

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DOUGLAS K. UHDE,

Plaintiff,

ORDER

v.

03-C-323-C

MARK K. BITSKY, Deputy Sheriff;
GARY A. SILKA, Deputy Sheriff and Detective;
TAMMY L. KROETZ, Deputy Sheriff,
BRIAN EZMAN, Warden Badge Number 211;
MATTHEW SHERD, Police Officer,

Defendants.

Plaintiff has moved pursuant to Fed. R. Civ. P. 55(a) for entry of default against defendants Mark Bitsky, Gary Silka and Tammy Kroetz.

Fed. R. Civ. P. 55(a) states:

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

Defendants Bitsky, Silka and Kroetz filed an answer to plaintiff's complaint on September 5, 2003. The record shows that it was mailed to plaintiff on that same date. Because these defendants have not failed to plead or otherwise defend this lawsuit, there is no basis for

granting plaintiff's motion for entry of default against them.

Accordingly, IT IS ORDERED that plaintiff's motion pursuant to Fed. R. Civ. P. 55(a) for entry of default against defendants Mark Bitsky, Gary Silka and Tammy Kroetz is DENIED.

Entered this 17th day of September, 2003.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge