

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS, SPRINGFIELD DIVISION**

MICHAEL HENRY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21-cv-3244
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendant.)	

OPINION

TOM SCHANZLE-HASKINS, U.S. MAGISTRATE JUDGE:

This matter comes before the Court on Plaintiff Michael Henry’s Motion of Removal of the Magistrate Judge for Ordering the Removal of Proof of Service from the Court Docket and Altering the Docket in Violation of Law (d/e 35) (Motion). For the reasons set forth below, the Motion is DENIED.

This Court must recuse from a case in which his impartiality may be questioned. 28 U.S.C. § 455(a). This Court’s impartiality in this case may not reasonably be questioned. Plaintiff asserts that the Court ordered the removal of Proof of Service on U.S. Attorney John Lausch [4] and the United States [6] from the docket. This is untrue. The Proof of Service

remains on the docket. The Court did not order anything removed from the docket.

Rather, Plaintiff moved for default judgment (d/e 30), and this Court denied the motion for default judgment by Text Order entered January 24, 2022 because Plaintiff did not show that he served either the United States or Lausch in the manner required by the Federal Rules of Civil Procedure. To serve the United States, a plaintiff must: (1) deliver a copy of the summons and complaint, by personal service or registered or certified mail, to the U.S. Attorney for the District in which the case is filed; (2) deliver a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States in Washington, D.C.; and (3) if the action challenges an action of an officer of the United States, must deliver a copy of the summons by registered or certified mail to the officer in question. Fed. R. Civ. P. 4(i)(1). Henry did not file returns of service showing that he delivered a copy of the summons and complaint to the U.S. Attorney for this District, the Central District of Illinois, and he did not file a return of service showing that he delivered a copy to the Attorney General of the United States. He, therefore, did not prove that he properly served the United States, and he was not entitled to a default judgment against the United States.

Henry is suing Defendant Lausch, either in his official or individual capacity, for an act or omission occurring in connection with his duties as an officer of the United States. He therefore must serve the United States in order to serve Lausch properly. Fed. R. Civ. P. 4(i)(2) and (3). Henry, again, has not shown that he has properly served the United States, and so, he has not shown that he has properly served Lausch. The Court again, therefore, properly denied his request for a default judgment against Lausch.

The Court acted properly and did not remove any matter from the docket. The Court sees no basis for the Motion.

THEREFORE, IT IS ORDERED that Plaintiff Michael Henry's Motion of Removal of the Magistrate Judge for Ordering the Removal of Proof of Service from the Court Docket and Altering the Docket in Violation of Law (d/e 35) is DENIED.

ENTER: January 26, 2022

sl Tom Schanzle-Haskins
TOM SCHANZLE-HASKINS
UNITED STATES MAGISTRATE JUDGE