

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-1767**

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JANETTA THOMAS BRETT,

Plaintiff - Appellant,

versus

BRUCE MICHAEL FREEDMAN, M.D., P.C.,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, District Judge. (CA-95-1540-A)

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Submitted: August 12, 1997

Decided: August 29, 1997

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Before HAMILTON and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Janetta Thomas Brett, Appellant Pro Se. Gary Albert Godard, Mark Raleigh Lightfoot, GODARD, WEST & ADELMAN, Fairfax, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order dismissing her civil action for failure to properly serve the summons and complaint upon the Defendant in a timely manner. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm. See Fed. R. Civ. P. 4(m) (service must be completed within 120 days after filing the complaint in district court). To the extent that the district court's order is unclear, we note that the dismissal was without prejudice. See Mendez v. Elliot, 45 F.3d 75, 78 (4th Cir. 1995) (a dismissal for failure to serve a defendant within 120 days after an action is filed should be "without prejudice"). 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.

AFFIRMED