

STATE OF SOUTH CAROLINA
In the Supreme Court

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Sep 29 2023

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Clifton B. Newman, Circuit Court Judge

Appellate Case No. 2023-001263

RUSSELL L. BAUKNIGHT, as Trustee of The James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Plaintiffs,

Of whom RUSSELL L. BAUKNIGHT, as Trustee of The James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, are Respondents.

Adele J. Pope, Appellant.

**APPELLANT’S RETURN TO RESPONDENTS’ MOTION FOR LEAVE TO FILE
APPENDIX**

On September 26, 2023 sixteen Respondents, through counsel Sweeny Wingate and Barrow, P.A. (“SWB”) moved for leave to file an appendix in this case. Appellant responds as follows:

FACTS BEARING ON THE MOTION TO SUPPLEMENT THE RECORD

Richland County Case 2010-CP-40-4900 (“Richland 4900”) has a complex history dating back thirteen (13) years. When Richland 4900 had been pending seven (7) years, and before the events which are the subject of this appeal, the Solicitor General of South Carolina declared under oath that in 40 years with the Office of the Attorney General of South Carolina (“AG”) he had never seen a case like Richland 4900.

This appeal was filed on August 4, 2023 and involves the entire history of Richland 4900, but is focused largely on the six-year (6) period between September 2017 and May 2023 when Appellant, on motion of all remaining Richland 4900 plaintiffs, was sanctioned, and her counsel, attorneys Daryl Williams, Adam Silvernail, Wm. Jeffrey Smith, were chastised by the circuit court. The statement of the case, facts and position of Appellant are contained within Appellant’s final brief and Appellant’s final reply brief, filed September 29, 2023, which are incorporated herein by reference.

By Order of the Supreme Court Appellant was directed to file the final ROA. Over seven days Counsel carefully consolidated tens of thousands of pages spanning thirteen (13) years and three counties which had been presented to the lower court and presented a ROA of fewer than

2,500 pages. This included relevant documents from two FOIA cases and “Aiken 1337,” each of which the AG and Respondents had sought to consolidate with Richland 4900.

Only portions of more than 40 depositions which were presented to the lower court in Richland 4900 in support of the motions to lift stay which are the subject of this appeal, or references to those sworn statements, were included in the ROIA, namely:

1. Fourteen sworn statements/depositions filed in Richland 4900 on October 19, 2017

(Exhibit A), including:

- a. Sworn Statement of James Richardson, Jr., *pro bono publico* counsel in *Wilson v. Dallas*, taken March 3, 2016:
- b. Depositions of former plaintiff AG McMaster and plaintiffs/Respondents 1. Lindsey Brown; 2. Janise Brown; 3. Terry Brown, 4. Dr. Yamma Brown; 5. Deanna Brown-Thomas; 6. Jason Brown-Lewis; and Tommie Rae Brown.

2. Thirty complete Depositions and Exhibits filed August 3, 2023, portions or all of which were presented to the lower court and contained within the record in motions to lift the stay between 2017 and 2013 (Exhibit B) including:

- a. Depositions of AG Alan Wilson, Solicitor General Alan Cook, Chief Deputy AG McIntosh; Sr. Asst AGs Creighton Water and Clyde Jones; Asst. AG Mary Frances Jowers; former AG McMaster (10/19/16).
- b. Plaintiffs’ Depositions as shown above refiled.
- c. Depositions of the following Experts designated by SWB in Richland 4900 in 2017 (jointly with Aiken 1337), and taken in 2017 by Appellant *pro se* in Aiken 1337: 1. Julian Walker, Esq.; 2. Nathan Crystal, Esq.; 3. Mark Hobbs, CPA; 4. Nathan Crystal, Esq., CPA; 5. Ellison Thomas, Esq.; 6. Jonas Herbsman, Esq.; 7. Roger Miller, Esq.
- d. Thirteen (13) depositions in Aiken 1337, with exhibits, including Lous Levenson, Esq; Wm Jeffrey Smith, Esq.; James Hardin, Esq.; Dr. Terry Cox; William James Forlando Brown; Steven Johnson, Esq.; plaintiff Russell Bauknight (2 depositions); Kenneth Wingate, Esq.; Everett Kendall.

Portions, summaries, or references to most of these depositions are within the briefs and ROA, including Cook, ROA 794-815; McMaster 1818-19; Sojourner 2037-2040; Jowers, 2017-2021; Williams 2030- 2031; Lambert 2037; Hardin 2007-2017; Waters 1994-96; Lightsey 1997-2004; Jones 1240-42; Pope 1697; Wingate 837-41; Kendall 2033-37; and others.

On September 26, 2023 Plaintiffs/Respondents sought to include a large number of additional documents within the final ROA, including documents which were filed after the final orders which are the subject of this appeal.

Counsel for Appellant took no position as to all documents others than a Rule to Show Cause -- which was filed after the final order and after all of the above depositions were filed.

Subject to the Court's discretion Appellant does not object to any documents, but respectfully requests that the Court take judicial notice of the above depositions and Exhibits which were presented to the lower court prior to the appeal and prior to the Rule to Show Cause be considered if that document is to be considered.

Conclusion

Appellant respectfully submits that the matters contained in the Appendix are not necessary to the Court's decision; do not object to them; but requests that judicial notice be taken of the depositions of plaintiffs, their experts and the experts and witnesses of Appellant if the Appendix, in its entirety, is to be considered.

Respectfully submitted,

s/Adam T. Silvernail _____

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September 29, 2023

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