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IN THE

SUPREME COURT OF THE UNITED STATES

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SUPREME COURT, U.S.

Chavalier Dwayne Johnson Sr. PETITIONER
(Your Name)

vs.

Mr. Nichols et al. v.agg. — RESPONDENT(S)
Fla. Department of Corr, Mark S. Jackson et al.
ON PETITION FOR A WRIT OF CERTIORARI TO

District Court of Appeal of The State of Fla. 4th Dist.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Chavalier Dwayne Johnson Sr.
(Your Name)

Taylor Correctional Institution
(Address)
8501 Hampton Springs Road
Perry, Florida 32348-8747
(City, State, Zip Code)

1-850-838-4000
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether or not this case involves principles with other facts to grant this petition of writ of certiorari, for review?
2. Whether or not consideration governing review on certiorari is warranted, due to grounds of a legitimate basis for supreme court review of overlooked claims which require assistance for violations of the Fourth Amendment, Eight Amendment, Article V, § 3(b)(4), Fla. Const. Article III section 1-2 United States Const. Due Process Provision of the U.S. Const. Amend XIV sec. 1-5.?
3. Whether regarding practical purposes on the fourth, District Court of Appeals ruling which is tantamount to a pure question of law and is subject to reversal and Supreme Court de novo review?

LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Chief of Health Operations at Queechobee C.I.,
Nurse Carla Mosley, C.R.N.P. & William Bass;
Wexford, now Centurion Health Care;
The Fund et al. segg.
Mark S. Luch Secretary, Head of such
Agency segg. Same and John de defendants

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APPENDIX B	<u>Further Ordered that the Appellant's March 4, 2021 Motion request for a reason why appellant's motion denied.</u>
APPENDIX C	<u>March 15, 2021 a copy appears attached.</u>
APPENDIX D	<u>March 15, 2021 timely petition for rehearing was, denied, on this date.</u>
APPENDIX E	<u>No extension for Certiorari filed. (timely filed, within 90 days March 22, 2021.</u>
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☒ reported at Fourth Dist. Court of Appeal; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Fourth Dist. Court of Appeal court appears at Appendix B to the petition and is

- ☒ reported at Further ordered, motion denied; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was March 15, 2021.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: March 15, 2021, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NONE (date) on NONE (date) in Application No. ____ A NONE.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, § 3 (b) (4), Fla. Const.

Fourth Amendment, U.S. Const.

Eighth Amendment, U.S. Const.

Article III section 1-2 U.S. Const.

Due Process Provision of the U.S. Const.

Amendment XIV Section 1-5.

Fed. R. Civ. P. Rule 8 (a) and 9 (a).

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Fourteenth Amendment U.S. Const.

STATEMENT OF THE CASE

Please see. Requisite Statement of the Case and Facts,

1. Nature of Case.
2. Course of Proceedings.
3. Disposition in the L.T.
4. Introduction.

Requisite Statement of the Case and Facts

1. Nature of Case.

This is an appeal pursuant to Florida Rule of Appellant Procedure Rule 9.130(1), Rule 9.130(c)d)(e), from an Order, ordered and adjudged that the plaintiff's complaint is hereby ordered to file an amended complaint that is legally sufficient. The Nineteenth Judicial Circuit Court, Okeechobee County, Fla. Order in chambers at Okeechobee County, Fla. this day of Feb. 27, 2020 order dismissing R-pp. 245-46. Appeal Jurisdiction. The circuit court shall review by appeal rule 9.030(c)(B) non-final orders of lower tribunal as provided by general law. A non-final order finding jurisdiction over the person is appealable pursuant to Fla. R. App. P. 9.130(a)(3)(c)(i), but failure to take an immediate appeal from that order does not bar review of the question on plenary appeal pursuant to Fla. R. App. P. Rule 9.130(g) Investors Associates, Inc., v. Moss, 441 So.2d 1144, 1983 (Fla. 3rd DCA 1983).

2. Course of Proceedings

November 4, 2019 plaintiff, appellant filed complaint timely in accordance with s.95.11(4)(a)(b), on action for medical malpractice, commenced within 4 years from the date of the incident or occurrence out of which the cause of action accrued. 4 year statute of repose s. 95.11(4)(b). R-pp. 216-17.

December 8, 2015 Okeechobee C.I., F.D.O.C. subject 11686-0-21086 job assignment employee, incident 80530 an action for medical malpractice is defined as a claim in tort or in contract for damages because of death, injury or monetary loss to any person arising out of any medical, dental or surgical diagnosis, treatment or care by any provider of health care.

3. Disposition in the Lower Tribunal Facts

The Honorable Circuit Court Judge Laurie E. Buchanan presiding as the Circuit Judge entered a Order of Dismissal. R-pp. 245-46. The lower court procedural history section, accurately reflects the proceedings in the case. Failure to state a cause of action, subject of dismissal. Frisch v. Kelly, 137 So.2d 252, 253 (Fla. 1st DCA 1968) and "the real party of interest" identified in Fla. R. Civ. P. Rule 1.210(a).

Introduction

Appellant, Chavalier Dwayne Johnson, Sr., pro se and indigent with, family with this claim in tort for relief sought under s. 95.11(4)(a)(b), an action for medical malpractice, commenced with 4 years from the date of the incident or occurrence out of which the cause of action accrued.

