

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

Casey H. Perry v. Susan K. DeClercq et al.

Perry · No. 24-10194 · Decided January 5, 2026

SUMMARY

This Report and Recommendation addresses Casey H. Perry’s motions for default judgment under Federal Rule of Civil Procedure 55. The magistrate judge recommends denying the motions because the Clerk did not enter default and a defendant filed an answer with affirmative defenses. The document explains the procedures and deadlines for objecting under Federal Rule of Civil Procedure 72(b) and the Eastern District of Michigan’s local rules.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
WRITING FOR THE COURT	Curtis Ivy, Jr.
JURISDICTION	United States District Court for the Eastern District of Michigan, Southern Division
DECIDED	January 5, 2026
DOCKET	24-10194
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on Plaintiff's motions for default judgment under Federal Rule of Civil Procedure 55.
STANDARD OF REVIEW	A party seeking default judgment under Federal Rule of Civil Procedure 55(b) must first obtain an entry of default under Rule 55(a).
PRECEDENTIAL VALUE	Nonprecedential report and recommendation
PARTIES	Casey H. Perry v. Susan K. DeClercq, Ryan Silverthon, Curtis Ivy, Jr.

TOPICS

default judgment default civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff could obtain default judgment without first obtaining an entry of default from the Clerk's Office.
2. Whether default judgment was appropriate where a defendant had filed an answer to the amended complaint.

HOLDINGS

1. A motion for default judgment under Federal Rule of Civil Procedure 55(b) is procedurally improper unless the plaintiff first obtains an entry of default under Rule 55(a).
2. Default judgment was not appropriate where the defendant had filed an answer to the amended complaint with affirmative defenses.

KEY QUOTATIONS

“In order to obtain a default judgment under Federal Rule of Civil Procedure 55(b), Plaintiff had to first obtain an entry of default from the Clerk’s Office pursuant to Rule 55(a).”

“thus, Plaintiff’s motions for default judgment are procedurally improper.”

FACTUAL BACKGROUND

Plaintiff Casey H. Perry sought default judgment against the defendants. The Clerk's Office denied his request for an entry of default, and at least one defendant had filed an answer to the amended complaint with affirmative defenses on May 20, 2024.

PROCEDURAL HISTORY

Plaintiff filed two motions for default judgment on April 8, 2025. The Clerk's Office denied Plaintiff's request for entry of default, and the record showed that Defendant had filed an answer with affirmative defenses. The magistrate judge therefore recommended denying both motions, subject to review upon timely objections under Federal Rule of Civil Procedure 72(b).

DISPOSITION

other

CASES CITED

- Heard v. Caruso, 351 F. App'x 1, 15–16 (6th Cir. 2009)
- Devlin v. Kalm, 493 F. App'x 678, 685–86 (6th Cir. 2012)
- Wilson v. Stewart, Case No. 1:25-cv-10483, 2025 WL 2858910, at *1 (E.D. Mich. Sept. 15, 2025)
- Wilson v. Stewart, 2025 WL 2857995 (E.D. Mich. Oct. 8, 2025)

- Thomas v. Arn, 474 U.S. 140 (1985)
- Howard v. Secretary of Health & Human Services, 932 F.2d 505 (6th Cir. 1991)
- Willis v. Secretary of Health & Human Services, 931 F.2d 390, 401 (6th Cir. 1991)
- Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987)

OPINION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION CASEY H. PERRY, Case No. 24-10194 Plaintiff, Susan K. DeClercq v.
United States District Judge RYAN SILVERTHON, Curtis Ivy, Jr. United States Magistrate Judge
Defendant. _____/ REPORT AND RECOMMENDATION ON
PLAINTIFF’S MOTIONS FOR DEFAULT JUDGMENT (ECF Nos. 52, 54) On April 8, 2025,
Plaintiff Casey H. Perry filed two motions for default judgment.

(ECF Nos. 52, 54). In order to obtain a default judgment under Federal Rule of Civil Procedure 55(b), Plaintiff had to first obtain an entry of default from the Clerk’s Office pursuant to Rule 55(a). See *Heard v. Caruso*, 351 F. App’x 1, 15–16 (6th Cir. 2009) (citing 10A Wright and Miller’s Federal Practice and Procedure § 2682 (3d ed. 1998)); *Devlin v. Kalm*, 493 F. App’x 678, 685–86 (6th Cir.

2012). When Plaintiff requested an entry of default, the Clerk’s Office denied that request;¹ thus, Plaintiff’s motions for default judgment are procedurally improper. ¹ As Plaintiff is in incarcerated prisoner, he “is not entitled to default judgment against defendants that have been served but have chosen not to file an answer or otherwise reply to the complaint.” See *Wilson v. Stewart*, Case No. 1:25-cv-10483, 2025 WL 2858910, at *1 (E.D.

Accordingly, the undersigned RECOMMENDS that Plaintiff’s Motion for Default Judgment (ECF No. 52) and Motion for Default Judgment under Federal Rules of Civil Procedure Rule 55 (ECF No. 54) be DENIED. The parties here may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d).

Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health and Hum. Servs.*, 932 F.2d 505 (6th Cir. 1991). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation.

Willis v. Sec’y of Health and Hum. Servs., 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed’n of Tchrs Loc. 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge. Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains.

Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the Mich. Sept. 15, 2025) (referring to 42 U.S.C. § 1997e(g)), report and recommendation adopted, 2025 WL 2857995 (E.D. Mich. Oct. 8, 2025). And in any event, Defendant filed an Answer to the Amended Complaint with affirmative defenses on May 20, 2024.

(ECF No. 22). objections in length and complexity. Fed. R. Civ. P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections lack merit, it may rule without awaiting the response.

Date: January 5, 2026. s/Curtis Ivy, Jr. Curtis Ivy, Jr. United States Magistrate Judge
CERTIFICATE OF SERVICE I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on the January 5, 2026, by electronic means and/or ordinary mail. s/Sara Krause Case Manager (810) 341-7850