

RENDERED: May 27, 2005; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-001888-MR

ROBIN LANGDON

APPELLANT

v.

APPEAL FROM LYON CIRCUIT COURT
HONORABLE BILL CUNNINGHAM, JUDGE
ACTION NO. 04-CI-00081

JOHN T. DAMRON AND BECKY PANCAKE

APPELLEES

OPINION AND ORDER
DISMISSING

** **

BEFORE: TACKETT AND TAYLOR, JUDGES; HUDDLESTON, SENIOR JUDGE.¹

TAYLOR, JUDGE: Robin Langdon brings this pro se appeal from an August 25, 2004, order of the Lyon Circuit Court dismissing his medical negligence claim. We dismiss.

On May 10, 2004, appellant filed a complaint in the Lyon Circuit Court against Becky Pancake et al. and the Medical Department of the Western Kentucky Correctional Complex

¹ Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

(correctional complex) located in Lyon County, Kentucky.

Appellant is an inmate at the correctional complex, and Becky Pancake is a Deputy Warden of the correctional complex. In his complaint, appellant alleged that physicians, nurses, agents and/or employees of the correctional complex were negligent in the treatment of his broken finger. Appellant also alleged that the correctional complex was "both ostensibly[sic] liable for the negligence of its physicians, agents, and/or employees and is liable through the theory of respondent[sic] superior."

On August 4, 2004, appellees filed an answer to the complaint and a motion to dismiss for failure to state a claim upon which relief could be granted. Ky. R. Civ. P. 12.02. Attached to the motion was an affidavit of George Patterson, a nurse at the correctional complex, and numerous medical records of appellant. On August 25, 2004, the circuit court entered an order dismissing appellant's complaint, thus precipitating this appeal.

Appellant contends the circuit court committed error by dismissing his complaint. As matters outside of the pleadings were entered into the record, we shall treat the circuit court's order dismissing as a summary judgment. Gailor v. Alsabi, 990 S.W.2d 597 (Ky. 1999). Summary judgment is proper where there exist no material issues of fact and movant

is entitled to judgment as a matter of law. Steelvest, Inc. v. Scansteel Service Center, Inc., 807 S.W.2d 476 (Ky. 1991).

In the complaint, appellant alleged that negligence was committed by "the physicians, nurses, agents, and/or employees of the Western Kentucky Correctional Complex" In the caption of the notice of appeal, appellant only names Becky Pancake as appellee. Pancake was the Deputy Warden of the correctional complex. Pancake was not a medical professional and could not have committed medical negligence. Appellant also attempts to use the designation "et al." in the notice of appeal. It is well-established that use of the term "et al." in the notice of appeal does not operate to include additional parties other than those specifically named in the notice as parties to the appeal. Schulz v. Chadwell, 548 S.W.2d 181 (Ky.App. 1977). In the body of the notice of appeal, appellant also named as appellee John T. Damron, who is the attorney for appellees. The appellant failed to name as appellees either the employees of the correctional complex who allegedly committed the medical negligence, the medical department of the correctional complex, or the correctional complex itself. We believe this omission is fatal to the appeal. The failure to specify in the notice of appeal any party whose absence prevents the appellate court from granting complete relief will result in dismissal of the appeal. Branden

v. Republic-Vanguard Life Insurance Co., 657 S.W.2d 241 (Ky.
1983).

Accordingly, it is hereby ORDERED that the above-
styled appeal is DISMISSED.

ALL CONCUR.

ENTERED: May 27, 2005

/s/ Jeffrey S. Taylor
JUDGE, COURT OF APPEALS

BRIEFS FOR APPELLANT:

Robin Langdon, Pro Se
Fredonia, Kentucky

BRIEF FOR APPELLEE:

John T. Damron
Justice Cabinet
Department of Corrections
Frankfort, Kentucky