

STATE OF SOUTH CAROLINA
In the Court of Appeals

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FEB 18 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III Circuit Court Judge

Case No. 2007-CP-02-0122; Case No. 2008-CP-02-0872;
Case No. 2008-CP-02-0322; Case No. 2010-CP-02-0721;
Case No. 2012-CP-02-1059; Case No. 2008-CP-02-1426;
Case No. 2008-CP-02-1712; Case No. 2008-CP-02-2127;
Case No. 2008-CP-02-1556; Case No. 2008-CP-02-1557;
Case No. 2008-CP-02-1758; Case No. 2008-CP-02-1759;
Case No. 2008-CP-02-1647; Case No. 2013-CP-02-1348;
Case No. 2009-CP-02-1810;
Appellate Case No.2013-002582

Alan Wilson, in his Capacity as Attorney General of
South Carolina; and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants.

Of whom Adele J. Pope, Individually and on behalf of Others under
South Carolina Trust Code Section 62-7-405, is the.....Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas
and Tommie Rae Hynie are Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna
J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested
Persons.

IN RE:

The Estate of James Brown and The James Brown 2000 Irrevocable Trust
u/a/d August 1, 2000

PETITION FOR REHEARING

TO: THE HONORABLE CHIEF JUDGE AND AND ASSOCIATE JUDGES

Petitioner respectfully submits this Petition for Rehearing of the Order of the Honorable Paul E. Short, Jr. for the Court, dated January 30, 2014, a copy of which is attached hereto.

Petitioner asks the Court to alter, reconsider and vacate the said order so that this appeal may proceed as a part of, in tandem with or after, Appellate Case No. 2013-00169. Petitioner/Appellant respectfully submits that the Court overlooked or misapprehended the following:

1. The Court overlooked or misapprehended that the Orders which are the subject of this appeal are final orders, even though they bear the name "interim", because of their scope and the final and irreparable damage they cause to Appellant, The James Brown "I Feel Good" Foundation, a majority of the heirs of James Brown under State law and the Federal Copyright Act, and all creditors and others who seek to enforce the noble estate plan of James Brown.

2. The Court overlooked or misapprehended that Appellant has special interest standing to enforce the "I Feel Good" Foundation, which is aggrieved and irreparably damaged by the October 1, 2013 appointment Order which is the subject of this appeal.

3. The Court overlooked that the South Carolina Probate Code Provides that an action for the appointment of a personal representative is concluded with the appointment.

4. The Court overlooked or misapprehended that the only reason Petitioner was not a named party to the proceeding was that the Honorable Doyet A. Early,

III, and the Honorable Liz Godard, Clerk of Court, in violation of Appellant's Due Process and First Amendment Rights, and those of others seeking to enforce the "I Feel Good" Trust, issued three orders, without notice or hearing, on June 13, 2013 (The June 13 Orders") which:

- a. Purport to enjoin Petitioner and others from participating in James Brown Estate and Trust cases, even though Petitioner is a party to a pending suit brought against her by the Estate/Trust and two FOIA suits in which the Estate has sought to intervene.
- b. Direct the Clerk of Court to remove Petitioner's unheard motions from the public record;
- c. Direct the Clerk of Court not to accept Appellant's filings.

5. The Court overlooked or misapprehended that the unprecedented June 13 Orders are now the subject of an appeal in this Court as Appellate Case No. 2013-00169, and that the brief in the said appeal is expected to be filed within the next 30 - 60 days.

7. The Court overlooked or misapprehended that the October 1 appointment Order continues the injunction of Appellant as a creditor; as the proposed guardian ad litem ("GAL") for James Brown's incarcerated son Michael Deon Brown; and as an "Other" under Section 62-7-405(a) of the South Carolina Trust Code with Special interest standing to enforce the "I Feel Good" Trust.

8. The Court overlooked or misapprehended that Appellant/Petitioner is aggrieved in all of said capacities by the October 1 Order because they affect her/their property rights, and her reputation and liberty; she was enjoined by the June 13 Order and by failure of service from participating; and she/they received no notice or right to be heard in the appointment as required by the Probate Code.

9. The Court overlooked or misapprehended that Russell L. Bauknight has made material misstatements to the Court, and secured his appointment by concealing for a period of nearly a year \$563,000 in payments to attorney Kenneth Wingate, Esq., from what he asserts was a \$5 million estate at the death of James Brown.

