

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Doyet A. Early, III, Circuit Court Judge
The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2010-CP-40-4900

Appellate Case No. 2017-001899

RECEIVED
DEC 27 2018
SC Court of Appeals

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

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, Respondents,

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

**RETURN TO APPELLANT'S MOTION FOR EXTENSION
OF TIME TO FILE SUPPLEMENTAL INITIAL BRIEF**

On December 17, 2018, Appellant served on the undersigned counsel for Respondents, among other documents, the following:

1. **Motion for Extension of Time to File Initial Brief (Supplemental)**

Appellant is requesting a 40-day extension to file an initial brief in Appellate Case No. 2017-001899 pursuant to a purported supplemental appeal. Appellant expresses her desire that her second motion to lift stay be heard by the Circuit Court, and she concludes that “matters related to the death of Venisha Brown; securing [Venisha’s] assets; and correcting parties” necessitate a 40-day extension. (p. 4) However, what is clearly behind Appellant’s 40-day extension request is her goal of supplementing this appeal by appealing 25 additional Orders from Case No. 2010-CP-40-4900 (“Appellant has filed a supplemental appeal of the two summary judgment orders, as well as a number of additional orders, which will be the subject of the supplemental initial brief to be filed.”) (p. 3)

2. **Supplemental Notice of Appeal**

Appellant is purporting to appeal 25 Orders from Case 2010-CP-40-4900, 23 of which she received in the years 2017, 2016, 2015, 2012, 2011 and 2010 (well beyond the deadline for serving and filing a notice of appeal pursuant to Rule 203, SCACR).

ARGUMENT

Appellant’s Motion for Extension of Time to File Initial Brief (Supplemental) should be denied because:

1. Appellant is barred outright from appealing 23 of the Orders included in her Supplemental Notice of Appeal (Orders numbered 3 – 25), because the deadline for appealing every one of those 23 Orders passed (pursuant to Rule 203, SCACR) well over 30 days ago.

2. Appellant's attempt to appeal Orders numbered 1 and 2 is improper, because she has served and filed her purported notice of appeal in connection with those 2 Orders as part of a supplemental notice of appeal to this appeal. There is no *South Carolina Appellate Court Rule* that specifically authorizes an appellant to add more orders for appeal to an ongoing appeal. Further, this appeal is over one year and three months old, and the voluminous filings have all been directed as to what is permissible and proper in an appeal of the initial 5 orders included in Appellant's Notice of Appeal served and filed on September 12, 2017.

3. Appellant has clearly violated Rule 269, SCACR, which provides:

Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require.

Although Appellant knows, or should know, that she is barred outright from appealing 23 of the Orders included in her Supplemental Notice of Appeal (Orders numbered 3 – 25), it is reasonably anticipated that she is about to file one or more documents offering multiple reasons for the appealability of the said Orders numbered 3 – 25. However, her new attempted appeal, at least as to such Orders numbered 3 – 25, is completely frivolous, taken solely for the purposes of delay, and is not in compliance with the *South Carolina Appellate Court Rules*. Appellant's new appeal is a clear attempt to make a mockery of the parties, the attorneys of record, the Circuit Court judges issuing the Orders listed in her Supplemental Notice of Appeal, and this Court.

4. Appellant's Motion for Extension of Time to File Initial Brief (Supplemental) is a clear violation of the Supreme Court's Order dated June 10, 2015 (hereinafter the "Supreme Court's Order"). The Supreme Court's Order (Appellate Case Nos. 2013-001649, 2014-000250, 2014-001279 and 2009-142286) provides:

Pope is hereby prohibited from filing any further motion or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges.

The primary grounds for Appellant's Motion for Extension of Time to File Initial Brief (Supplemental) "are that a supplemental motion to lift stay for limited purposes was filed in the Circuit Court in October 2018; has not yet been heard by the Circuit Court; and may affect the content of the initial brief." Appellant's so-called "supplemental motion to lift stay for limited purposes" is actually her second motion to lift stay in this appeal. Her second motion to lift stay is not a supplemental motion, because it supplements nothing. Ironically the purported limited scope of the second motion to lift stay involves no fewer than 16 extraordinary actions Appellant wants the Circuit Court to take. In Appellant's second motion to lift stay, she complains extensively about:

- the South Carolina Attorney General's involvement with the Estate and Trust
- James Brown's heirs asserting their termination rights
- Russell Bauknight's handling of the Estate and Trust
- Tommie Rae Brown's rights to the Estate and Trust
- assets being distributed and/or paid from the Estate and Trust
- Terry Brown's rights to the Estate and Trust
- the Plaintiffs' attempts to resolve the Estate and Trust issues

- Peter Afterman helping certain Plaintiffs pursue their termination rights
- Judge Early's status report to the Supreme Court about, among other matters, the beneficiaries of the Estate and Trust
- David Sojourner's role in connection with the resolution of the Estate and Trust

All those complaints are Appellant's ongoing method of "reporting" to the Court about what she thinks should, and should not be, done to resolve the Estate and Trust. Therefore, her filed complaints are clear attempts by Appellant to involve herself in the resolution of the Estate and Trust.

5. Appellant's real motive for her requested extension of time to file a supplemental "initial" brief is that her second motion to lift stay seeks the Circuit Court's assistance primarily in freezing "funds that may be needed to fund Appellant's counterclaims." (Second motion to lift stay at p. 19) Appellant unashamedly states: "They [the Plaintiffs] seek to deprive the Court of jurisdiction over their persons and over the millions of dollars of distributions and payments which are lower priority than Appellant's counterclaims against them." (Second motion to lift stay at p. 19) The only conclusion to be drawn is that Appellant clearly believes that her counterclaims are currently valued at millions of dollars. Arguably the primary reason why this case, the current appeal by Appellant (Appellate Case No. 2017-001899), and the anticipated additional appeals by Appellant, will continue indefinitely, is encapsulated in the unrealistic expectations, misrepresented issues, and impossible personal and professional goals, all expressed by Appellant on page 17 of her second motion to lift stay as follows:

Only this case, Richland 4900, provides an opportunity for Appellant, and possibly Buchanan, to address the false claims; restore their reputations; be compensated for the interference with their contract for payment from Plaintiff Estate/2000 Trust; and be compensated for years of damage to their careers from Plaintiffs.

That statement is the sole reason behind her recent filings—not jurisdiction, not mootness, not even the status of Venisha Brown’s estate.

CONCLUSION

Counsel for Respondents would gladly consent to an extension requested by a party in an appeal for reasonable additional time to prepare an anticipated document for serving and filing. But Appellant’s request for a forty (40) day extension of time to (1) file an “initial” brief in an appeal that has been ongoing for over one year and three months, (2) file an “initial” brief for 25 additional Orders from Case No. 2010-CP-40-4900, and (3) file an “initial” brief following the ruling on her second motion to lift stay, is a frivolous motion taken solely for the purposes of delay and is not in compliance with the South Carolina Appellate Court Rules. Therefore, Appellant’s motion should be denied, her purported supplemental appeal dismissed, and she and her attorneys of record should be sanctioned “as the circumstances of the case and discouragement of like conduct in the future may require.” Rule 269, SCACR.

Respectfully submitted,



December 27, 2018

Kenneth B. Wingate, S.C. Bar No. 8004
Mark V. Gende, S.C. Bar No. 72835
Everett A. Kendall, II, S.C. Bar No. 8450
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street (29201)
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233
kbw@swblaw.com
mvg@swblaw.com
eak@swblaw.com
Attorneys for Plaintiffs

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Doyet A. Early, III, Circuit Court Judge
The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2010-CP-40-4900

Appellate Case No. 2017-001899

RECEIVED
DEC 27 2018
SC Court of Appeals

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

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, Respondents,

v.

Adele J. Pope, Defendant,

Of whom Adele J. Pope is the Appellant.

PROOF OF SERVICE

I certify that I have served the Return to Appellant's Motion for Extension of Time to File Supplemental Initial Brief by depositing a copy of it in the United States Mail, postage prepaid, on December 27, 2018, addressed to the following attorneys of record:

W.H. Bundy, Jr., Esquire
Brent McDonald, Esquire
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, SC 29485

and

Adam T. Silvernail, Esquire
Law Office of Adam T. Silvernail LLC
1905 Marion Street (29201)
P. O. Box 7995
Columbia, SC 29202
Attorneys for Appellant

The Honorable Alan Wilson
Attorney General

and

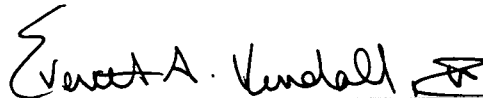
The Honorable Robert D. Cook
Solicitor General

and

The Honorable J. Emory Smith, Jr.
Deputy Solicitor General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Attorneys for Respondent Attorney General

SWEENEY, WINGATE & BARROW, P.A.

December 27, 2018



Kenneth B. Wingate, S.C. Bar No. 8004
Mark V. Gende, S.C. Bar No. 72835
Everett A. Kendall, II, S.C. Bar No. 8450
Sweeney, Wingate & Barrow, P.A.
1515 Lady Street (29201)
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233
kbw@swblaw.com
mvg@swblaw.com
eak@swblaw.com
Attorneys for Respondent



SWEENEY WINGATE & BARROW P.A.

December 27, 2018

Reply to: Main Office
Everett A. Kendall
(803) 256-2233
eak@swblaw.com

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
DEC 27 2018
SC Court of Appeals

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Appellate Case No. 2017-001899
Our File: 4077-7389

Dear Ms. Kitchings:

Enclosed please find the original and one copy of the Return to Appellant's Motion for Extension of Time to File Supplemental Initial Brief in connection with the above-referenced matter. Please file the original and return the remaining clocked copy.

By copy of this letter to opposing counsel, I am serving them with same.

Thank you for your assistance, and should you have any questions, please do not hesitate to contact me.

Very truly yours,

SWEENEY, WINGATE & BARROW, P.A.

Everett A. Kendall

EAK/nrc
Enclosure

cc: **Counsel of Record (via email and US Mail)**
Adam T. Silvernail, Esquire
W. H. Bundy, Jr., Esquire
M. Brent McDonald, Esquire
Daryl L. Williams, Esquire
J. Emory Smith, Jr., Deputy Solicitor General
Robert D. Cook, Solicitor General
Alan Wilson, Attorney General