

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MARVIN E. MYERS,

Plaintiff,

vs.

Civil Action 2:12-CV-255
Judge Graham
Magistrate Judge King

D. BLACKWELL,

Defendant.

ORDER

On August 16, 2012, the United States Magistrate Judge recommended that plaintiff's motion for entry of defendants' default be denied. *Report and Recommendation*, Doc. No. 28. This matter is now before the Court on plaintiff's objection to that recommendation. *Objection*, Doc. No. 24, 2012.

In recommending that plaintiff's motion be denied, the Magistrate Judge observed, *inter alia*, that certain defendants had forty-five (45) days after service of process to respond to the *Amended Complaint*; because that time had not yet elapsed, those defendants were not in default. Plaintiff objects to that aspect of the *Report and Recommendation*, arguing that all defendants are required to respond within twenty-one (21) days after service of process.

Rule 12(a)(1)(A)(i) of the Federal Rules of Civil Procedure provides that an answer must be filed "within 21 days after being served with the summons and complaint[.]" However, a court has authority to extend that time, for good cause, "with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires[.]" Fed. R. Civ. P. 6(b)(1)(A). In authorizing service of

process by the Marshals Service in this case, the Magistrate Judge extended the time for responding to forty-five (45) days. *Initial Screen of the Complaint*, Doc. No. 4. Because all defendants are employees of the Ohio Department of Rehabilitation and Correction, who are frequently named as defendants in civil litigation initiated by inmates, there is good cause for providing this standard extension. Thus, defendants were not in default for response to the *Amended Complaint* at the time that plaintiff moved for entry of default.

Plaintiff's Objection, Doc. No. 30, is **DENIED**. The August 16, 2012 *Report and Recommendation*, Doc. No. 28, is **ADOPTED AND AFFIRMED**.

Date: August 31, 2012

James L. Graham
United States District Judge