Brandon v. Allbert et al Doc. 18

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| 06 |  | S DISTRICT COURT                                  |
| 07 | WESTERN DISTRICT OF WASHINGTON<br>AT SEATTLE   |   |
| 08 | MYRON BRANDON,   | ) CASENIO CIO 0200 ICC MAT                        |
| 09 | Plaintiff,   | CASE NO. C10-0360-JCC-MAT                         |
| 10 | v.   | ) ORDER DENYING PLAINTIFF'S                       |
| 11 | SHERYL ALLBERT, et al.,  | ) MOTION FOR DEFAULT<br>) JUDGMENT                |
| 12 | Defendants.  |   |
| 13 |  | )   |
| 14 | This matter comes before the Court on plaintiff's motion for default judgment. The               |   |
| 15 | Court, having considered plaintiff's motion, and the balance of the record, does hereby find and |   |
| 16 | ORDER as follows:  |   |
| 17 | (1) Plaintiff's motion for default   | judgment (Dkt. No. 17) is DENIED. Plaintiff       |
| 18 | asserts in the instant motion that he is entitled to entry of judgment in his favor because      |   |
| 19 | defendants violated this Court's March 23, 2   | 2010 Order directing that they file an answer to  |
| 20 | plaintiff's complaint within 60 days. The red  | cord reflects that Dr. Allbert and Superintendent |
| 21 | Frakes timely filed their answer to plaintiff'   | s complaint on May 19, 2010. (Dkt. No. 13.)       |
| 22 | Plaintiff's motion is therefore moot with respect to these two defendants.                       |   |
|    | ORDER DENYING PLAINTIFF'S<br>MOTION FOR DEFAULT JUDGMENT<br>PAGE -1                              |   |

| 01 | While Dr. Andrews did not file his answer until June 17, 2010 (see Dkt. No. 16), the                 |
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| 02 | record suggests that this delay is likely attributable to the fact that the service address provided |
| 03 | by plaintiff for Dr. Andrews was not current and, thus, Dr. Andrews did not receive the service      |
| 04 | packet mailed by the Court until on or about May 4, 2010 (see Dkt. No. 12). Thus, Dr.                |
| 05 | Andrews' failure to file a timely answer is clearly justified.                                       |
| 06 | (2) The Clerk is directed to send a copy of this Order to plaintiff and to counsel for               |
| 07 | defendants.  |
| 08 | DATED this 22nd day of June, 2010.   |
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| 11 | Mary Alice Theiler United States Magistrate Judge  |
| 12 | Cinica States Magistrate Juage   |
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