

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

TONIE CURTIS COTTON,

Plaintiff,

v.

PHIL KINGSTON (Warden);
TIMOTHY DOUMA (Security Director); and
PAT SIEDSCHLAG (Health Services Supervisor),

Defendants.

ORDER

03-C-468-C

Plaintiff has filed two documents titled “Request for Entry of Default,” both of which are supported by a single affidavit (Dkt. #26) setting out the grounds upon which plaintiff believes he is entitled to a ruling in his favor. Although there is no apparent difference between the two “requests,” each request has been docketed separately (Dkt. ## 25 and 27).

Entry of default under Fed. R. Civ. P. 55(a) is appropriate where a defendant who has been served with a complaint fails to plead or otherwise defend against the lawsuit. That is not the case here. Defendants have been diligent in their defense of this action. They answered plaintiff’s complaint on December 1, 2003 and moved for summary judgment on July 22, 2004. As noted in this court’s order entered on August 19, 2004, defendants’

failure to respond to plaintiff's motion for summary judgment appears to have been the fault of the court for failing to establish a briefing schedule on the motion, and not any fault of the defendants. In the order entered on August 18, 2004, I corrected this omission, giving defendants until September 8, 2004, in which to file their materials in opposition to plaintiff's motion.

ORDER

IT IS ORDERED that plaintiff's requests for entry of default are DENIED.

Entered this 23rd day of August, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge