

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

-----  
LEONARD COLLINS,

Plaintiff,

v.

GARY McCAUGHTRY,  
DICK POLINSKE, and  
MOLLY OLSON,

Defendants.

ORDER

04-C-147-C

-----  
On April 22, 2004, I granted plaintiff leave to proceed in forma pauperis on his retaliation claim against defendants Molly Olson and Dick Polinske and a First Amendment free speech claim against defendant Gary McCaughtry. Presently before the court is plaintiff's request for entry of default against the defendants.

Entry of default is appropriate where a defendant has failed to plead or otherwise defend an action. See Fed. R. Civ. P. 55(a). That is not a circumstance present here. Under an agreement entered into between the Wisconsin Department of Justice and the court allowing for informal service of process on Department of Corrections employees in cases filed by pro se prisoners, defendants have 40 days from the date the court mails copies of the

pleadings to the Department of Justice in which to file a responsive pleading. In this case, the pleadings were mailed to the Department of Justice on April 23, 2004. Therefore, defendants have until June 2, 2004, in which to serve an answer. Because the time for defendants to respond to plaintiff's complaint has not yet expired, plaintiff has failed to show that he is entitled to entry of default.

ORDER

IT IS ORDERED that plaintiff's request for entry of default is DENIED.

Entered this 1st day of June, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge