

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

No. 19-20172
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
August 28, 2019

Lyle W. Cayce
Clerk

THE KING/MOROCCO,

Plaintiff - Appellant

v.

STERLING MCCALL LEXUS,

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CV-4201

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Plaintiff, referring to himself as The King/Morocco, challenges the district court's dismissal without prejudice of his suit for discriminatory treatment under Title VII of the Civil Rights Act of 1964. We AFFIRM.

Plaintiff, acting *pro se*, sued five separate car dealerships in Houston alleging unfair treatment. He alleged in his action against Sterling McCall

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Lexus that, while employed, he suffered discrimination and defamation due to his ethnicity. Plaintiff, however, made no service on the Defendant, and the district court, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, dismissed the case without prejudice for failure to prosecute. Plaintiff never gave any reason or justification for his delay in service.

This court has jurisdiction to review the district court's dismissal without prejudice. *United States v. Wallace & Tiernan Co.*, 336 U.S. 793, 794 n.1 (1949); *Linn v. Chivatero*, 714 F.2d 1278, 1280 (5th Cir. 1983). Rule 4 permits a district court to dismiss an action without prejudice if a defendant is not served within 90 days after the complaint is filed, unless the plaintiff can show good cause for the failure. *Thompson v. Brown*, 91 F.3d 20, 21 (5th Cir. 1996). Although Plaintiff now protests on appeal that he had poor communication with the district court concerning his change of address, he at no point attempted to demonstrate any justification for his failure to serve process on Defendant. The district court thus did not err in dismissing the suit.

AFFIRMED.