

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON**

Robert Lee Hayes v. Commissioner of Social Security et al.

Hayes · No. 3:25-cv-05773-DGE · Decided February 2, 2026

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 WESTERN DISTRICT OF
WASHINGTON AT TACOMA 9 10 ROBERT LEE HAYES, CASE NO. 3:25-cv-05773-DGE 11
Plaintiff, ORDER GRANTING MOTION TO 12 v. SET ASIDE DEFAULT (DKT. NO. 12) 13
COMMISSIONER OF SOCIAL SECURITY et al., 14 Defendants. 15 16 This matter comes
before the Court on Defendants’ motion to set aside default.¹ (Dkt.

17 No. 12.) Having considered the motion, Plaintiff’s response in opposition (Dkt. No. 15), and 18
Defendants’ rely in support (Dkt. No. 17), the Court GRANTS the motion. 19 20 21 1 Defendants’
motion, titled “Motion to Vacate Order on Motion for Default,” is brought pursuant to Federal
Rule of Civil Procedure 60(b)(4), under which a court may relieve a party 22 from a final
judgment or order if “the judgment is void.” However, default judgment has not been entered in
this case; only an order of default.

(See Dkt. No. 10.) As discussed below, 23 Federal Rule of Civil Procedure 55(c) is the proper
procedure for setting aside an entry of default. Because Rule 55(c) “is the same as is used to
determine whether a default judgment 24 should be set aside under Rule 60(b),” the Court will
construe Defendants’ motion as requesting 1 I BACKGROUND 2 On September 3, 2025, Plaintiff
filed suit against the Commissioner of Social Security, 3 Susan Reynolds—an employee for the
Commission of Social Security—and Ms. Reynolds’s 4 husband pursuant to Federal Tort Claims
Act (“FTCA”), 28 U.S.C. § 2671.

(Dkt. No. 1–2.) The 5 Clerk of Court issued a summons (Dkt. No. 6) and proof of service was
filed on September 10, 6 2025 and September 20, 2025. (Dkt. Nos. 7, 8.) The first proof of service
of the summons and 7 complaint indicates that the summons was served on September 5, 2025, on
Preethi Broossard, 8 manager of Commissioner of Social Security, located at 2608 South 47th
Street, Tacoma, 9 Washington 98371.

(Dkt. No. 7.) The second proof of service of the summons and complaint 10 reflects that the
summons was sent by certified mail on September 4, 2025 to “Commissioner of 11 Social
Security at 6401 Security Boulevard, Baltimore, Maryland 21235.” (Dkt. No. 8.)

On 12 December 16, 2025, Plaintiff moved for default. (Dkt. No. 9.) On January 5, 2026, the
Clerk 13 entered default against Defendants. (Dkt. No. 10.) 14 On January 7, 2026, Defendants

filed a notice of appearance and moved to set aside entry 15 of default. (Dkt. Nos. 11, 12.)

On January 8, 2026, Plaintiff filed an amended complaint, adding 16 the United States of America as a defendant.² (Dkt. No. 14.) 17 II LEGAL STANDARD 18 Federal Rule of Civil Procedure 55(c) permits a court to set aside an entry of default for 19 good cause. Courts consider three factors to determine good case: “(1) whether the party seeking 20 to set aside the default engaged in culpable conduct that led to the default; (2) whether it had no 21 to set aside the entry of default.

U.S. v. Signed Personal Check No. 730 of Yubran S. Mesle, 615 22 F.3d 1085, 1091 (9th Cir. 2010). 2 On January 23, 2026, Plaintiff filed a proof of service of summons and complaint. (Dkt. No. 23 16.) The proof of service indicates that on January 20, 2026, a process server served “Chaz Johnson” located 2700 Lord Baltimore Drive, Windsor Mill, Maryland 21244.

(Id.) 24 1 meritorious defense; or (3) whether reopening the default judgment would prejudice the other 2 party.” Mesle, 615 F.3d at 1091. A court may refuse to set aside entry of default if it finds any 3 of these factors is present—i.e. that the defendant engaged in culpable conduct, lacks a 4 meritorious defense, or relief would prejudice the plaintiff. Id. The court’s discretion as to 5 whether the moving party establishes good cause “is especially broad where, as here, it is entry 6 of default that is being set aside, rather than a default judgment.” *Mendoza v. Wight Vineyard* 7 Mgmt., 783 F.2d 941, 945 (9th Cir.

1986). Because “a case should, whenever possible, be 8 decided on the merits,” Mesle, 615 F.3d at 1091 (citation omitted), “[w]here timely relief is 9 sought from a default... and the movant has a meritorious defense, doubt, if any, should be 10 resolved in favor of” setting aside the default. *Mendoza*, 783 F.2d at 945–46 (citation omitted). 11 III ANALYSIS 12 The three Mesle factors establish good cause to set aside the entry of default against 13 Defendants to resolve Plaintiff’s claims on the merits.

