

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES U. PAYNE,

Plaintiff,

Case No. 18-cv-10814

Hon. Linda V. Parker

v.

Mag. Elizabeth A. Stafford

DEPUTY JUSTIN R. SAWYER, et al.,

Defendants.

OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S AUGUST 28, 2018 REPORT AND RECOMMENDATION (ECF NO. 24), DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (ECF NO. 10)

James U. Payne, Plaintiff, proceeding *pro se*, filed this lawsuit under 42 U.S.C. § 1983, alleging violations of his constitutional rights under the Fourth and Fourteenth Amendments. (ECF No. 1.) On April 27, 2018, Plaintiff filed a “letter” with the Court that, in part, sought a default judgment against Defendant Sawyer. (ECF No. 10.) On August 28, 2019, Magistrate Judge Stafford issued a Report and Recommendation (“R&R”) denying Plaintiff’s motion for default judgment because: (1) the usual procedural rules for answering complaints do not apply in § 1983 actions, and (2) since the Court never ordered Defendant Sawyer to answer Plaintiff’s complaint, he had no obligation to file an answer. *Jones v. Bock*, 549 U.S. 199, 200 (2007). Consequently, a default judgment cannot be

granted in Plaintiff's favor. *See Robinson v. Tansel*, No. 2:16-CV-10135, 2017 WL 1963904, at *3 (E.D. Mich. Apr. 26, 2017), *adopted*, 2017 WL 1954533 (E.D. Mich. May 11, 2017). Notably, Plaintiff did not file any objection to Magistrate Judge Stafford's R&R. Accordingly, the Court adopts Magistrate Judge Stafford's August 28, 2018 R&R, denying Plaintiff's motion for default judgment.

Accordingly,

IT IS ORDERED that Plaintiff's motion for default judgment (ECF No. 10) is **DENIED**.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: October 4, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, October 4, 2018, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager