

STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

RECEIVED

May 01 2020

SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Court Judge  
The Honorable L. Casey Manning, Circuit Court Judge

---

Appellate Case No.: 2017-001899

---

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

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, Respondents.

v.

Adele J. Pope, and Robert L. Buchanan, Jr. Defendants,  
Of whom Adele J. Pope is Appellant.

---

**APPELLANT'S REPLY TO RETURN OF SWEENEY, WINGATE & BARROW, P.A.  
OPPOSING MOTION TO SUPPLEMENT THE RECORD ON APPEAL AND SEEKING  
SANCTIONS AND  
MEMORANDUM IN SUPPORT OF MOTION TO SUPPLEMENT AND OPPOSING  
SANCTIONS**

---

Respondents<sup>1</sup>, through Sweeny, Wingate and Barrow, P.A. (“Wingate”) have filed a return opposing supplementing the record herein and seeking sanctions against Appellant. Appellant submits that the proposed supplement to the Record herein is proper and sanctions are both unwarranted and inappropriately requested.

**The Motion to Supplement is Proper and Should Be Granted**

As set out in her Reply to the AG’s separate return to the motion to supplement the record, which deals in more detail with the Respondents’ collective complaints and is incorporated herein, Appellant submits that the proposed Supplemental Record includes appropriate material to allow this Court to fully consider the issues presented in this case.

Appellant notes first that all state court cases related to the Estate/2000 Trust of James Brown were assigned to the Honorable Doyet A. Early, III from 2007 until his Honor’s retirement in 2019, except for this case, the FOIA case which was consolidated with this case, and the second FOIA case, all of which were assigned to Judge Early from March 2016 until his Honor’s retirement. Because all orders during that period which are on appeal were issued by Judge Early, and all are pretrial orders, the resulting appellate records are unique. Judge Early was presented with every document in every case and further, liberally took judicial notice of other cases when asked. It would be hard not to, since it difficult at best to ask a single judge to un-know anything he learned, regardless of which specific case it was presented for.

Additionally, the individuals and entities comprising the Respondents herein have, in the near-decade since filing this case, gone on to take varying positions (often against one

---

<sup>1</sup> Appellant reiterates her continuing objection to Wingate’s authority to speak for various respondents, including the deceased Venisha Brown, the Legacy Trust, the Respondents who are no longer minors and have not ratified Wingate’s actions.

another) on facts relevant to this case in other cases and courts. Especially where Respondents have made no attempt since filing this case in 2010 to amend the complaint or otherwise acknowledge their diverse legal positions in the post *Wilson v. Dallas* world, the Court should consider the materials presented in the Supplemental Record.

This Court is empowered to consider additional documents and facts, by supplementing the record and/or taking judicial notice thereof where it is in the interest of justice to do so. *See CSX Transp., Inc. v. City of Garden City*, 235 F.3d 1325, 1330 (11th Cir. 2000) (noting "the inherent equitable power to allow supplementation of the appellate record if it is in the interests of justice"); *see also In re AOV Indus. Inc.*, 797 F.2d 1004, 1012 (D.C. Cir. 1986) ("Normally, of course, [courts] are not required to consider evidence presented for the first time on appeal ... [but] [i]t is within the discretion of the court ... , however, to make limited exceptions to this rule when 'injustice might otherwise result.'" (citing and quoting *Singleton v. Wulff*, 428 U.S. 106, 121 (1976))).

For these and all reasons set out in Appellant's Reply to the AG's return, the motion to supplement the record and for other relief should be granted.

**Respondents' Request for Sanctions Continues their Years-long Practice of Harassing Appellant and should be Denied**

Respondent Russell Bauknight, and those for whom he purports to serve as agent in the caption of this case, have a long-established history of seeking sanctions against Appellant and her counsel at every turn. This began in January 2011 and, more than a dozen motions for sanctions later, continues today with the instant request. None has been granted, and there is no basis on which to sanction Appellant for her proper motion herein.

Rule 269, cited by Respondents as a basis for their sanctions request, confirms this Court's authority to sanction parties and/or counsel for violation of the Rules. Respondents

go on to accuse Appellant of violating Rules 209 and 210 by bringing the instant motion. They disregard completely that Appellant has properly moved under Rule 212(b) to supplement the record herein and properly sought judicial notice herein; Wingate is entitled to oppose the motion as it sees fit, but not to continue Respondents' practice of seeking sanctions against Appellant by incorrectly alleging violations of inapplicable Rules. "A request for sanctions should be reserved for serious violations of the standard of practice, not used as a bullying tactic." *See Kim v. Westmoore Partners, Inc.*, 133 Cal.Rptr.3d 774, 201 Cal.App.4th 267 (Cal. 2011).

