

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

HILTON KARRIEM MINCY,	:	CIVIL ACTION NO. 1:08-CV-0507
	:	
Plaintiff,	:	(Judge Conner)
	:	
v.	:	
	:	
WARDEN DEPARLOS, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 7th day of May, 2010, upon consideration of plaintiff's motion for sanctions (Doc. 55) based upon defendants' failure to cooperate in discovery¹, and it appearing that the only relief sought by plaintiff is an entry of default judgment against defendants² (Doc. 55, at 2, ¶ 14), and it further appearing that entry of judgment by default pursuant to Rule 55(b)(2) is within the discretion of the trial court, Hritz v. Woma Corp., 732 F.2d 1178, 1180 (3d Cir.1984), and that because the United States Court of Appeals for the Third Circuit has emphasized that such

¹ Plaintiff contends that defendants did not cooperate with regard to signing interrogatories and producing documents. With respect to the interrogatories, because plaintiff did not submit a copy of the interrogatories, it is impossible to determine whether the signature affixed thereto complies with Federal Rules of Civil Procedure 33(b)(5). As concerns the production of documents, as pointed out by defendants, at no time did plaintiff move to compel the production of the documents requested. (Doc. 68, at 2.) In any event, defendants represent that the documents have now been produced. (Id. at 3.)

² In his reply brief, he also seeks to bar statements and testimony of "Clerk Braggs, Volunteer Chaplin France, Imam Panthan, and Susan Browning." (Doc. 70, at 3, ¶ 10.) In light of his failure to request this relief in his motion, coupled with the lack of an explanation as to why the statements and testimony of these individuals should be barred, this request for relief will not be considered.

“discretion is not without limits” and has repeatedly stated a preference that “cases be disposed of on the merits whenever practicable,” id. at 1180-81 (citations omitted), it is hereby ORDERED that plaintiff’s motion for sanctions (Doc. 55) in the form of an entry of default judgment is DENIED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge