

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RYAN CHEATHAM,)
)
Plaintiff,)
)
v.)
)
ACH, et al.,)
)
Defendants.)
)

Case No. 15-3211-CM

MEMORANDUM AND ORDER

Plaintiff Ryan Cheatham, a prisoner proceeding pro se, brought this action claiming that defendants ignored his mental health needs, violating the Eighth Amendment and plaintiff’s due process rights. The case is now before the court on plaintiff’s Motion for Judgment by Default (Doc. 79) and plaintiff’s Motion for Permission to File Supplemental Motion for Default Judgment (Doc. 84). For the following reasons, the court denies both motions.

In plaintiff’s motion for default judgment, he asks the court to enter default judgment because he claims that defendants have not produced all documents required by the court’s order in Doc. 78. Defendants respond that they have, in fact, produced all documents addressed in the order that are in their possession. Further, plaintiff has not cited any law in support of his position that he is entitled to default judgment.

Plaintiff has not shown that he is entitled to default judgment for any discovery violations. For this reason, the court denies Doc. 79.

Recognizing that he failed to properly support his motion for default judgment, plaintiff filed Doc. 84, seeking leave to file a supplemental motion for default judgment. Defendants also contest

this motion, addressing the attached proposed motion for default judgment motion on its merits (as if leave had already been granted). This argument is essentially one that plaintiff's motion is futile.

The court finds that it would be futile to allow plaintiff to file a second motion for default judgment based on a perceived failure to comply with the court's discovery order. Plaintiff's proposed supplemental motion contains more analysis and legal reasoning than his first motion, but it still does not supply a valid basis for granting default judgment. It appears that defendants have complied with the court's discovery order, so sanctions in the form of default judgment are not warranted. And assuming the documents that plaintiff seeks do not exist, plaintiff has not shown that he is entitled to judgment as a matter of law based solely on the absence of such documents.

IT IS THEREFORE ORDERED that plaintiff's Motion for Judgment by Default (Doc. 79) is denied.

IT IS FURTHER ORDERED that plaintiff's Motion for Permission to File Supplemental Motion for Default Judgment (Doc. 84) is denied.

Dated this 19th day of July, 2017, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge