

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW HASKELL, JR.,	:	
REVEREND,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	No. 00-CV-4237
	:	
CHELTENHAM TOWNSHIP,	:	
J. STANTON, PENTSUGLIO, And	:	
MANDIA/MANDI, Individually and in their	:	
capacity as Police Officers for Cheltenham	:	
Township,	:	
Defendants.	:	

MEMORANDUM

Green, S.J.

February , 2001

Presently before the court is Plaintiff's Motion for Entry of Default Judgment and Defendants' Response. For the reasons set forth below, Plaintiff's motion will be denied.

I. FACTUAL BACKGROUND

Plaintiff, Reverend Matthew Haskell, Jr., filed a complaint against Defendants Cheltenham Township and Police Officers J. Stanton, Pentsuglio and Mandia/Mandi on August 18, 2000. On August 28, 2000, the Summons and Complaint were served on Defendants at the Cheltenham Township's Police Department located at 8230 Old York Road, Elkins Park, Pennsylvania. (See Pl.'s Ex.s A, B, C, D.) Defendants did not respond to the Complaint within twenty (20) days after service of the Summons and Complaint. (See Pl.'s Mot. for Entry of Default Judgment ¶ 2.) Plaintiff filed a Motion for Entry of Default Judgment against Defendants on September 28, 2000. Also on September 28, 2000, Defendants' counsel entered his appearance and responded to Plaintiff's motion. Defendants filed an answer to the Complaint on October 12, 2000.

II. DISCUSSION

Fed.R.Civ.P. 12(a)(1) states that a defendant shall serve an answer within twenty (20) days after being served with the summons and the complaint unless service is waived.

“When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend . . . and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party’s default.” Fed.R.Civ.P. 55(a). The court may enter judgment against any defendant whose default has been entered by the Clerk of the Court. See Fed.R.Civ.P. 55(b).

In the present matter, Plaintiff moves this court to enter a default judgment against Defendants for failing to answer the Complaint within the requisite twenty (20) days after the Summons and Complaint were served. Defendants attribute their initial failure to respond to an internal misunderstanding—the Complaint, upon delivery to Cheltenham Township, was allegedly forwarded to the Township Manager’s Officer as opposed to Defendants’ counsel. Since defaults are not favored under the circumstances outlined above, Plaintiff’s Motion for Entry of Default Judgment against Defendants will be denied .

An appropriate Order follows.

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capacity as Police Officers for Cheltenham	:	
Township,	:	
Defendants.	:	

ORDER

AND NOW, this day of February, 2001, upon consideration of Plaintiff's
Motion for Entry of Default Judgment and Defendants' Response, **IT IS HEREBY ORDERED**
that Plaintiff's motion is **DENIED**.

BY THE COURT:

CLIFFORD SCOTT GREEN, S.J.