

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

RECEIVED

FEB 18 2014

Appellate Case No. 2013-02582

SC 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.....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

MOTION AND MEMORANDUM IN SUPPORT OF HOLDING
IN ABEYANCE

ORIGINAL

TO THE HONORABLE CHIEF JUDGE AND ASSOCIATE JUDGES:

Appellants/Petitioners respectfully move this Court for an Order holding this matter, including consideration of Appellants' Motion for Rehearing of the Dismissal Order of the Honorable Paul E. Short, Jr., in abeyance until the following occurs:

1. This Court has ruled on the appeal from Aiken County Case No. 2013-CP-02-1337 ("Case 1337"), the initial brief of which was mailed for filing on February 11, 2014;
2. This Court has ruled on the appeal in Appellate Case No. 2013-00169, the initial brief of which is expected to be filed within sixty-days, if not earlier.

The ground of this motion are that Pope is currently seeking to protect her own rights under the Due Process and First Amendment Clauses of the United States and South Carolina Constitutions, as well as those of James Brown's incarcerated son Michael Deon Brown, and The James Brown "I Feel Good" Trust.

Pope, Robert Buchanan, Jr. and their small group of attorneys were the only persons protecting the "I Feel Good" Trust from August 10, 2008 until May 8, 2013, when the final decision was reached in *Wilson v. Dallas*, 743 S.E.2d 746 (2013). That decision overturned a plan to put Brown's private property under State control and give away more than half of the \$100 million fortune Brown gave to his "I Feel Good" Foundation for needy students in two successive estate plans.

Pope and Mr. Buchanan's constitutional and public interest standing, including statutory standing as "others" under Section 62-7-405 of the South Carolina Trust Code ("SCTC") to protect the "I Feel Good" Trust, was not reached in the *Wilson v. Dallas* decision because the Court found they had standing to appeal on other grounds. Footnote 5 of that decision said:

We need not reach Appellants' alternative arguments that they have constitutional standing or standing under the public importance exception.

Constitutional and public importance standing, including Pope's right to speak as an "Other" under SCTC Section 62-7-405, are at play in all three now-pending appeals because:

1. The "I Feel Good Trust" and Brown's real heirs are under direct threat, and the Court has enjoined Appellant from protecting an incarcerated son supported by Brown during minority in a pending Intestacy proceeding, refusing to grant her GAL Petition or conduct a hearing. He has done so despite the prisoner's call to Appellant to thank her for helping him.
2. The "I Feel Good" Trust is in jeopardy because Buchanan and Pope are enjoined from participating and neither Mr. Bauknight nor his appointee is protecting the 1999 Will, which makes Brown's estate plan ironclad. It is under threat of becoming void under the 10-year rule of the Probate Code if Mr. Bauknight serves or the injunction against Pope continues.
3. Pope is one of few experts in the State who can explain how the now-void 2008 Settlement proposed to take \$50 million from the "I Feel Good" Trust to "buy" Copyright Act termination rights it could have secure from the half of Brown's children intentionally excluded from the settlement for about \$100,000 (or less) a year.
4. Pope understands how damaging it was to the "I Feel Good" Trust's future -- and the scholarships it will provide under the IRS 5% Rule -- for Mr. Bauknight to have claimed it was less than \$1 million at Mr. Brown's death, rather than the correct approximately \$80 million.
5. The Attorney General has withdrawn from protection of the "I Feel Good" Trust in these important matters.
6. A second state takeover of Brown's private property and second dismembering of the "I Feel Good" Foundation will threaten private philanthropy in South Carolina for decades. And our Stated needs private philanthropy.

Appellant and Mr. Buchanan have a property interest in seeing that Mr. Bauknight not serve in any fiduciary capacity with respect to the Estate of James Brown and the "I Feel Good" Trust because:

1. He has falsely accused them of the federal felony of intentionally overstating James Brown's assets to the IRS by \$79 million for the improper purpose of obtaining a \$5 million commission.
2. As is demonstrated by the *Wilson v. Dallas* decision, the false felony claim met its mark, in part, and resulted in Petitioner and Mr. Buchanan being replaced as PR/Trustees under Brown's will and 2000 Trust.
3. At the same time Mr. Bauknight told the Supreme Court that Brown's worldwide music empire was worth \$4.7 million and that there had been no offers to buy the music empire, Mr. Bauknight was suing Mr. Buchanan and Appellant for tens of millions of dollars in Richland County Case 2010-CP-40-4900 (the "Wingate Suit") for not accepting a \$100 million offer for the music empire.
4. Mr. Bauknight's false felony claim threatens both the careers and the liberty of Appellant and Mr. Buchanan.
5. Each day, more is being revealed about the impropriety of Mr. Bauknight, the Wingate Firm and others in the Wingate Suit, including that most of the 15 Plaintiffs never signed the 40% contingency Litigation Retention Agreement.
6. Recently, it was discovered that Mr. Bauknight secretly paid the Wingate Firm \$563,000 in 2012, in addition to the 40% contingency; that AG Wilson was not told of the \$563,000 payment; and that it was concealed by Mr. Bauknight until October 2013.
7. Mr. Bauknight made this payment even though Mr. Wingate was in default as to the counterclaims; had not recovered a dime; and Mr. Bauknight had paid Mr. Buchanan \$500,000 from the Estate to have Tommie Rae Hynie and others released from Mr. Buchanan's counterclaims.
8. Much of what is coming to light is from public documents which Mr. Bauknight has tried to prevent from being released by both the Attorney General and the "Legacy Trust" created by former AG McMaster to hold the private assets of James Brown in the

now-declared-void settlement.

9. When the appointment Order which is the subject of this appeal was issued, there was no hearing as defined in the Probate Code.

10. Mr. Bauknight was allowed to make statements with no right of any party – even those not enjoined from attending – to cross examine him.

11. The Orders which are the subject of this appeal simply re-state the self-serving claims of Mr. Bauknight, and are contrary to the record.

12. For example, Mr. Bauknight praised himself – and the Court then praised Mr. Bauknight – for withholding \$1 Million from the \$285,000 education trusts of 7 of James Brown's grandchildren, although most of them are currently of school age and need their education funds now.

13. Mr. Buchanan and Appellant worked during their SA service and PR/Trustee service to be certain that the beneficiaries of these \$285,000 education funds not become victims of litigation.

Appellant, who has not been paid for her service from 2007 - 2009, even though a Court Order directs that it be paid, with legal interest since it became due, has served *pro bono publico* since May 8, 2013 to do several things:

1. To help see that the dismemberment of the "I Feel Good" Trust, which Appellant, Mr. Buchanan, *Pro bono publico* lead counsel James Richardson, Esq., Tressa Hayes, Esq., and James Bailey, Esq. put our Supreme Court in a position to stop, is not dishonored.

2. To protect the "I Feel Good" Trust from the announced intention of Tommie Rae Hynie and Louis Levenson, Esq. to allow the State/AG to again take over James Brown private property and "give" from his "I Feel Good" Foundation: \$11+ million to Ms. Hynie; \$10+ million to Ms. Hynie's attorneys; about \$9 million to Mr. Levenson; and an undisclosed amount to Mr. Bauknight and his 20 or more attorneys.

3. To see that Ms. Hayes and Mr. Bailey are paid for the fine service which helped save \$50 million the State proposed to take from the "I Feel Good" Trust, being about \$200,000

over a 4-year period for the two.

4. To restore my reputation and career, and that of Mr. Buchanan, both of which have been ravaged by the false accusations of Mr. Bauknight and Mr. Wingate – both of whom claimed to speak for the State of South Carolina with no authority to do so.

5. To obtain the public documents I have sought under FOIA and which Mr. Bauknight, to protect himself and Ms. Hynie, is trying to intervene in three separate FOIA cases to secrete.

6. To help make South Carolina a safer place for private philanthropy than it was for James Brown.

7. To help AG Wilson and the Court understand that they have been misled by Mr. Bauknight and Ms. Hynie about the Federal Copyright Act, and that the half of James Brown's children who openly support his estate plan are the ONLY people necessary to protect the "I Feel Good" Trust's Royalties to more than 800 James Brown songs for needy students for decades.

8. To use the expertise I have acquired in interaction between probate and copyright termination rights issues to help AG Wilson and the Court understand that what the now-void settlement proposed to "achieve" for the "I Feel Good" Trust at a cost of about \$50 million – more than \$20 million to lawyers – could have been achieved for about \$100,000 per year by giving a little dignity and appreciation to Brown's REAL heirs who were not challenging his noble estate plan, including:

1. Daughter from first Marriage: 1. Lisa

2. DNA-proved under Estate's Protocol and Acknowledged by Estate in 2007: 2. La Rhonda (died in December 2013); 3. Nicole; 4. Jeanette

3. Awaiting DNA testing since 2007: 5. Michael (incarcerated)

4. Awaiting DNA testing: 6. James Curtis

5. Have Repudiated the 2008 Agreement: 7. Daryl,
8. Terry.

Appellant respectfully requests that, as a result of the emerging constitutional issues related to Appellant, Brown's incarcerated son Michael, and the "I Feel Good" Foundation, including the failure of anyone other than Appellant to protect Brown's 1999 Will, which is in danger of the 10-year rule; the refusal of Judge Early to conduct a hearing on voiding 6-year-old Gag Orders; Mr. Bauknight's continued representation of Ms. Hynie and her son in the Wingate Suit; and Mr. Bauknight's continued interference with FOIA rights, with other important issues, this Court hold this matter in abeyance.

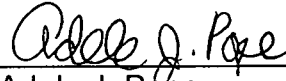
Judicial economy and the constitution will be served if this Court first addresses in Appellate Case No. 2013-00169 whether the following June 13, 2013 directives of Judge Early, issued without notice or hearing, can withstand constitutional scrutiny:

1. Remove Appellant's unheard motions from the public record;
2. Appellant has no standing to participate in cases related to the Estate of James Brown and the 2000 Trust (which sued her, and which case is pending);
3. The Clerk is directed not to accept future filing of Appellant.

These directives are the subject of a separate appeal. The injunction of the June 13 Orders which is the subject of that appeal is what prevented Appellant from participation in the Orders which are the subject of this appeal.

Holding this matter in abeyance until the above questions are decided will serve the Constitution and judicial economy.

Respectfully submitted,



Adele J. Pope
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Newberry, South Carolina 29108
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Email: adele@popelawfirm.com
S.C. Bar No. 4501
Pro se

February 12, 2014

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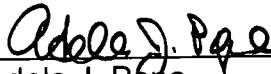
AFFIDAVIT IN SUPPORT OF ABEYANCE

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who being duly

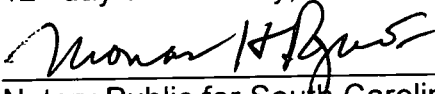
sworn, deposes and says:

1. I am the Appellant in the Motion for Abeyance.
2. The facts stated in the Motio/Memorandum are true to the best of my knowledge and belief.
3. I care about private philanthropy in our state and the "I Feel Good" Private Foundation.
4. My request to be GAL for Brown's imprisoned son is consistent with my concerns for the "I Feel Good" Trust.
5. It is my opinion to a reasonable degree of professional certainty that charities holding copyrights, to protect themselves under the Federal Copyright Act, should properly identify all heirs in the probate proceeding, then work at arm's length only with those who do not challenge the gift to the charity.
6. It is my opinion to that same degree State/AG's withdrawal, coupled with Mr. Bauknight's and his appointee's ignoring more than half of Brown's heirs while protecting Ms. Hynie's son threatens great damage to the "I Feel Good" Trust.
7. By virtue of my study and writings, I have expert knowledge in this area.
8. Ms Hynie's son is the only post-vasectomy claimed child of James Brown; was not born or any marriage; and has refused DNA testing for 7 years.

FURTHER DEPONENT SAYETH NOT.


Adele J. Pope

SWORN TO BEFORE ME this
12th day of February, 2014



Notary Public for South Carolina (L.S.)
My Commission expires: 3-28-2022

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PROOF OF SERVICE

I certify that on the 12th day of February, 2014 I have served the AFFIDAVIT

OF ADELE J. POPE on Respondents as shown below by depositing a copy of same in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

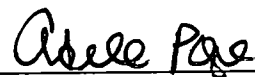
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PROOF OF SERVICE

I certify that on the 12th day of February, 2014 I have served the MOTION

ORIGINAL

AND MEMORANDUM FOR ABEYANCE on Respondents as shown below by depositing a copy of same in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

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