

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CHAVALIER DWAYNE JOHNSON, SR.,
Appellant,

v.

DR. NICHOLS, et al.,
Appellees.

No. 4D20-684

[February 4, 2021]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit,
Okeechobee County; Laurie E. Buchanan, Judge; L.T. Case No.
472019CA000308.

Chavalier Dwayne Johnson, Sr., Florida City, pro se appellant.

Ashley Moody, Attorney General, and Lindsey L. Miller-Hailey,
Assistant Attorney General, Tallahassee, for appellee Florida Department
of Corrections.

No brief filed for appellee Florida Department of Corrections.

PER CURIAM.

Affirmed.

WARNER, MAY and ARTAU, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

March 15, 2021

CASE NO.: 4D20-0684
L.T. No.: 472019CA000308

CHAVALIER DWAYNE JOHNSON, SR. v. DR. NICHOLS, et al.

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that appellant's February 17, 2021 motion for rehearing is denied. Further,

ORDERED that appellant's March 4, 2021 "motion request for a reason why appellant's motion request to forward a copy of the answer brief that was due on or before 20 days was denied as moot" is denied.

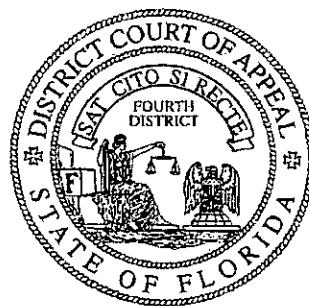
Served:

cc: Kenneth S. Steely Lindsey Lee Miller-Hailey Chavalier Dwayne Johnson, Sr.

kr

Lonn Weissblum

LONN WEISSBLUM, Clerk
Fourth District Court of Appeal



M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

This cause having been brought to the Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as may be in accordance with the opinion of this Court, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable Spencer D. Levine, Chief Judge of the District Court of Appeal of the State of Florida, Fourth District, and seal of the said Court at West Palm Beach, Florida on this day.

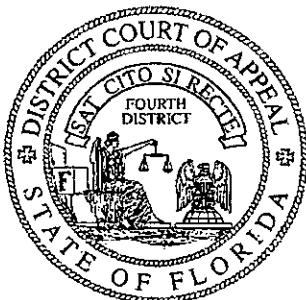
DATE: April 01, 2021

CASE NO.: 20-0684

COUNTY OF ORIGIN: Okeechobee

T.C. CASE NO.: 472019CA000308

STYLE: CHAVALIER DWAYNE JOHNSON, SR. v. DR. NICHOLS, et al.



Lonn Weissblum

LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

Served:

cc: Kenneth S. Steely
Clerk Okeechobee

Lindsey Lee Miller-Hailey

Chavalier Dwayne Johnson, Sr.

kr

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR OKEECHOBEE COUNTY, FLORIDA

Case No. 2019-CA-308

CHAVALIER DWAYNE
JOHNSON, et al.¹

Plaintiff,

v.

DR. NICHOLS, et al.,

Defendants.

ORDER OF DISMISSAL WITH LEAVE TO AMEND

This case is before the court on the plaintiff's November 4, 2019, complaint, and pursuant to § 57.085, *Florida Statutes* (2019). The court has reviewed the complaint, the file, and being otherwise fully advised in the premises, finds and orders as follows.

Because the plaintiff is an indigent prisoner as defined in Section 57.085, *Florida Statutes* (2019), the court must review his complaint to determine whether it is legally sufficient to state a cause of action for which the court has jurisdiction and may grant relief, and must dismiss all or part of a claim that fails to state a claim for which relief may be granted. §57.085(6), *Florida Statutes* (2019). In addition, the plaintiff must state a cause of action that contains a short and plain statement of the ultimate facts showing that he is entitled to relief. *Fla. R. Civ. P.* 1.110(b).

The plaintiff states that his complaint is an action for medical malpractice. However,

¹ Although Mr. Chevalier has named other plaintiffs in this action, he is the only person who has signed the complaint. Further, he is the only one who has claimed to be indigent.

other than general conclusory statements about being subjected to "grossly incompetent and inadequate medical care by prison officials who failed to respond to a known medical problem," as well as denial of access to outside care² following a 2015 stabbing incident, the plaintiff alleges no specific facts upon which he bases his malpractice claim. He fails to identify any act or omission on the part of any of the defendants. Although the plaintiff makes vague references to sexual battery, he makes no factual allegations regarding any sexual battery.

If a complaint is "so vague, indefinite and ambiguous as to wholly fail to state a cause of action, it is subject to dismissal." *Frisch v. Kelly*, 137 So.2d 252, 253 (Fla. 1st DCA 1962). The plaintiff's complaint is so vague, indefinite, and ambiguous that it wholly fails to state a cause of action, and the plaintiff has failed to allege any facts that would establish any cause of action for which the court may grant relief. § 57.085(6)(a), *Florida Statutes*. Thus, the court finds that this action must be dismissed for failure to state a claim for which relief may be granted.

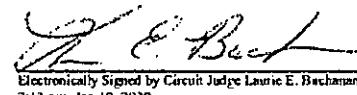
Further, the plaintiff does not appear to be an attorney licensed to practice law in this state. Thus, he cannot bring an action on behalf of other persons. *Forman v. State Dept. of Children & Families*, 956 So.2d 476, 477 (Fla. 4th DCA 2007); *Torrey v. Leesburg Regional Medical Center*, 769 So.2d 1040 (Fla. 2000). Therefore, the plaintiff may not bring this action on behalf of his wife Kenya M. Johnson, or his children Chavalier Dwayne Johnson, Jr., Quincy T. Johnson, Karah N. Johnson and Mary K. Ford.

It is therefore ORDERED AND ADJUDGED that the plaintiff's complaint is hereby DISMISSED WITHOUT PREJUDICE. The plaintiff will have 30 days from the date of this

² The plaintiff makes the conclusory statement that "prisons rarely provide the complete range of necessary services within their walls" but fails to identify which services, if any, were not provided to him that would have required outside care.

order to file an amended complaint that is legally sufficient. If the plaintiff does not file a legally sufficient complaint within 30 days, this case will be dismissed with prejudice without further notice.

DONE AND ORDERED in chambers on January 10, 2020, at Okeechobee in
Okeechobee County, Florida.



Electronically Signed by Circuit Judge Laurie E. Buchanan
2:13 pm, Jan 10, 2020

LAURIE E. BUCHANAN
CIRCUIT JUDGE

Copies to:

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