

David T. Johnson, Pro Se
Johnson v. Foster, et al.; USCA11 No.23-10452

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543.0001

Clarence Thomas, Associate Justice
United States Supreme Court
Washington, DC 20543 – 0001

February 2, 2024

David T. Johnson
Plaintiff, Pro Se,

-v-

URVASHI FOSTER, et al.
Defendants.

Motion for extension of time to file Petition for Certiorari

Johnson v. Foster, et al.; USCA11 No.23-10452

1. Petitioner, David T. Johnson, 100% total and permanent disabled American veteran, ask leave for ninety (90) day extension of time, until May 13, 2024, to file Petition for Certiorari to the

United States Supreme Court. The court may shorten or extend the time by order. [Exhibit A]

2. Pro se petitioner, David T. Johnson, was confused by Opinion of three (3) Circuit Judges, Jordan, Lagoa, and Brasher, U.S. Court of Appeals for the Eleventh Circuit, dated 11/13/2023.

[Exhibit B]

3. Mistaken, petitioner sent a notice of appeal to the United States Supreme Court, which was returned to Petitioner as indicated in Exhibit A, states that I may seek review of a decision only by filing a timely petition for a writ of certiorari. The filing of a notice of appeal is not a prerequisite for filing a petition for writ of certiorari and does not preserve the time for filing a petition for writ of certiorari. You must submit a petition for writ of certiorari within the 90 day time limit pursuant to Rule 13. A copy of the Rules of this Court and a sample petition are enclosed.

4. Reversible error, Courts below committed misfeasance, malfeasance, fraud, misrepresentation and used procedural technicality called shotgun pleading against pro se disabled American veteran, plaintiff litigant, that violated our constitutional civil rights, and denied plaintiff a de novo trial as of right, in Quitman County, Georgia, caused petitioner severe emotional and physical harm, and significant damages. [Exhibit B]

5. 28 U.S.C. § 2403(b) and § 451 may apply. Petitioner has served both Attorney General of the United States and Attorney General of Georgia with some of pleadings. I don't know whether Courts, pursuant to 28 U.S.C. 2403(b), certified to the State Attorney General the fact that the constitutionality of a statute of that State was drawn into question. [See Rule 14.1(e)(v)]

6. Petitioner anticipates inability to file adequate petition for certiorari within the required February 11, 2024 time period in

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view of my health condition that includes but not limited to several herniated discs, inoperable cervical spondylosis, gastrointestinal bleeding, pressures and I live alone.

7. In view of the foregoing, petitioner is constrained to ask for a period of ninety (90) days from February 11, 2024 or until May 13, 2024 within which to file said Petition of Certiorari.

8. Petitioner assures this Honorable Court that this motion is prompted solely by the foregoing reasons and is filed in good faith, in the interest of justice and without any intent to delay the proceedings in the instant case.

WHEREFORE, Petitioner pray that I be granted up to an additional ninety (90) days from February 11, 2024 or until May 13, 2024 within which to file a Petition for Certiorari. The court may shorten or extend the time by order.

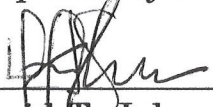
Certification and Closing

I, David T. Johnson, certify that all of the foregoing statements made by me are true and correct based upon knowledge and belief. Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this motion: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the motion otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case – related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Respectfully Submitted,

Dated: February 2, 2024



David T. Johnson, Pro Se
896 Lower Lumpkin Road
Georgetown, GA 39854
Voicemail: (609) 914-2634
Email: djohnson53@yahoo.com

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Johnson v. Foster, et al.; USCA11 No.23-10452

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

December 26, 2023

David Johnson
896 Lower Lumpkin Rd.
Georgetown, GA 39854

RE: Notice of Appeal
Johnson v. Foster, et al.; USCA11 No.23-10452

Dear Mr. Johnson:

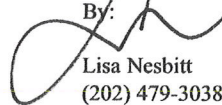
The notice of appeal received December 21, 2023 is herewith returned.

A direct appeal from a U.S. District Court is allowed only from a three-judge district court order. 28 USC 1253.

You may seek review of a decision only by filing a timely petition for a writ of certiorari. The filing of a notice of appeal is not a prerequisite for filing a petition for writ of certiorari and does not preserve the time for filing a petition for writ of certiorari. You must submit a petition for writ of certiorari within the 90 day time limit pursuant to Rule 13. A copy of the Rules of this Court and a sample petition are enclosed.

