

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL from Court of Common Pleas of CHARLESTON COUNTY

J.C. Nicholson, Circuit Court Judge

CASE NO. 2014-CP-10-5355
Appellate Case No. 2016-000748

RECEIVED

OCT 24 2016

SC Court of Appeals

In Re: Estate of Norman R. Knight, Jr., (deceased), Estate of Mildred C. Knight, (deceased),
and Norman Robert 'Bobby' Knight, III, Appellants,

v.

Beatrice E. Whitten, as a special administrator, and Chloe Knight-Tonney, Claimants,
Respondents,

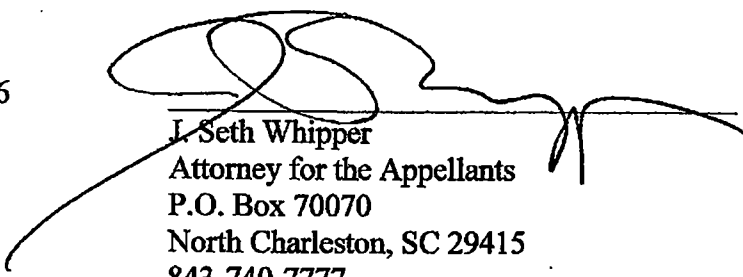
RETURN TO MOTION TO CORRECT RECORD ON APPEAL AND MOTION TO
SUPPLEMENT THE RECORD ON APPEAL AND TO EXTEND TIME TO FILE FINAL
BRIEFS

Appellants did not intentionally seek to prevent Respondent Tonney from offering argument on the issues herein. Appellants realized through review of the rules that portions of the Transcripts were preferred. In making that adjustment, Appellants, through oversight, did not recognize that Respondent Tonney had earmarked certain portions of the transcripts for the Record On Appeal. After duplicating the Record On Appeal, appellents bound them and prepared them for delivery to the Court.

In preparing Appellants' Reply briefs, Appellants made reference to portions of the transcripts that were inadvertently omitted from the Record On Appeal, to include a transcript of a hearing held in July, 2013 by Judge Fulp, the trial court. Appellants move to supplement the Record On Appeal with the omitted portions of the transcripts to provide a complete and accurate record of the arguments, issues, and facts in this appeal as set out in the briefs.

In order to facilitate the proper completion of final briefs for all parties, Appellants move to extend the time for filing the final briefs for a 30 days beginning October 26, 2016.

October 22, 2016



J. Seth Whipper
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

Beatrice E. Whitten, Esquire
C. Mac Gibson, Esquire

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v.

Beatrice E. Whitten, as a special administrator, and Chloe Knight-Tonney, Claimant, Respondents.

MEMORANDUM IN SUPPORT OF THE RETURN TO MOTION TO CORRECT RECORD ON APPEAL AND MOTION TO SUPPLEMENT THE RECORD ON APPEAL AND TO EXTEND TIME TO FILE FINAL BRIEFS

DISCUSSION

Respondent Tonney's motion and the need to add material to the Record On Appeal combined with the need to have accurate and proper reference to the Record on Appeal requires that the additional material has the proper designations to aligned with the Briefs already submitted. SCRP Rule 15 sets out our fundamental understanding for allowing change in or amendment of legal documents: courts are encouraged to allow leave to freely modify documents when justice so requires and does not prejudice any other party. Further, Rule 15 will allow pleadings to be amended and provides that this will happen "freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits".

The primary question presented by these motions is, what is the best way to have the

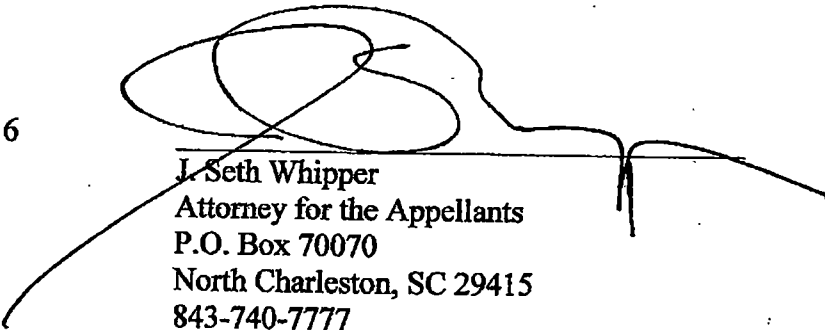
Record On Appeal remain consistent with the Briefs as submitted by the parties. The court and all concerned need to have the proper references and citations in order to weigh the arguments put forward by the all parties.

CONCLUSION

Appellants should be allowed to supplement the record and create an accurate body of references and citations for the court and the parties.

Respectfully Submitted,

October 22, 2016



J. Seth Whipper
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

PORTIONS OF TRANSCRIPTS TO BE INCLUDED IN RECORD ON APPEALS

Appellants Reply Briefs

- 1. (R.p. 148, tr.p. 396 L. 18-tr.p. 397 L.10).....p.4
- 2. (R.p. 113: tr.p. 256 L. 14-tr.p. 258 L.2).....p.4
- 3. (R.p. 148: tr.p. 396 L. 18-tr.p.397 L.10).....p.5
- 4. (R.p. 122:tr.p. 292 L.2 -tr.p. 295 L.16).....p.6
- 5. (Tr. 7/17/13:p. 44 L.12- p.45 L. 19).....p.9

Appellants Reply Brief: (Special Administrator)

- 1. (R.p. 412:tr.p.375 L.15-17); (Tr. 7/17/13; p.35 L.20-p 36 L.11).

