

**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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No. 95-40831  
(Summary Calendar)

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WILLIAM RALPH ELLIOT,  
in his capacity as Trustee of the  
Elliot Family Trust,

Plaintiff-Appellee,

versus

CAPITAL INTERNATIONAL BANK & TRUST, LTD.,

Defendant,

JAMES R. PAISLEY, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(4: 94-CV-93)

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October 28, 1996

Before DAVIS, EMILIO M. GARZA, and STEWART, Circuit Judges.

PER CURIAM:\*

James R. Paisley, Jr. appeals the district court's granting of default judgment. He argues that the district court abused its discretion in granting the default judgment. Paisley was sued in the

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Eastern District of Texas for fraud, conversion and breach of contract claims against the Elliot Family Trust. Suit was filed on May 2, 1994, however, substitute service was requested on October 3, 1994. On December 7, 1994, the U.S. Marshal completed personal service on Paisley in the Eastern District of Pennsylvania where Paisley was incarcerated. Following service of process, Paisley failed to file an answer or make an appearance. On March 8, 1995, a default judgment was entered by the Clerk of Court against Paisley, pursuant to Fed. R. Civ. P. 55(b)(2).

We have reviewed the record, the district court's opinion, and the briefs, and we perceive no abuse of discretion. Rule 55(b)(2) gives the district court the authority to render a default judgment, without notice, against a non-appearing party. Accordingly, we affirm the district court's denial of Paisley's Motion to Revise Decision, considered as a motion to set aside a default judgment.

The default judgment entered against Paisley is

**AFFIRMED.**