10. The Court overlooked or misapprehended that Petitioner has standing to proceed with this appeal as fully set out in the Memorandum of Appealability filed herein, of which she asks the Court to take judicial notice; and the Replies filed to letter returns of Mr. Bauknight and Mr. Sojourner to the Memorandum..

11. The Court overlooked or misapprehended that this appeal was filed as part of Appellate Case No. 2013-00169; is a continuation of an improper injunction; and should not be dismissed.

12. The Court overlooked or misapprehended that an order which by its terms continues until the conclusion of all litigation in the Estate of James Brown is not an interim order.

13. The Court overlooked or misapprehended that the appointments which are reflected in the October 1 Order were secured by a Petition which failed to name a single party, and that nobody was served with the Petition, violating Due Process and the Probate Code.

14. The Court overlooked or misapprehended that since the Attorney General has declined to help correct the serious threats to the "I Feel Good" Foundation by four years of State control; James Brown, its settlor, is deceased; and Bauknight is currently serving as agent for Tommie Rae Hynie and James B.

In four pending lawsuits, the “I Feel Good: Trust is aggrieved and Petitioner has special standing to enforce it under Section 62-7-405 of the South Carolina Trust Code.

15. The Court overlooked or misapprehended that Petitioner has not ceased to be a party to this or certain others of the more-than 15 James Brown cases, and that she had a right as an Interested Person and creditor to be a party to all which affect her property interest, as does this.

16. The Court overlooked or misapprehended that Bauknight has run roughshod over the rights of most heirs, devisees, and beneficiaries of the estate plan of James Brown – not serving any of them with the petition which resulted in the October 1 Order which is the subject of this appeal, and that those whose rights he violated included:

- a. DNA-proved and acknowledged children: La Rhonda (died Dec. 2013); Jeanette; Nicole;
- b. Child incarcerated and seeking DNA confirmation since 2007: Michael
- c. Daughter of first marriage: Lisa
- d. Claimed child seeking DNA testing: James Curtis.
- e. Adult Grandchildren beneficiaries of 2000 Trust: Forlando, Romunzo, Lindsey, Janise
- f. Appellant and other creditors who have made proper demand for notice as provided in the Probate Code.

17. The Court overlooked or misapprehended that in filings with this Court and in the Richland County Court Bauknight has, and still does, represent himself

to be acting "on behalf of" the Attorney General of South Carolina; that the Attorney General is a Constitutional Officer elected by the voters of South Carolina to a four year term. See S. C. Constitution art. VI, § and the Chief Legal Officer; and that Bauknight has not authority to act for the AG.

18. The Court overlooked or misapprehended that, while acting under color of State authority, and with the concurrence of the State/AG until 2013, Bauknight has accused Petition/Appellant and Robert Buchanan, Jr. of the federal felony of intentionally overstating the value of James Brown's worldwide music empire by \$79 million to the IRS on a sworn estate tax return for the improper purpose of obtaining a \$5 million commission.

19. The Court overlooked or misapprehended that Bauknight also engaged and authorized the law firm of Kenneth Wingate, Esq., to sue Petitioner/Appellant and Buchanan in the name of the Attorney General of South Carolina while both served as agents for Tommie Rae Hynie, and that such action was improper.

20. The Court overlooked or misapprehended that the very act of having to defend oneself against the State violates all notions of fair play and Due Process., and the the misuse of sovereign power is "not unlike hunting mice with an elephant gun." See *EEPC v. New Enterprise Stone & Lime Co.*, 74 F.R.D., 628, 632 (W.D. Pa. 1977).

21. The Court overlooked or misapprehended that Bauknight is currently seeking to intervene in three separate FOIA suits to assist Hynie in preventing the release of public documents, and that such action violates the rights of Appellant and other South Carolina citizens.

22. The Court overlooked or misapprehended that the claim to speak for the State while acting for Hynie was improper and material.

23. The Court overlooked or misapprehended that multiple and continuing orders of the Honorable Doyet A. Early, III and the Probate Court after the June 13 Orders, which are *ex parte* orders and/or obtained without service, notice or hearing, exacerbate the damage of the June 13 Orders and injunction.

Respectfully submitted,



Adele J. Pope
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Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com

Attorney for Appellants

February 12, 2014

The South Carolina Court of Appeals

Alan Wilson, in his Capacity as Attorney General of
South Carolina, and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants,

Of whom Adele J. Pope, Individually and on behalf of
Others under South Carolina Trust Code Section 62-7-
405, is the Appellant,

And Terry Brown, Forlando Brown, James B., David G.
Cannon, Albert H. Dallas, and Tommie Rae Hynie are
Respondents,

And Alan Wilson in his Capacity as Attorney General of
South Carolina, Deanna J. Brown Thomas, and Robert L.
Buchanan, Jr., are Additional Interested Persons.

In Re: The Estate of James Brown and The James Brown
2000 Irrevocable Trust u/a/d August 1, 2000.

Appellate Case No. 2013-002582

ORDER

Appellant has filed a notice of appeal from an interim order of Judge Doyet A. Early III.¹ Because "[o]nly a *party aggrieved* by an order, judgment, sentence or

¹ The interim order appointed Russell L. Bauknight as the personal representative of the estate of James Brown and trustee of the James Brown August 1, 2000 irrevocable trust agreement. Additionally, the order appointed David C. Sojourner as the limited special trustee for the sole purpose of defending the trust in will and trust challenges. The order also established the temporary nature of the

decision may appeal" and an appeal may only be taken "as provided by law[] from final judgment, appealable order or decision," this appeal is dismissed. See Rule 201, SCACR (emphasis added); see also *Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ("An appeal filed by one who has ceased to be a party to a suit is a mere nullity." (internal quotation marks and citation omitted)).


FOR THE COURT

Columbia, South Carolina

cc:

Adele J. Pope
Albert P. Shahid, Jr., Esquire
David B. Bell, Esquire
Matthew Day Bodman, Esquire
Eugene C. Covington, Jr., Esquire
Robert N. Rosen, Esquire
William W. Wilkins, Esquire
J. David Black, Esquire
Fred Lewis Kingsmore, Jr., Esquire
Burl F. Williams, Esquire
David G. Cannon

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1/30/14

appointments, stating fiduciary appointments would be revisited upon the conclusion of estate litigation.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge
The Honorable Liz Godard, Clerk of Court

Case No. 2007-CP-02-0122; Case No. 2008-CP-02-0872;
Case No. 2008-CP-02-0322; Case No. 2010-CP-02-0721;
Case No. 2012-CP-02-1059; Case No. 2008-CP-02-1426;
Case No. 2008-CP-02-1712; Case No. 2008-CP-02-2127;
Case No. 2008-CP-02-1556; Case No. 2008-CP-02-1557;
Case No. 2008-CP-02-1758; Case No. 2008-CP-02-1759;
Case No. 2008-CP-02-1647; Case No. 2013-CP-02-1348

Alan Wilson, in his Capacity as Attorney General of
South Carolina; and others Plaintiffs,
v.
Albert H. Dallas and others .. Defendants.

OF WHOM:

Adele J. Pope, Individually and on Behalf of Others under South Carolina Trust
Code Section 62-7-405, is.....Appellant,

AND:

Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and
Tommie Rae Hynie are.....Respondents

AND:

Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J.
Brown Thomas and Robert L. Buchanan, Jr., are...Additional Interested Persons.

IN RE:

The Estate of James Brown and The James Brown 2000 Irrevocable Trust
u/a/d August 1, 2000

PROOF OF SERVICE

I certify that on the 12th of February, 2014, I have served the PETITION FOR REHEARING on Respondents and others as shown below by depositing a copy of same in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

David B. Bell, Esquire
Matthew D. Bodman, Esquire
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1101

David G. Cannon
P. O. Box 865
Barnwell, SC 29812

Eugene C. Covington, Jr., Esquire
P. O. Box 2343
Greenville, SC 29602

Robert N. Rosen, Esquire
18 Broad Street, Suite 201
Charleston, SC 29401

J. David Black, Esquire
William W. Wilkins, Esquire
William G. Newsome, Esquire
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John F. Beach
Adams and Reese LLP
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February 12, 2014

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SC Court of Appeals



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**Law Office of Adele J. Pope, P.C.
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753**

February 12, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1205 Pendleton Street
Columbia, South Carolina 29201

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FEB 18 2014

SC Court of Appeals

Re: Wilson and Others v. Dallas and Others,
Aiken County Case No. 2008-CP-02-1647 and others
Appellate Case No. 2013-002582

Dear Ms. Kitchings:

Enclosed for filing please find:

1. An original and seven copies of a Petition for Rehearing;
3. An original and one copy of Proof of Delivery of the Petition.
3. My check for \$25 for the filing fee.

Kindly return a file-stamped copy of each in the stamped envelope which is provided.

Thank you again for your assistance.

Yours very truly,



Adele J. Pope

cc:

Counsel as shown on proof of service