It is especially telling that Wingate baselessly attempts to ascribe, in its own words and based on nothing in Appellant's motion, inappropriate and ulterior motives to Appellant's motion. See Return, p. 2, n. 1. Basing a request for sanctions on Wingate's "assume[d]" purpose for Appellant's motion – where her actual purpose is appropriate and stated on the face of the motion – is abusive.

For these reasons, the request for sanctions should be denied.

#### **CONCLUSION**

The motion to supplement the record and for other relief was properly made to ensure this Court has all needed material to decide this case, and Appellant respectfully submits that said motion should be granted. Respondents' request for sanctions is inappropriate, unjustified and a continuation of Respondents' collective history of seeking sanctions as a method of bullying Appellant. It should therefore be denied so that this appeal may proceed to its conclusion. Respondents should be deemed to have waived their right to designate supplemental documents.

Respectfully submitted,

Charles E. Carpenter, Jr.  
Carpenter Appeals & Trial Support, LLC  
4825 Portobello Road  
Columbia, SC 29206  
Telephone: (803) 758-2886  
[charlie@carpenterappeals.com](mailto:charlie@carpenterappeals.com)  
S.C. Bar No. 1133

s/Adam T. Silvernail  
Adam T. Silvernail  
Law Office of Adam T. Silvernail, LLC  
Post Office Box 7995  
Columbia, South Carolina 29202  
Telephone (803) 799-1770  
[adam@silvernaillawfirm.com](mailto:adam@silvernaillawfirm.com)  
S.C. Bar No. 80219

William Jeffrey Smith  
1216 Crenshaw Street  
Newberry, SC 29108  
Telephone: (803) 597-0209  
[wjstv@mindspring.com](mailto:wjstv@mindspring.com)  
SC Bar No. 0005225

Daryl L. Williams  
Gertz & Moore, LLP  
1416 Laurel Street (29201)  
Post Office Box 456  
Columbia, SC 29202  
SC Bar No. 6121

*Counsel for Appellant Adele J. Pope*

May 1, 2020

**STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

**RECEIVED**

**May 01 2020**

**SC 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**

---

**Appellate Case No.: 2017-001899**

---

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

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, Respondents.

v.

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

Of whom Adele J. Pope is Appellant.

---

**Proof of Service**

---

The undersigned counsel for Appellant certifies that he has served a copy of the the following:

1. Reply to Return of Attorney General to Motion to Supplement the Record and
2. Reply to Return of Sweeny, Wingate & Barrow, P.A., to Motion to Supplement the Record and Return to Request for Sanctions

on all Respondents on the date shown below, by emailing the same to their counsel, addressed as follows:

Kenneth B. Wingate  
Mark V. Gende  
Sweeny, Wingate & Barrow, P.A.  
1515 Lady Street  
Columbia, SC 29201  
Telephone: (803) 256-2253  
[kbw@swblaw.com](mailto:kbw@swblaw.com)  
[mvg@swblaw.com](mailto:mvg@swblaw.com)

*Counsel for Respondents*

Alan Wilson, Attorney General  
Robert D. Cook, Solicitor General  
J. Emory Smith, Jr., Deputy Solicitor General  
PO Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3680  
[esmith@scag.gov](mailto:esmith@scag.gov)

*Counsel for Respondent Attorney General*

s/Adam T. Silvernail  
*Counsel for Appellant*

May 1, 2020



---

**Bauknight, et al v. Pope, Appellate Case No. 2017-1899**

1 message

---

**Adam Silvernail** <adam@silvernailfirm.com>

Fri, May 1, 2020 at 1:56 PM

To: "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <kbw@swblaw.com>, Emory Smith <ESmith@scag.gov>

Cc: Adele Pope <adele@popelawfirm.com>, Charles Carpenter <charlie@carpenterappeals.com>, Daryl Williams <dwilliams@gertzandmoore.com>, Jeff Smith <wjstv@mindspring.com>

Counsel:

Attached and served on you are our Replies to the Returns of Sweeny, Wingate & Barrow, P.A.'s and the Attorney General's returns to the motion to supplement the record, along with a Proof of Service.

A copy of this email will be filed with the Proof of Service.

Best,  
Adam

--  
--

**Law Office of Adam T. Silvernail, LLC**

1905 Marion Street (29201)

Post Office Box 7995

Columbia, South Carolina 29202-7995

803/779-1770


**RECEIVED**

**May 01 2020**

**SC Court of Appeals**

---

**3 attachments**

 **Pope 1899 Appeal POS.pdf**  
40K

 **Pope 4900 Reply to Wingate .pdf**  
110K

 **Pope 4900 Reply Return AG.pdf**  
258K