Sincerely,
Scott S. Harris, Clerk

By:



Lisa Nesbitt
(202) 479-3038

Enclosures

Exhibit A

David T. Johnson, Pro Se
Johnson v. Foster, et al.; USCA11 No.23-10452



**Department of
Veterans Affairs**

20 WASHINGTON PL
NEWARK NJ 07102

July 28, 1998

Reply Refer To

DAVID T JOHNSON
PO BOX 15
MT HOLLY NJ 08060

File Number:
29-536-058/00
D T JOHNS

RE: DAVID T JOHNSON

The following certificate is furnished for your use in obtaining Commissary Store and Exchange Privileges from the Armed Forces.

This is to certify that the records of the Department of Veterans Affairs disclose that the above named veteran has a service-connected disability evaluated at 100 percent and for whom a future examination is scheduled on 04-2001. The records also disclose that the veteran was honorably discharged from the NAVY.

Complete the attached application. You must also provide a copy of the DD214, Military Separation Document. If an ID card is requested for a dependent, furnish additional proof such as:

- Spouse - a copy of the marriage certificate
- Child - a copy of his/her birth certificate (and adoption decree)
- Stepchild - copies of the marriage certificate and birth certificate
- Child of divorced sponsor - copies of the divorce decree and birth certificate

Take the completed form, the required proof (above), and this VA letter to the nearest Uniformed Service ID card-issuing facility.

IF YOU RESIDE IN THE CONTINENTAL UNITED STATES, ALASKA, HAWAII OR PUERTO RICO, YOU MAY CONTACT VA WITH QUESTIONS AND RECEIVE FREE HELP BY CALLING OUR TOLL-FREE NUMBER 1-800-827-1000 (FOR HEARING IMPAIRED TDD 1-800-829-4833).

U. G. HENDERSON
VETERANS SERVICES OFFICER

ENCL: DD FORM 1172

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[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-10452

Non-Argument Calendar

DAVID TIMOTHY JOHNSON, SR.,

Plaintiff-Appellant,

versus

URVASHI FOSTER,

an individual,

BILLIE JOE FOSTER,

an individual,

DEPUTY BROOKS,

Badge # 203, Georgetown-Quitman County

Sheriff Department, an individual,

GOD AND GOD ALONE LLC,

a limited liability corporation,

MAGISTRATE COURT OF GEORGETOWN-QUITMAN

Exhibit B

David T. Johnson, Pro Se
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2 Opinion of the Court 23-10452

COUNTY, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 4:21-cv-00219-CDL

Before JORDAN, LAGOA, and BRASHER, Circuit Judges.

PER CURIAM:

David Johnson, proceeding *pro se*, appeals the district court's dismissal of his complaint and denial of his two Rule 60 motions to vacate. The district court gave him a chance to file an amended complaint and instructions for how to cure his pleading deficiencies, but his amended complaint still fell short of the pleading requirements in federal court. For the reasons explained below, the district court was well within its discretion to dismiss his complaint with prejudice and Johnson has abandoned any challenge to the denial of his motions to vacate. We affirm.

I.

Johnson sued multiple private and government actors over what appears to be a landlord-tenant lawsuit in state court. He alleges he was mistreated by a state magistrate judge and

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discriminated against based on his race, sex, religion, age, and disability. The defendants moved to dismiss the complaint and the district court held that Johnson's complaint was a shotgun pleading that failed to comply with Federal Rules of Civil Procedure 8(a)(2) and 10(b). The district court instructed Johnson how to cure his pleading deficiencies and gave him twenty-eight days to file an amended complaint.

Johnson failed to cure those deficiencies, and the district court dismissed Johnson's amended complaint because it again determined it was a shotgun pleading that violated Rules 8(a)(2) and 10(b). It held that (1) the allegations were conclusory, vague, and contained immaterial facts that were not connected to a specific cause of action, (2) the amended complaint failed to separate each cause of action into a different count and treated the defendants as a collective unit for the majority of the claims, and (3) Johnson made no effort to clearly assert each claim, supported by allegations, against each defendant.

Johnson then filed two motions to vacate that judgment under Rule 60 due to his neglect, the district court's lack of instructions to cure his pleading deficiencies, his health problems, and the defendants' fraud, misrepresentation, and misconduct. The district court denied both motions because there was no excusable neglect, it previously provided sufficient instructions to cure his pleading deficiencies, it accommodated his health problems by allowing him additional time for some filings, and he failed to identify any fraud, misconduct, or misrepresentation. He timely appealed.

Exhibit B

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II.

