

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1507

TIMOTHY LARRIMORE,

Plaintiff - Appellant,

v.

EXXON MOBIL OIL CORPORATION,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at New Bern. James C. Dever III, District Judge. (7:06-cv-00008-FL)

Submitted: October 20, 2008

Decided: December 2, 2008

Before MICHAEL, KING, and AGEE, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Timothy Larrimore, Appellant Pro Se. Alex John Hagan, ELLIS & WINTERS, LLP, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timothy Larrimore appeals from the district court's order imposing sanctions and a prefiling injunction. We review the imposition of a prefiling injunction for abuse of discretion. Cromer v. Kraft Foods N. Am., Inc., 390 F.3d 812, 817 (4th Cir. 2004). Federal courts may issue prefiling injunctions when vexatious conduct hinders the court from fulfilling its constitutional duty. Id.; Procup v. Strickland, 792 F.2d 1069, 1073-74 (11th Cir. 1986) (en banc). Before enjoining the filing of further actions, however, the district court must afford the litigant notice and an opportunity to be heard. Cromer, 390 F.3d at 819; In re Oliver, 682 F.2d 443, 446 (3d Cir. 1982). Here, the district court sua sponte issued the injunction. Because the court imposed the injunction without affording Larrimore an opportunity to be heard, we vacate the order and remand for further proceedings. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED