

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

TIMOTHY C. WATSON,)	
)	
Plaintiff,)	
)	
VS.)	No. 14-1307-JDT-cgc
)	
CORRECTIONS CORPORATION OF)	
AMERICA, ET AL.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION,
GRANTING MOTION TO SET ASIDE DEFAULT JUDGMENT,
DISMISSING COMPLAINT, CERTIFYING AN APPEAL WOULD NOT BE TAKEN
IN GOOD FAITH AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

The *pro se* Plaintiff, Timothy C. Watson, filed a complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1) while he was incarcerated at the Hardeman County Correctional Facility (HCCF). The Court subsequently issued an order dismissing portions of the complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). (ECF No. 6.) The Court also ordered the Clerk to issue process for the remaining Defendant, Alicia Cox, on Plaintiff’s claim that she acted with deliberate indifference to his serious medical needs. (*Id.* at 15-16.) Although Cox was served with the summons and complaint (ECF No. 8), she failed to answer or otherwise respond to the complaint. At the Court’s direction (ECF No. 16), the Clerk entered Cox’s default on the record (ECF No. 17). On September 25, 2017, the Court granted Plaintiff’s motion for default judgment and referred the matter to U.S. Magistrate Judge Charmiane G. Claxton for a Report and Recommendation (R&R) on Plaintiff’s damages, if any. (ECF No. 20.)

On November 20, 2017, Defendant Cox filed a motion to set aside the default judgment. (ECF No. 25.) That motion likewise was referred to the Magistrate Judge for R&R. (ECF No. 27.) Plaintiff did not respond to Defendant's motion to set aside the default judgment; therefore, Magistrate Judge Claxton issued an order directing Plaintiff to show cause why the motion should not be granted. (ECF No. 32.) The show cause order also warned Plaintiff that if he did not comply, it could result in a recommendation that the case be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. (*Id.*)

Plaintiff did not respond to the order to show cause. Consequently, on February 15, 2018, Magistrate Judge Claxton issued an R&R in which she recommended granting Defendant Cox's motion to set aside the default judgment and dismissing the case for failure to prosecute. (ECF No. 34.) Plaintiff filed timely objections on March 5, 2018. (ECF No. 35.)

In Plaintiff's objections, he first argues that the default judgment should be allowed to stand based on Defendant Cox's failure to respond to the complaint.¹ (*Id.*) However, that assertion is non-responsive to the issue of why he failed to respond to Defendant's motion or to the show cause order. Plaintiff then generally asks the Court to take into consideration that he has been "overwhelmed and plagued" by various medical and mental health problems and states that he has been in the hospital and under mental health care. (*Id.*) However, he has not explained specifically how those medical and mental problems prevented him from filing the necessary responses.

¹ Plaintiff also suggests, without any basis whatsoever, that Defendant's counsel, the law firm of Pentecost, Glenn, Mauldin and York, PLLC, "is somewhat responsible for the discharge of the other previously named from this very same 1983 complaint" merely because they have represented the private prison management company that operates the HCCF, Corrections Corporation of America (now known as CoreCivic) in other cases. (*Id.*) That is not the case, as the order of partial dismissal was entered by the Court *sua sponte*. Moreover, Plaintiff's assertion is irrelevant to the issues addressed by the show cause order and the R&R.

The Court finds that Plaintiff's general objections to the Magistrate Judge's conclusion do not warrant rejecting the R&R. Therefore, the R&R is ADOPTED in its entirety. Defendant Cox's motion to set aside the default judgment is GRANTED, and this case is hereby DISMISSED pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the show cause order.

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24 that an appeal in this case by Plaintiff would not be taken in good faith. Leave to appeal *in forma pauperis* is, therefore, DENIED.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE