

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO, WESTERN DIVISION AT CINCINNATI

Larry O. White Jr. v. ODRC Director, et al.

White · No. 1:24-cv-270 · Decided December 18, 2025

SUMMARY

The United States District Court for the Southern District of Ohio recommends denying Plaintiff Larry O. White Jr.'s motion for default judgment against Institutional Inspector Tad Palmer. The court explains that Plaintiff did not first obtain an entry of default from the Clerk and that Palmer had already obtained leave to answer instanter and filed an answer.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
WRITING FOR THE COURT	Peter B. Silvain, Jr.
JURISDICTION	United States District Court for the Southern District of Ohio, Western Division at Cincinnati
DECIDED	December 18, 2025
DOCKET	1:24-cv-270
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Plaintiff's motion for default judgment against Defendant Institutional Inspector Tad Palmer.
STANDARD OF REVIEW	The report and recommendation applied the two-step default-judgment procedure under Federal Rule of Civil Procedure 55.
PRECEDENTIAL VALUE	unpublished report and recommendation; nonprecedential

TOPICS

- default judgment
- default
- civil procedure
- section 1983

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to default judgment when he had not first obtained an entry of default from the Clerk of Court.
2. Whether default or default judgment was appropriate after Defendant Tad Palmer obtained leave to answer instanter and filed an answer.

HOLDINGS

1. Default judgment should be denied because Federal Rule of Civil Procedure 55 contemplates a two-step process requiring a clerk's entry of default before a motion for default judgment.
2. Default should not be entered because Defendant Tad Palmer obtained leave of Court to file his answer instanter and filed the answer on December 5, 2024.

KEY QUOTATIONS

“Rule 55 of the Federal Rules of Civil Procedure contemplates a two-step process in obtaining a default judgment against a defendant who has failed to plead or otherwise defend.”

“Accordingly, Plaintiff’s Motion for Default Judgment (Doc. #26) should be DENIED.”

FACTUAL BACKGROUND

Plaintiff sought default judgment against Institutional Inspector Tad Palmer for allegedly failing to timely file an answer. Plaintiff had not requested entry of default from the Clerk before filing the motion, and Palmer obtained leave to file an answer instanter and filed his answer on December 5, 2024.

PROCEDURAL HISTORY

Plaintiff moved for default judgment based on Defendant Tad Palmer's alleged failure to timely answer. The magistrate judge recommended denying the motion because Plaintiff had not first obtained an entry of default from the Clerk under Federal Rule of Civil Procedure 55(a), and because Palmer later obtained leave to answer instanter and filed an answer on December 5, 2024.

DISPOSITION

other

CASES CITED

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981)

OPINION

White

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION AT CINCINNATI

LARRY O. WHITE JR., : Case No. 1:24-cv-270 Plaintiff, : : Judge Matthew W. McFarland vs. :
Magistrate Judge Peter B. Silvain, Jr. ODRC DIRECTOR, et al., : Defendants. :

REPORT AND RECOMMENDATION¹

This case is before the Court upon Plaintiff's Motion for Default Judgment (Doc. #26), Defendants' Response (Doc. #28), and Plaintiff's Reply² (Doc. #29). Plaintiff requests default judgment against Defendant Institutional Inspector Tad Palmer for his alleged failure to timely file an answer. (Doc. #26). Rule 55 of the Federal Rules of Civil Procedure contemplates a two-step process in obtaining a default judgment against a defendant who has failed to plead or otherwise defend. First, a plaintiff must request from the Clerk of Court an entry of default, describing the particulars of the defendant's failure to plead or otherwise defend. Fed. R. Civ. P. 55(a). If default is entered by the Clerk, the plaintiff must then move the court for entry of default judgment. Fed. R. Civ. P. 55(b). 1 Attached is a NOTICE to the parties regarding objections to the Report and Recommendation. 2 Although he labels his filing as "Plaintiff's Objection to Defendants['] Response to Plaintiff's Motion for Default Judgment," the undersigned understands this document to be Plaintiff's Reply. Here, Plaintiff failed to request entry of default from the Clerk of Court prior to filing his Motion for Default Judgment. Accordingly, Plaintiff's Motion for Default Judgment (Doc. #26) should be DENIED. Furthermore, a review of the record shows that Defendant Tad Palmer, after obtaining leave of Court to file his Answer *instanter*, filed his Answer on December 5, 2024. See Doc. #s 14, 15,

16. Therefore, to the extent Plaintiff seeks entry of default from the Clerk of Court, his request should be DENIED. IT IS THEREFORE RECOMMENDED THAT: Plaintiff's Motion for Default Judgment (Doc. #26) be DENIED. December 18, 2025 s/Peter B. Silvain, Jr. Peter B. Silvain, Jr.
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59(b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within FOURTEEN days after being served with this Report and Recommendation. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within FOURTEEN days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

