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SEP 12 2019

SC Court of Appeals

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
Trial Court Case 2010CP4004900

Appellate Case No.2018-002229

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 children, 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 children, 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.

**REPLY OF ATTORNEY GENERAL TO RETURN TO HIS
MOTION TO STRIKE APPELLANT'S AMENDED INITIAL BRIEF
AND DESIGNATION**

Appellant fails to provide any valid reason why the Attorney General's Motion to Strike should not be granted. She responds, in part, by setting forth her version of a history of litigation, mostly without citation to the Record and including other cases, all of which is irrelevant to the narrow issues in this Motion. She engages in the absolutely baseless accusation that this Motion is retaliatory for a Supreme Court decision more than six years ago in another case. In doing so, she ignores that this Court struck her earlier brief in this case (Order, July 26, 2019) and that it struck her initial brief in case 2017-01899 (Order, April 26, 2018). Appellant fails to provide any evidence that the documents at issue are in the Record in this case.

Rather than produce file-stamped covers of the documents at issue, Appellant's response is that we cannot rely on the online filing index or undocumented consultation with clerk's office staff.¹ Appellant should have contacted the Clerk's Office to obtain verification as to whether the documents were on file when she does not dispute that they are not in the online public index.

Although she suggests that some unspecified documents were handed up to the Court, she does not point to a transcript entry showing that the documents at issue were physically given to the Court. With the sole exception of a letter to Judge Manning dated May 10, 2013 (Appellant's Designation No. 74), as to which objection is withdrawn, the designated correspondence and references to them in the brief do not indicate that the letters were directed to the Court.

¹ Clerk's Office staff should not be troubled with an affidavit verifying that the documents at issue were not filed when they are not on the public index, and Appellant apparently did not check the records there; however, undersigned counsel will request an affidavit of staff if this Court so directs. *See infra*.

Without pointing to entries as to the specific documents at issue, Appellant also argues generally that the documents may be in the record in Appeal 1899 or FOIA appeal 2016-01727. Instead, a review of the index to the Record in Appeal 1899 indicates that the documents at issue were not included in that Record. The case that was the subject of Appeal 1727 was not consolidated with the instant case so documents in 1727 were not before the circuit court in the instant case.

The Attorney General's Motion is narrowly drawn focusing on depositions, one affidavit and some correspondence. Appellant had ample time to provide verification that these documents were filed with the Court, but failed to utilize it for that purpose. She instead filed her response to the Motion to Strike six days before it was due without demonstrating compliance with the Rules. Therefore, Appellant's brief should be struck, and she should be directed to refile without the citations and designations to the documents at issue and any others not in the record. She should not provide additional argument, citations or designations.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

J. EMORY SMITH, JR.
Deputy Solicitor General
S.C. Bar No. 5262

BY: 

ATTORNEYS FOR RESPONDENT
ATTORNEY GENERAL

September 12, 2019



ALAN WILSON
ATTORNEY GENERAL

September 12, 2019

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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
HAND DELIVERY

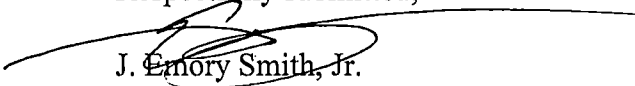
Re: Bauknight v. Pope, Appellate Case No. 2018-002229

Dear Ms. Kitchings:

Enclosed for filing with your Office is the original and six copies of the Reply to the Return to the Motion of Respondent Attorney General to Strike Appellant's Amended Initial Brief and Designation together with a Certificate of Service.

Thank you for your assistance.

Respectfully submitted,


J. Emory Smith, Jr.
Deputy Solicitor General
Counsel for the Attorney General

cc: Charles E. Carpenter, Jr., Esquire Mark V. Gende, Esquire
Adam T. Silvernail, Esquire
William Jeffrey Smith, Esquire
Daryl L. Williams, Esquire
Kenneth B. Wingate, Esquire

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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 children, 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.

CERTIFICATE OF SERVICE

I hereby certify that I have served the Attorney General’s Reply to Return to Motion to

Strike Appellant's Amended Initial Brief and Designation on counsel for the other parties by mailing copies to them at the addresses below via the United States Mail this September 12, 2019:

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