

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 94-10567
Summary Calendar

JACK POGUE,

Plaintiff-Counter Defendant-Appellee,

VERSUS

SERAPIS, INC. and
CHARLES G. DYER,

Defendants-Counter-Plaintiffs-Appellants.

Appeal from the United States District Court
For the Northern District of Texas

(3:94-CV-28-R)

(December 14, 1994)

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

On January 4, 1994, Pogue, as plaintiff, filed suit on a promissory note against Serapis, Inc. and Charles G. Dyer, individually, as defendants. Service of process on all defendants was completed on February 3, 1994. No answer having been filed by

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

any defendant, Pogue filed an application for default judgment on February 25, 1994. No responsive pleadings having been filed by any defendant as of March 9, 1994, the district judge signed a judgment of default on that day which was entered on March 17, 1994. On March 18, 1994, defendants filed an Answer, Counterclaim and Demand for Jury Trial, and on April 5, 1994, defendants filed a motion to stay the operation and effect of the default judgment. On April 29, 1994, the district court entered an order dismissing defendants' answer and counterclaim, and on May 12, 1994, the district court entered an order denying defendants' motion to stay the operation and effect of the default judgment. Defendants timely appealed the latter two actions of the district court.

We have carefully reviewed the briefs, the record excerpts and relevant portions of the record itself, and for the reasons stated by the district court in its Memorandum Opinion and Order dated May 12, 1994, we affirm the decisions of the trial court to dismiss defendants' answers and deny defendants' motion to stay the operation and effect of the default judgment.

Judgment of the trial court AFFIRMED.