December 8, 2015 Okeechobee C.I. F.D.O.C. subject 116860;21086 Job assignment employee 80530; incident an action for medical malpractice is defined as a claim in tort or in contract for damages because of death, injury or monetary loss to any person arising out of any medical, dental or surgical diagnosis, treatment, or care by any provider of health care. Coleman v. Wilson, 912 F. Supp. 1282, 1308 (E.D. Cal. 1995). Kaminsky v. Roseblum, 929 F.2d 922, 927 (2d Cir. 1991). Failure to act, s. 95.11(b) limitation of actions within this subsection

shall be limited to the health care provider and persons in privity with the provider of health care.

Actions covered by this paragraph in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the injury the period of limitations is extended forward 2 years from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in, no event to exceed 7 years from the date the incident, giving rise to the injury occurred,

except that this 7 year period shall not bar an action brought on behalf of a minor on or before the child's eighth birthday. R-pp. 216-217.

The paragraph shall not apply to actions for which ss. 766.301 - 766.316 provide the exclusive remedy. Intentional torts based on abuse s. 95.11(7) as defined in s. 39.01, s. s. 415.02 or s. 984 may commence at any time. Within 7 years after the age of majority or within 4 years after the injured person leaves the dependency of the abuser, or within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse, which ever occurs later.

Sexual Battery offenses on victims s. 95.11(9), s. 794.011. R-pp.216-17. This subsection applies to any such action other than one which would have been time barred on or before July 1,

2010. s, 95.11(10) intentional torts resulting in death from acts described in s. 782.04 or s. 782.07.

Notwithstanding paragraph (4)(d) on action for wrongful death seeking damages authorized under s. 768.21 brought against a natural person for an intentional tort resulting. . . in death from acts described in s. 782.04 or s. 782.07 may be commenced at any time.

This subsection shall not be construed to require an arrest the filing of formal criminal charges, or a conviction for filing a civil action. See Oxendine v. Kaplan, 241 F.3d 1272, 1278-79 (10th Cir. 2001). services by unqualified personnel is deliberate indifference as failure to provide access to specialist care that a particular prison condition may require, like in Oxendine v. Kaplan allegation that doctors performed, surgery he was not qualified for without seeking specialized assistance stated as a deliberate indifference claim:

Toussaint v. McCarthy, 801 F.2d 1080, 1112 (9th Cir. 1986); Williams v. Edwards, 547 F.2d 1206, 1216-18 (5th Cir. 1977); Petrichoko v. Kurtz, 117 F. Supp. 2d 467, 471 (E.D. Pa. 2000) (Officers who told another prisoner to set the plaintiff's dislocated shoulder could be found deliberately indifferent, since he presided over the provision of medical care by an individual not qualified to provide such care); Grubbs v.

Bradley, 552 F.Supp. 1052, 1129 (M.D. Tenn. 1982) s. 766.106 notice before action: s. 766.203(02). provided. R-pp. 218.

Medical personnel must be trained to respond to emergencies Dr. Nichols etal. seqq. Nurse Carla Mosley, A.R.N.P. William Bass, Florida Department of Corrections etal, with, Doe defendants, defendants manifest inability to adequately train supervise or retain health care personnel which results in rampant under staffing and the consequent impossibility to adequately meet the needs of the inmate population constitute deliberate indifference toward the health care needs of the plaintiff class").

Morales Feliciano v. Rossello Gonzales, 13 F.Supp. 2d 151, 209 (D.P.R. 1998). R-pp. 218. Authorization for release of protected health information pursuant to s. 766.1065 s. 766.106(2) accompanied authorization.

Equitable estoppel applied to ch 768.28(13) which was an ordinary statute of limitation and not a stat. of repose. Equitable estoppel differs from other legal theories that may operate upon the statutes of limitation in that equitable estoppel presupposes an act of wrongdoing such as fraud and concealment - that prejudices a party's case, in a party's case that is directly attributable to the opposing party's misconduct.

REASONS FOR GRANTING THE PETITION

1. This case involves principals of facts underlying grounds of constitutional violations pursuant to The United States Constitution, that conflicts with decisions in other courts and warrants review and the granting of this, Petition for a writ of Certiorari. In addition, contrary to other federal circuits and unjust, failure to state a cause of action is subject to de novo review.
2. The real party of interest identified in Fla. R. Civ. P. rule 1.210 is the person in whom rest, by substantive law, R-pp. 218
3. Article III section 1-2, U.S. Const. Sexual abuse by staff sexual abuse of a prisoner by staff has violated the Constitution. See. Smith v. Cochran, 339 F.3d 1205, 1212-13 (10th Cir. 2003) holding that sexual abuse or rape by staff is malicious and sadistic by definition, because there is no legitimate purpose for it. R-pp. 225.
4. Action for damages for personal injury or wrongful death arising out of medical negligence whether in contract tort, judgment in the amount of 1 million for practitioners with 750,000 for non-practitioners pursuant to S. 768.118(2)(a), 2. (a)(a), R-pp. 228.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Chadler Dwyer Johnson Sr.
700939

Date: March 22, 2021