UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 22-1821

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AREN TAU,

                Plaintiff - Appellant,

     v.

VIRGINIA EMPLOYMENT COMMISSION; PARKVIEW FEDERAL CREDIT UNION; COMMONWEALTH ONE FEDERAL CREDIT UNION,

                Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Rossie David Alston, Jr., District Judge. (1:22-cv-00308-RDA-IDD)

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Submitted: December 15, 2022   Decided: December 19, 2022

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Before GREGORY, Chief Judge, and WILKINSON and DIAZ, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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Aren Tau, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Aren Tau appeals the district court's order dismissing his amended civil complaint without prejudice under Fed. R. Civ. P. 4(m). In June 2022, the district court ordered Tau to show cause why his action should not be dismissed for failure to serve Defendants. In July 2022, the district court concluded that, because Tau had not served Defendants and his response failed to address the service issue, it *must* dismiss the action under Rule 4(m). However, "under Rule 4(m), a district court possesses discretion to grant the plaintiff an extension of time to serve a defendant with the complaint and summons even absent a showing of good cause by the plaintiff for failing to serve the defendant during the 90-day period provided by the Rule." *Gelin v. Shuman*, 35 F.4th 212, 220 (4th Cir. 2022).

Because it is not clear that the court recognized that discretion, we vacate the dismissal order and remand so that the court can "consider in the first instance . . . whether [it] should exercise its discretion to extend the time for serving" Defendants. *Id.* We deny Tau's emergency motion for a temporary restraining order and for discovery, motion for assignment of counsel, and motion to reconsider the order deferring action on those motions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED