

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

DeMARCO DEON WILLIAMS,

Plaintiff,

vs.

JEFFREY MICHAEL HENDERSON,

Defendants.

Case No.11-CV-469-TCK-FHM

OPINION AND ORDER

Default was entered against Defendant Henderson on February 7, 2013. [Dkt. 50]. Plaintiff's Motion for Default Judgment as to Defendant Henderson, [Dkt. 48], has been referred to the undersigned United States Magistrate Judge for Report and Recommendation.

Upon an entry of default the factual matters plead in the complaint are deemed admitted, except for those related to damages. The court must assess whether the admitted factual matters state a claim for relief and must make a determination of the appropriate measure of damages. See *Mrs. Condie's Salad Co., Inc. v. Colorado Blue Ribbon Foods, LLC.*, 858 F.Supp.2d 1212, 1216 (D.Colo.,2012). To assist in that task, Plaintiff is hereby ordered to file a proposal detailing how Plaintiff believes the undersigned should proceed.

Plaintiff's filing must include the following information: (1) the facts pertaining to Defendant Henderson he believes are deemed admitted by reason of default with reference to the paragraph in the complaint where such facts are alleged; (2) the measure of Plaintiff's claimed damages; (3) a discussion, with citation to authority, of the effect of Plaintiff's conviction on Count 4 for drugs found on October 5, 2004, on Plaintiff's claim for

damages stemming from his incarceration from October 5, 2004 to April 30, 2010; (4) an outline of the evidence Plaintiff plans to adduce to prove damages, including names of any witnesses and a statement of the proposed testimony of each; (5) a statement of how long Plaintiff expects the hearing on damages to take; (6) whether the damages issue should be determined by a jury and the authority therefore; and (7) any other matters Plaintiff considers important for the undersigned to know in making a report and recommendation on the Motion for Default Judgment.

The deadline for filing the aforementioned proposal is May 15, 2013.

SO ORDERED this 18th day of April, 2013.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE