

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA, HUNTINGTON DIVISION

**Tearria and Clinton Simmons, Individuals, their children, A.B.P.,
O.S.S., and R.T.S., by and through their mother, and Billy Lee
Coram, an individual, pro se v. City of Hurricane, a municipality,
Scott Edwards, Mayor of the City of Hurricane, in his individual
capacity, Chief Michael Mullins, Chief of Hurricane Police
Department, in his individual capacity, Corporal Brett Johnson,
Patrolman, W.D. Allen, Patrolman Payton Carr, Sergeant Makenzie
White, Detective Jonathan Payne, and Officer John Does 1-10,
inclusive, in their individual capacities, and Alyson Denison, a worker
for Child Protective Services, in her individual capacity**

Simmons · No. 3:25-00345 · Decided December 8, 2025

SUMMARY

The court grants Alyson Denison’s motion to set aside the entry of default and denies the plaintiffs’ motion for partial default judgment. It holds that service of process was improper because the summons was left with a coworker who was not authorized to accept service, and actual notice did not cure the defect. The court directs Denison’s counsel to facilitate proper service of process.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia, Huntington Division
WRITING FOR THE COURT	Robert C. Chambers
JURISDICTION	United States District Court for the Southern District of West Virginia, Huntington Division
DECIDED	December 8, 2025
DOCKET	3:25-00345
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs objected to a magistrate judge's proposed findings and recommendations concerning Defendant Alyson Denison's motion to

	set aside entry of default and Plaintiffs' motion for partial default judgment and damages. The district court reviewed the pleadings and objections de novo.
STANDARD OF REVIEW	De novo review of the pleadings and Plaintiffs' objections to the magistrate judge's proposed findings and recommendations under 28 U.S.C. § 636(b)(1)(B).
PRECEDENTIAL VALUE	unpublished
PARTIES	Tearria Simmons, Clinton Simmons, A.B.P., O.S.S., and R.T.S., by and through their mother, Billy Lee Coram v. City of Hurricane, Scott Edwards, Chief Michael Mullins, Corporal Brett Johnson, W.D. Allen, Payton Carr, Makenzie White, Jonathan Payne, Officer John Does 1-10, Alyson Denison

TOPICS

service of process personal jurisdiction default default judgment civil procedure

PRACTICE AREAS

civil procedure civil rights personal jurisdiction service of process default judgment

QUESTIONS PRESENTED

1. Whether service of process on Alyson Denison was valid when the United States Marshals Service left her summons with a coworker at her workplace.
2. Whether Denison's actual notice of the lawsuit excused the failure to comply with the service requirements.
3. Whether the entry of default had to be set aside because service was defective.
4. Whether Denison should be granted leave to file an answer or other responsive pleading despite the absence of valid service.

HOLDINGS

1. Leaving Denison's summons with her coworker at her workplace did not satisfy Federal Rule of Civil Procedure 4(e), because the coworker was not shown to be an agent authorized by appointment or law to receive service for Denison.
2. Denison's actual notice of the lawsuit did not cure the failure to comply with the plain requirements governing service of process.
3. Because Denison was not properly served, the entry of default had to be set aside, and Plaintiffs' motion for partial default judgment was denied as moot.
4. Because Denison had not been served, the district court would not grant her leave to file an answer or other responsive pleading; she had no obligation to answer before valid service.

KEY QUOTATIONS

“Before a federal court may exercise personal jurisdiction over a defendant, the procedural requirement of service of summons must be satisfied.” (Analysis, section II)

“But the rules are there to be followed, and plain requirements for the means of effecting service of process may not be ignored.” (Analysis, section III.C)

“Ms. Denison’s actual notice of the lawsuit does not remedy Plaintiff’s failure to properly serve her.”
(Analysis, section III.C)

FACTUAL BACKGROUND

Plaintiffs filed a civil-rights action and were authorized to proceed in forma pauperis, resulting in the United States Marshals Service being tasked with service. A marshal left Defendant Alyson Denison's summons with Chad Blankenship, a CPS supervisor at Denison's workplace, rather than personally serving Denison or serving an authorized agent. Denison learned of the lawsuit but did not file an answer, after which the Clerk entered default. The district court determined that Denison had not been properly served under Federal Rule of Civil Procedure 4(e).

PROCEDURAL HISTORY

After Plaintiffs proceeded in forma pauperis, the United States Marshals Service attempted service on Alyson Denison by leaving the summons with her coworker, CPS Supervisor Chad Blankenship. When Denison did not answer, the Clerk entered default. Denison moved to set aside the default, and the magistrate judge recommended granting that motion, denying Plaintiffs' motion for partial default judgment, and allowing Denison to file a responsive pleading. The district court adopted those recommendations in part, set aside the default, denied the default-judgment motion as moot, declined to grant leave to answer because service had not occurred, and directed Denison's counsel to facilitate proper service.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The Clerk was directed to set aside the entry of default, and Ms. Denison's counsel was directed to contact Plaintiffs and facilitate service of process on Ms. Denison.

CASES CITED

- *Omni Capital International, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987)
- *O.J. Distributing, Inc. v. Hornell Brewing Co.*, 340 F.3d 345, 353 (6th Cir. 2003)
- *Morgan v. Sundance, Inc.*, 596 U.S. 411 (2022)
- *TradeRiver USA, Inc. v. Cubitac Corp.*, Civ. No. 19-2941, 2020 WL 886305, at *3 n.1 (D. Md. Feb. 24, 2020)

- Koehler v. Dodwell, 152 F.3d 304, 306-07 (4th Cir. 1998)
- Freeman v. MML Bay State Life Insurance Co., 445 F. App'x 577 (4th Cir. 2011)
- United States v. De La Fuente, 8 F.3d 1333 (9th Cir. 1993)
- Armco, Inc. v. Penrod-Stauffer Building Systems, Inc., 733 F.2d 1087, 1089 (4th Cir. 1984)
- Combs v. Nick Garin Trucking, 825 F.2d 437, 446 (D.C. Cir. 1987)
- United States v. Mollenhauer Laboratories, Inc., 267 F.2d 260, 262 (7th Cir. 1959)
- State ex rel. Cline v. Mazzone, 697 S.E.2d 132 (W. Va. 2010)

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