

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

SAMUEL LEWIS TAYLOR, Reg. No. 166914,)	
)	
Plaintiff,)	
)	
v.)	No. 07-4060-CV-C-SOW
)	
ROBYN COMBS, et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff Samuel Lewis Taylor, an inmate confined in a Missouri penal institution, commenced this action under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the jurisdictional statute, 28 U.S.C. § 1343.¹

On November 12, 2008, plaintiff filed a motion for default judgment against defendant Pamela Swartz for failure to plead or otherwise defend, as provided by Federal Rule of Civil Procedure 55. A review of the record clearly shows defendant Swartz is actively defending in this action. Swartz has filed a motion to dismiss and an answer in this case, and there is no indication that she has otherwise failed to defend in this action. There is no basis to merit a default judgment against defendant Pamela Swartz.

IT IS, THEREFORE, RECOMMENDED that plaintiff's motion for default judgment against defendant Pamela Swartz be denied. [83]

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

¹This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 21st day of November, 2008, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge