doc. 7). It does not appear that he served the amended complaint. Amending a complaint does not affect service requirements of the original complaint under Rule 4. *McClenney v. Campellton-Graceville Hosp.*, No. 5:998CV125-SPM, 1999 WL 639815, at *3–4 (N.D. Fla. June 28, 1999) (citations omitted). Mr. Bey must serve both the original complaint and the amended complaint on Mr. Myrick under Federal Rules of Civil Procedure 4(c) and 5(a).

For these reasons, Mr. Bey’s motion for clerk’s default (Doc. 8) is **DENIED without prejudice**. Mr. Bey may amend his proof of service under Federal Rule of Civil Procedure 4(1)(3). Additionally, Mr. Bey must serve Mr. Myrick with the amended complaint.

ORDERED in Tampa, Florida on this 23rd day of May, 2018.



AMANDA ARNOLD SANSONE
United States Magistrate Judge