

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA
CIVIL DIVISION**

**In Re: BRUCE CHILDERS,
Plaintiff,**

**CASE NO.: 2024 CA 000816
DIVISION: N**

v.

**ROBERT BENDER,
Supervisor of Elections,
Defendant.**

_____ /

**ORDER DENYING PETITION FOR EMERGENCY WRIT OF MANDAMUS
WITHOUT PREJUDICE**

THIS MATTER is before the Court on the Petition for Emergency Writ of Mandamus and for Declaratory Judgment (“Petition”), filed on June 21, 2024, by Plaintiff, Bruce Childers. On June 24, 2024, Plaintiff filed his Emergency Motion for Order to Show Cause to be directed to the Supervisor of Elections to show cause why the requested relief should not be granted. The Court has reviewed the file, applicable law, and being otherwise advised in the premises, finds as follows:

In Florida, every cause of action, whether derived from statute or common law, is comprised of necessary elements which must be proven for the plaintiff to prevail. *Barrett v. City of Margate*, 743 So.2d 1160, 1162 (Fla. 4th DCA 1999). “It is a cardinal rule of pleading that a complaint must

be stated simply, in short and plain language, and must set out the elements and the facts that support them so that the court and the defendant can clearly determine what is being alleged.” *Id.*; see also Fla. R. Civ. P. 1.110(b). The Petition does not cite to a Rule or statute by which Plaintiff asserts this court has jurisdiction. Presumably, Plaintiff asserts this Court has original jurisdiction, pursuant to Fla. R. Civ. P. 1.630, not appellate jurisdiction, pursuant to Fla. R. App. P. 9.110.

Fla. R. Civ. P. 1.630(b) states as follows:

The initial pleading must be a complaint. It must contain:

- (1) the facts on which the plaintiff relies for relief;
- (2) a request for the relief sought; and
- (3) if desired, argument in support of the complaint with citations to authority.

The caption must show the action filed in the name of the plaintiff in all cases and not on the relation of the state. When the complaint seeks a writ directed to a lower court or to a governmental or administrative agency, a copy of as much of the record as is necessary to support the plaintiff’s complaint must be attached.

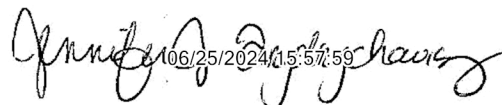
(emphasis added).

Although various documents are referenced in the Petition, none are attached as required. “When a trial court receives a petition for a writ of mandamus, its initial task is assessing the petition to determine whether it is

facially sufficient. If it is not facially sufficient, the court may dismiss the petition.” *Radford v. Brock*, 914 So.2d 1066, 1067 (Fla. 2d DCA 2005); see also *Holcomb v. Dep’t of Corr.*, 609 So. 2d 751, 753 (Fla. 1st DCA 1992) (“When a petitioner files a petition for mandamus, the court has the initial task of assessing the legal sufficiency of the allegations. If the court finds the allegations insufficient, it will deny the petition or dismiss those claims that are factually insufficient.”) (internal citations omitted). Therefore, it is hereby

ORDERED AND ADJUDGED that the Emergency Petition for Writ of Mandamus, filed on June 21, 2024, is DENIED without prejudice.¹

DONE AND ORDERED at Pensacola, Escambia County, Florida.



signed by CIRCUIT COURT JUDGE JENNIFER J FRYDRYCHOWICZ 06/25/2024 03:57:59 IRZQDRcS

JENNIFER J. FRYDRYCHOWICZ
CIRCUIT JUDGE

Parties will receive service from the Court at the e-mail designations on the service list of the e-Portal. The attorney/movant shall effectuate service upon any party not registered on the service list of the e-Portal and file a Certificate of Compliance within five (5) business days.

Copies to:
EDWARD P. FLEMING, Attorney for Plaintiff
GEORGE LEVESQUE, Attorney for Defendant

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. please contact:

¹ For clarity, this Order does not apply to Plaintiff’s request for declaratory judgment; thus, this case remains open.

**Court Administration, ADA Liaison
Escambia County
190 Governmental Center, 5th Floor
Pensacola, FL 32502
Phone (850) 595-4400 Fax (850) 595-0369
ADA.Escambia@flcourts1.gov**

at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.