

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

ROBERT E. CORY,)
Plaintiff,) Civil Action No. 5:11-CV-62-JMH
v.)
ERIC HOLDER,)
Attorney General of the)
United States,)
and) **MEMORANDUM OPINION AND ORDER**
UNITED STATES DEPARTMENT)
OF JUSTICE,)
Federal Bureau of Prisons,)
Defendants.)

** ** * ** *

On September 19, 2011, Plaintiff filed with this Court a Motion for Default Judgment in the above-reference matter. [DE 5]. Although the defendants in this matter have failed to answer Plaintiff's Complaint or to respond to Plaintiff's Motion for Default Judgment, Plaintiff's motion will be denied.

The record demonstrates that Plaintiff served process, by certified mail, on both Eric Holder and the Department of Justice in late February 2011. Federal Rule of Civil Procedure 4(I) sets forth the procedure for serving process upon the United States and its agencies, corporations, officers, and employees. Under this rule, plaintiffs are required not only to serve defendants individually, but they must also serve the United States Attorney

for the district where the action is brought. Fed. R. Civ. P. 4(i)(1)(A). There is no indication in the record that Plaintiff served the United States Attorney or anyone designated by the United States Attorney to receive service on his or her behalf.

As a result, Plaintiff failed to effect service and his Motion for Default Judgment [DE 5] is hereby **DENIED WITHOUT PREJUDICE**. The Court notes that more than 120 days has passed since the filing of Plaintiff's Complaint. See Fed. R. Civ. P. 4(m). Accordingly, the Court hereby **ORDERS** that Plaintiff shall **SHOW CAUSE**, within twenty-one (21) days, why this matter should not be dismissed for failure to prosecute.

This the 7th day of December, 2011.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge