

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

EDWARD BARFIELD,
Plaintiff,

vs.

JOHN DOE, et al.,
Defendants.

Case No. 1:16-cv-1149
Dlott, J.
Litkovitz, M.J.

ORDER

Plaintiff Edward Barfield, an inmate at the Southern Ohio Correction Facility, brings this pro se civil rights action under 42 U.S.C. § 1983. The matter is before the Court on plaintiff's "Motion for Declaration for Entry of Default" filed on April 20, 2017. (Doc. 9). Plaintiff moves for an entry of default against defendants Officer Parish and Sgt. Bare based on defendants' alleged failure to plead or otherwise defend against the complaint. Plaintiff has submitted his "Declaration for Entry of Default" in support of the motion. (*Id.* at 3). Plaintiff asserts in his declaration that the record shows defendants were served with a copy of the summons and complaint on March 10, 2017, and they failed to file an answer or otherwise defend against the complaint within 20 days.

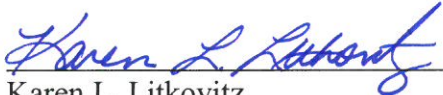
Under Rule 55(a), "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). After the clerk enters the party's default, the plaintiff must move the court for a default judgment under subsection (b)(2). Fed. R. Civ. P. 55(b)(2).

Plaintiff is not entitled to an entry of default against defendants Parish and Bare. Defendants have not failed to plead or otherwise defend this case. Plaintiff filed the original complaint in this action on February 1, 2017. (Doc. 3). Defendants Parish and Bare were served

on April 10, 2017. (Doc. 10). Defendants submitted a motion for extension of time to file an answer to the complaint on May 1, 2017 (Doc. 12), which was within the 21-day period provided under Fed. R. Civ. P. 12(a)(1)(A) for responding to the complaint. The Court granted the motion on May 2, 2017 (Doc. 13), and defendants timely filed their answer to the complaint on May 22, 2017. (Doc. 14). Thus, the record shows defendants are not in default.

It is therefore **ORDERED** that plaintiff's motion for entry of default against defendants Parish and Bare (Doc. 9) is **DENIED**.

Date: 0/9/17


Karen L. Litkovitz
United States Magistrate Judge