

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

DYLAN LEE MONROE KLEIN,

Plaintiff,

vs.

CASCADE COUNTY DETENTION
CENTER, PETER MOLNER,
DETENTION CENTER MEDICAL
STAFF, and SGT. GRUBB,

Defendants.

CV-17-00104-GF-BMM-JTJ

ORDER

Plaintiff Dylan Klein filed a Motion for Default arguing that it has been more than 40 days since service of the complaint and Defendants have not responded. (Doc. 6.) Rule 55(a) of the Federal Rules of Civil Procedure provides, “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.”

In this case, there is no indication that the Complaint has been properly served upon Defendants. Because Mr. Klein is proceeding in forma pauperis, “[t]he officers of the court shall issue and serve all process.” 28 U.S.C. § 1915(d). But, as Mr. Klein was previously advised (Doc. 4), pursuant to the federal statutes

governing proceedings in forma pauperis and cases filed by prisoners, federal courts must engage in a preliminary screening of a case to assess the merits of the claims. 28 U.S.C. § 1915(e)(2); 28 U.S.C. § 1915A(a). Accordingly, the Court must identify cognizable claims, or dismiss the complaint, or any portion of the complaint, if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); 28 U.S.C. § 1915A. The Court will not direct service of Mr. Klein's Complaint until the completion of this screening process. (Doc. 4 at 2.)

Because there is no proof of service of the Complaint in this matter, there is no basis for the entry of default or default judgment.

Accordingly, the Court issues the following:

ORDER

Mr. Klein's Motion for Default Judgment (Doc. 9) is DENIED.

DATED this 13th day of December, 2017.

/s/ John Johnston
John Johnston
United States Magistrate Judge