

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 4:25-cv-00521-JM

DUSTY HUNT

DEFENDANT

ORDER

Before the Court is the motion of the United States for entry of default. (Doc. No. 3). That motion is denied without prejudice.

Rule 55 of the Federal Rules of Civil Procedure contemplates a two-step process for the entry of default judgments. *See Jefferson v. Louisiana Dep't of Pub. Safety & Corr.*, 401 F. App'x 927, 929 (5th Cir. 2010). First, pursuant to Rule 55(a), the party seeking a default judgment must have the Clerk of court enter the default by submitting the required proof that the opposing party has failed to plead or otherwise defend. Second, pursuant to Rule 55(b), the moving party may seek entry of judgment on the default under either subdivision (b)(1) or (b)(2) of the rule. Entry of default by the Clerk under Rule 55(a) must precede a grant of default judgment under either provision of Rule 55(b). If the amount is for a sum certain, the Clerk can enter the default judgment on Plaintiff's request. Rule 55(b)(1). In all other cases, the Court must enter the default judgment. Rule 55(b)(2).

To consider a motion for default under Rule 55(a), the Clerk requires an affidavit or affirmation setting forth proof of service, including the date thereof; a statement that no responsive pleading has been received within the time limit set by the Federal Rules of Civil Procedure or as fixed by the Court, as well as a statement that the defendant against whom default is sought is not in military service as required by 50 U.S.C. § 3931. Because the Court

determines that the United States has failed to submit an affidavit or affirmation addressing all of these requirements so as to permit the Clerk to consider its motion for entry of default, the Court denies the motion for default judgment without prejudice at this time. Once the United States obtains the Clerk's entry of default, it may apply for a default judgment either with the Clerk, on these facts, or the Court.

IT IS SO ORDERED this 28th day of July, 2025.



James M. Moody Jr.
United States District Judge