

STATE OF SOUTH CAROLINA
In the Court of Appeals

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AUG 18 2016

SC SUPREME COURT

Appeal from Richland County
Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Judge

Case No. 2010-CP-40-4900

Adele J. Pope,

Appellant,

v.

Alan Wilson, in his capacity as
Attorney General of South Carolina,

Respondent.

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AUG 19 2016

SC Court of Appeals

APPELLANT'S MOTION TO CERTIFY
TO THE SOUTH CAROLINA SUPREME COURT

**TO: THE HONORABLE JUSTICES OF THE SOUTH CAROLINA SUPREME COURT
AND RESPONDENT ALAN WILSON, IN HIS CAPACITY AS ATTORNEY
GENERAL FOR SOUTH CAROLINA**

Appellant Adele J. Pope ("Appellant") hereby moves this Court, pursuant to Rule 204(b), *SCACR*, to certify this matter to the South Carolina Supreme Court for review. The grounds of this motion are as follows:

1. This action was brought under the South Carolina Freedom of Information Act, S.C. Code Ann. §30-4-10, *et seq.* (the "FOIA") on August 10, 2011 in Newberry County.

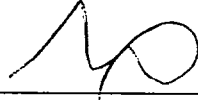
2. Among the public documents sought by Appellant herein was the Attorney General's contingency-fee agreement with private counsel (representing the Attorney General and more than a dozen private resident and non-resident individuals) to sue two private citizens of South Carolina.
3. At the request of the Attorney General, and over Appellant's objection, this FOIA case was transferred in 2012 from Newberry County to Richland County and consolidated with a pending tort action.
4. The documents sought herein relate to the Attorney General's involvement in litigation surrounding the Estate of James Brown and the James Brown 2000 Irrevocable Trust. In its opinion in *Wilson v. Dallas*, 746 S.E.2d 743 (2013), this Court found that the settlement agreement brokered by the Attorney General was an "unprecedented misdirection of the AG's authority in estate cases."
5. The Circuit Court refused to hold a hearing in this matter for more than four (4) years, despite numerous requests by Appellant.
6. On June 14, 2016, the Circuit Court dismissed Appellant's FOIA claims based on its finding that Appellant's FOIA rights were subordinate to discovery in the tort action.
7. As set out in the introduction to the FOIA, "provisions of [the FOIA] must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings." S.C. Code Ann. §30-4-15.

8. Rule 204(b), *SCACR*, provides that “[c]ertification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance.”
9. This case, wherein a South Carolina citizens FOIA rights have been subordinated to discovery in a civil suit, raises matters of public importance as well as important legal principles, because no prior reported case in South Carolina has held that a citizen may lose her FOIA rights when involved in civil litigation.
10. Additionally, this five-year-old FOIA case should be transferred to ensure that it proceeds promptly to a final conclusion, where the case languished for years in the Circuit Court.
11. The factual background of this case and the important issues raised herein are addressed more fully in the Affidavit of Appellant served herewith and incorporated herein.

For the reasons set forth above, Appellant respectfully moves this Court to certify this case for review. This motion is based on the Appellate Court Rules, the Affidavit of Appellant served herewith, applicable statutory and case law, and the entire record herein.

[SIGNATURE BLOCK APPEARS ON FOLLOWING PAGE.]

Respectfully submitted,



Adam T. Silvernail (Bar No. 80219)
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernailfirm.com

Counsel for Appellant

August 18, 2016

Other Counsel of Record:

J. Emory Smith, Jr., Esquire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Counsel for Respondent Attorney General