We review dismissals of a complaint because it is a shotgun pleading for abuse of discretion. *Barmapov v. Amuial*, 986 F.3d 1321, 1324 (11th Cir. 2021). We also review a district court’s denial of a Rule 60 motion for abuse of discretion. *Am. Bankers Ins. Co. v. Nw. Nat’l Ins. Co.*, 198 F.3d 1332, 1338 (11th Cir. 1999). While we read briefs filed by *pro se* litigants liberally, a *pro se* litigant is still “subject to the relevant law and rules of court, including the Federal Rules of Civil Procedure.” *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989).

III.

The district court did not abuse its discretion when it dismissed Johnson’s amended complaint as a shotgun pleading. A shotgun pleading fails “to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests.” *Weiland v. Palm Beach Cnty. Sheriff’s Off.*, 792 F.3d 1313, 1323 (11th Cir. 2015). Shotgun pleadings “waste scarce judicial resources, inexorably broaden the scope of discovery, wreak havoc on appellate court dockets, and undermine the public’s respect for the courts.” *Vibe Micro Inc. v. Shabanets*, 878 F.3d 1291, 1295 (11th Cir. 2018).

Characteristics of shotgun pleadings include (1) containing “multiple counts where each count adopts the allegations of all preceding counts,” (2) being “replete with conclusory, vague, and immaterial facts not obviously connected to any particular cause of

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action,” (3) failing to separate “into a different count each cause of action or claim for relief,” and (4) asserting “multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against.” *Weiland*, 792 F.3d at 1321–23. Further, Rule 8(a)(2) requires a complaint to include a short and plain statement entitling the plaintiff to relief, and Rule 10(b) requires a complaint to state claims in separate, numbered paragraphs. We require district courts to allow a litigant one chance to remedy a shotgun pleading. *Vibe*, 878 F.3d at 1295. If a plaintiff fails to correct their deficient pleading after that notice, the district court is well within its discretion to dismiss the case. *Id.*

Johnson has failed to establish the district court abused its discretion when it held that his amended complaint was a shotgun pleading. Johnson stated no facts to support his claims, failed to separate his claims into distinct counts, and treated all of the defendants as a collective unit for the majority of the claims. Plus, the district court had already given Johnson instructions on how to cure his pleading deficiencies and twenty-eight days to do so. A district court has the discretion to dismiss a complaint as a shotgun pleading, especially after notifying the plaintiff of the deficiencies and giving him an opportunity to cure them. *Id.* The district court did not abuse that discretion here.

IV.

We need not address the district court’s order denying Johnson’s motions to vacate because Johnson has abandoned any

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challenge to that order on appeal. To avoid abandonment, a party must plainly identify the issues or claims that they seek to raise on appeal. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680–81 (11th Cir. 2014). A party abandons a claim on appeal when he fails to “plainly and prominently raise it, for instance by devoting a discrete section of his argument to those claims.” *Id.* at 681. We construe a *pro se* litigant’s briefs liberally, but an issue not briefed on appeal by a *pro se* litigant is deemed abandoned. *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008).

Johnson’s brief does not mention Rule 60 and makes no argument as to why the district court abused its discretion in denying his two motions to vacate. Even construing his brief liberally, we cannot find that he briefed the issue on appeal. Thus, we need not address the merits of the district court’s denial of his motions to vacate.

V.

For the reasons stated above, we **AFFIRM**.

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David T. Johnson
Plaintiff, Pro Se,

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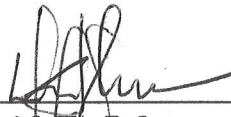
Certificate of Service

I, David T. Johnson, hereby certify under penalty of perjury that I mailed original and ten (10) copies of plaintiff appellants' motion for extension of time to file petition for certiorari with the United States Supreme Court to Clerk, United States Court of Appeals Building, 56 Forsyth Street, N.W., Atlanta, GA 30303; Clerk, U. S. District Court, Middle District of Georgia, 120 12th

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Johnson v. Foster, et al.; USCA11 No.23-10452

Street Columbus, GA 31901; Matthew William Bridges, 40
Capitol Square SW, Atlanta, GA 30334; Henry Thomas Shaw, 411
Gordon Avenue, Thomasville, GA 31792; Drew Eckl Farnham,
LLP, 303 Peachtree St., N.E., Suite 3500, Atlanta, GA; and Isabel
Stoval, 111 Main Street, Georgetown, GA 39854.

Date: February 2, 2024



David T. Johnson, Pro Se
Georgetown, GA 39854