Appellants Initial Briefp.5

- 1. (R.p. 122:tr.p. 293 L. 1-6).Correcting R.p 135 to R.p.122.....p.9

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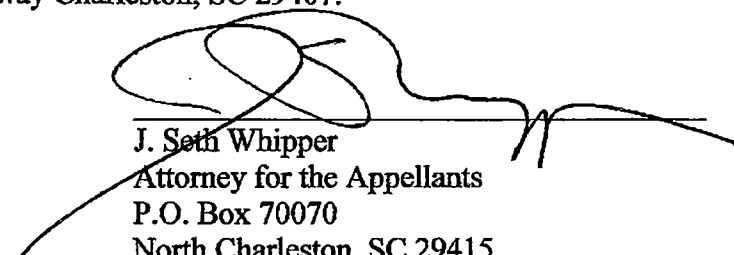
v.

Beatrice E. Whitten, as a special administrator, and Chloe Knight-Tonney, Claimant, Respondents,

PROOF OF SERVICE

I certify that I have served the Return To Motion To Correct Record On Appeal And Motion To Supplement The Record On Appeal And To Extend Time To File Final Briefs and Memorandum With Attachment In Support Of The Motion To Correct Record On Appeal And Motion To Supplement The Record On Appeal And To Extend Time To File Final Briefs on Beatrice E. Whitten, Esquire and C. Mac Gibson Jr., Esquire by depositing a copy to them in the United States Mail, postage prepaid, on October 22, 2016, addressed to attorneys of record, Beatrice E. Whitten, Esquire, 1110 Queensborough Blvd, Mt. Pleasant, SC 29464 and C. Mac Gibson Jr., Esquire, 1118 Savannah Highway Charleston, SC 29407.

October 22, 2016


J. Seth Whipper
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FAX TRANSMISSION

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OCT 24 2016

South Carolina Appeals

To: The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
Date: October 22, 2016

Fax #: 803/734-1839
Pages: 9, including this cover sheet.

From: J. Seth Whipper, Esq. 

Subject: FAX & US MAIL

Re: In Re Estate of Norman R. Knight, Jr., (deceased), Estate of Mildred C. Knight, (deceased), and Norman Robert "Bobby" Knight, III, Appellant,
v.
Beatrice E. Whitten, as a special administrator, and Chloe Knight-Tonney, Claimant, Respondents,
Appellate Case No. 2016-000748
Case No.2014-CP-10-5355

Return To Motion To Correct Record On Appeal and Motion to Supplement The Record On Appeal And To Extend Time To File Final Briefs – For filing Memorandum With Attachment In Support Of The Motion To Correct Record On Appeal And Motion To Supplement The Record On Appeal And To Extend Time To File Final Briefs – For Filing Proof of Service – For Filing

COMMENTS: Hard copy to follow via U.S. MAIL.

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

J

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CHERYL WHIPPER HAMILTON
 J. SETH WHIPPER

OCT 24 2016
 MAILING ADDRESS
 POST OFFICE BOX 70070
 NORTH CHARLESTON, SC 29415

October 22, 2016

The Honorable Jenny Abbott Kitchings
 Clerk, South Carolina Court of Appeals
 Post Office Box 11629
 Columbia, South Carolina 29211

FAX AND U.S MAIL

Re: **In Re: Estate of Norman R. Knight, Jr., (deceased), Estate of Mildred C. Knight, (deceased), and Norman Robert 'Bobby' Knight, III, Appellant;**

v.

Beatrice E. Whitten, as a special administrator, and Chloe Knight-Tonney, Claimant,

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Appellate Case No.: 2016-000748

Case No.: 2014-CP-10-5355

Return To Motion To Correct Record On Appeal and Motion to Supplement The Record On Appeal And To Extend Time To File Final Briefs – For filing Memorandum With Attachment In Support Of The Motion To Correct Record On Appeal And Motion To Supplement The Record On Appeal And To Extend Time To File Final Briefs– For Filing Proof of Service – For Filing

Dear Ms. Kitchings:

Find enclosed check number # 9993 in the amount of \$25.00 for filing fee. Also, enclosed for filing are the following documents: Return To Motion To Correct Record On Appeal and Motion to Supplement The Record On Appeal And To Extend Time To File Final Briefs, Memorandum With Attachment In Support Of The Motion To Correct Record On Appeal And Motion To Supplement The Record On Appeal And To Extend Time To File Final Briefs, and Proof of Service in the above case. I have enclosed a self-addressed, stamped envelope for returning the conformed copy.

Because the filing deadline is only (3) three days ago, we are asking immediate consideration noting that the parties have the shared concern.

Thank you for your assistance and cooperation with this matter.

Sincerely,
WHIPPER LAW FIRM

J. Seth Whipper, Esquire



JSW/lds
Enclosures

xc: Bobby Knight
Judith L. Brown
C. Mac Gibson, Jr.
Beatrice E. Whitten