

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

LEE McDANIEL PARKER,	:	
	:	
Plaintiff,	:	
	:	
VS.	:	NO. 5:15-CV-271-CAR-MSH
	:	
Sheriff DAVID DAVIS, <i>et al.</i> ,	:	
	:	
Defendants.	:	

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**ORDER**

Presently pending before the Court is Plaintiff’s Motion for Default Judgment against Sheriff Donnie Haralson, Sergeant Aikens, and Nurse Susan Doe (ECF No. 82). Plaintiff’s motion is denied.

Rule 55 of the Federal Rules of Civil Procedure provides that when a party “failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” “Prior to obtaining a default judgment, the party seeking judgment must first seek an entry of default.” *Johnson v. Rammage*, 5:06-cv-57-CAR, 2007 WL 2276847 at \*1 (M.D. Ga. Aug. 7, 2007)(citing Fed. R. Civ. P. 55(a)). Plaintiff’s motion for default judgment is thus improper, as he did not first seek a clerk’s entry of default.

The Court finds that default judgment is improper against Sheriff Donnie Haralson and Nurse Susan Doe for the following additional reasons. First, Sheriff Donnie Haralson is no longer a defendant in this matter. In his recast complaint (ECF No. 5),

Plaintiff abandoned his claims against Sheriff Donnie Haralson. Haralson was terminated as a defendant pursuant to the Court's January 5, 2016 Order. Order 1, ECF No. 9. Second, Nurse Susan Doe has not yet been properly served. The United States Marshal's Service ("USMS") attempted personal service on Nurse Susan Doe on April 13, 2016 at her place of employment—the Crisp County Jail. Process Return and Receipt 1, ECF No. 54. Unable to personally serve Nurse Susan Doe, the USMS left a copy of the summons at the jail. Nurse Susan Doe called the USMS to say that she had received the summons (ECF No. 54). However, pursuant to Federal Rule of Civil Procedure 4(e)(2)(B) this is not proper service because the summons and complaint were left at Defendant's place of employment, *not* her "dwelling or usual place of abode[.]" Plaintiff's motion for default judgment is denied on these additional grounds.<sup>1</sup>

SO ORDERED, this 20th day of July, 2017.

/s/ Stephen Hyles  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The Court notes that proper personal service was perfected on Defendant Sergeant Aikens on April 13, 2016 (ECF No. 55).