14 A. Defendants Did Not Engage in Culpable Conduct 15 “[A] defendant’s conduct is culpable if he has received actual or constructive notice of 16 the filing of the action and intentionally failed to answer.” Mesle, 615 F.3d at 1092. A 17 “conscious choice not to answer” a complaint is not enough; “the movant must have acted with 18 bad faith.” Id. 19 Here, the record indicates that no Defendant was properly served with a copy of the 20 summons and complaint.

First, neither of the two proofs of service indicate either Mr. or Mrs. 21 Reynolds were served. (See Dkt. Nos. 7, 8.) Second, to serve a United States agency, “a party 22 must serve the United States and also send a copy of the summons and of the complaint by 23 registered or certified mail to the agency.” Fed. R. Civ. Pro. 4(i)(2). There is no evidence in the 24 1 record that Plaintiff attempted to serve the United States pursuant to Federal Rule of Civil 2 Procedure 4(i)(1).

Defendants therefore did not engage in culpable conduct as they had no notice 3 of the lawsuit. 4
B. Defendants Raise a Meritorious Defense 5 “A defendant seeking to vacate a default judgment
must present specific facts that would 6 constitute a defense. But the burden on a party seeking to
vacate a default judgment is not 7 extraordinarily heavy.” Mesle, 615 F.3d at 1094 (citation
omitted).

A defendant need only 8 “allege sufficient facts that, if true, would constitute a defense.” Id. 9
Plaintiff filed suit against Defendants pursuant to the FTCA. (Dkt. No. 1.) The United 10 States is
the only proper party defendant in an FTCA action. Kennedy v. U.S. Postal Serv., 145 11 F.3d
1077, 1078 (9th Cir. 1998).

Thus, Plaintiff improperly filed suit against the Commissioner 12 of Social Security and Mr. and
Mrs. Reynolds. “The FTCA is the exclusive remedy for tort 13 actions against a federal agency,
and this is so despite the statutory authority of any agency to 14 sue or be sued in its own name. A
claim against [a federal agency] in its own name is not a 15 claim against the United States.”
Kennedy, 145 F.3d at 1078 (citation omitted).

Defendants’ 16 argument, at minimum, establishes a “legally cognizable defense[]” as to the
sufficiency of the 17 complaint. Lee v. Thornburg Mortg. Home Loans Inc., No. 14-cv-00602-NC,
2014 WL 18 1724850, at *3 (N.D. Cal. Apr. 29, 2014). 19 C. Plaintiff Would Not Be Prejudiced
by the Relief 20 Prejudice occurs when a plaintiff’s ability to pursue their claim would be
hindered by 21 setting aside the entry of default.

TCI Grp. Life Ins. Plan v. Knoebber, 244 F.3d 691, 701 (9th 22 Cir. 2001), overruled on other
grounds by Egelhoff v. Egelhoff ex rel. Breiner, 532 U.S. 141 23 24 1 (2001). “To be prejudicial,
the setting aside of a judgment must result in greater harm than 2 simply delaying resolution of the
case.” Id. 3 The Court concludes Plaintiff would not be prejudiced by setting aside the default.

4 Defendants have just recently appeared in this matter, and no answers or substantive motions 5
have been filed. There is no reason to believe the delay here would result in a “tangible harm 6
such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or 7
collusion.” Id. 8 In sum, the three Mesle factors establish good cause to set aside the entry of
default 9 against Defendants under Rule 55(c).

10 IV CONCLUSION 11 Defendants’ motion to set the entry of default (Dkt. No. 12) is
GRANTED. The Clerk of 12 Court is directed to set aside the entry of default against Defendants.
The Court recognizes that 13 the United States is the only proper defendant in this matter moving
forward. Consequently, the 14 Court DIMISSES with prejudice Defendants Commissioner of
Social Security, Susan Reynolds, 15 and John Doe Reynolds, leaving the United States as the sole
defendant in this action.

16 Because Plaintiff's attempted service on Defendants did not include service on the United 17 States, Plaintiff must still properly serve the United States for this action to continue. The Court 18 will provide him with additional time to complete this requirement. Plaintiff will have until 19 February 16, 2026, to serve the United States with the summons and his complaint in 20 accordance with the requirements of Rule 4(i) of the Federal Rules of Civil Procedure.

Plaintiff 21 will then need to file a proof of service with the Court demonstrating the United States was 22 served. Failure to properly serve the United States by that date may result in dismissal of the 23 case. 24 1 Dated this 2nd day of February, 2026. 2 A 3 David G. Estudillo 4 United States District Judge 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24