

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

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

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Appellate Case No. 2013-00169

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**RECEIVED**

FEB 25 2014

**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

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**APPELLANT'S RETURN TO MOTION TO RECONSIDER**

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Appellant respectfully submits that the motion of Russell L. Bauknight to Reconsider the Order of this Court dated January 30, 2013 Order should be denied. Mr. Bauknight is not an indispensable party to this appeal, as he asserts. Nor is he a necessary party<sup>1</sup>.

For at least four reasons, Mr. Bauknight's participation is not necessary, and he should not speak for estate of entertainer James Brown or Brown's 2000 Irrevocable Trust (the "Estate/2000 Trust"):

1. The June 13 Orders involve State Action taken without motion, notice or hearing – not relief sought by the Estate/2000 Trust.
2. Counsel for the limited special administrator ("LSA"), appointed *ex parte*, is currently the major threat to the "I Feel Good" Trust.
3. The LSA threatens both the 1999 Will and the Estate/"I Feel Good" Foundation's "DNA & DIGNITY" initiative to secure its royalties<sup>2</sup>.

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Separate appeals from Case 2013-CP-02-1337 ("Case 1337") and Appellate Case No. 2013-002582 relate to Mr. Bauknight, but this Court has not elected to consolidate them with this appeal. The Initial Brief of Appellant was filed in this appeal on February 21, 2014. The Initial Brief of Appellant was served in the Case 1337 Appeal on February 11, 2014. Motions are pending in Appellate Case No. 2013-002582, and no brief has been filed.

2

Exhibit A sets out in abbreviated form, the Estate/"I Feel Good" Trust's DNA & DIGNITY plan to protect its copyrights to Brown's more than 800 published & unpublished songs. Agreements with only half of Brown's real heirs will preserve the royalties for decades.

Exhibit C [ltr. of Marc Toberoff] correctly asserts that Ms. Hynie and her son are not heirs and have no right to exercise termination rights. [Some of the "heirs" for whom Mr. Toberoff speaks are presumed or DNA-proven under the Estate's official "Peoples DNA Protocol." Others are not.]

4. Mr. Bauknight's service as agent for Tommie Rae Hynie and her son in four lawsuits creates an irreconcilable conflict with the Estate/2000 Trust.

Each of these issues is discussed below.

1. The June 13 Orders involve State Action, not action of the Estate/2000 Trust.

The June 13 Orders, by enjoining all who seek to enforce the "I Feel Good" Foundation from participation in Aiken County cases, severely damage Appellant, Brown's *real* heirs and the "I Feel Good" Foundation itself. The injunction was not sought by anyone.

The June 13 Orders were issued without any motion; without any hearing; without any notice; and without any hearing. They enjoin and otherwise direct heirs, devisees, beneficiaries and others, including many who have not yet been made parties to the fourteen James Brown cases they purport to rearrange and control.

They contain numerous errors.

They direct that Appellant's unheard motions be removed from the public record by the Clerk. They direct the Clerk not to accept future filings by Appellant.

They continue unabated the State's favoritism towards Ms. Hynie and her son, trampling on the rights of the "I Feel Good" Trust and Brown's real heirs.

At the June 9, 2013 hearing on Appellant's motion to vacate these unprecedented orders, both Ms. Hynie and Ms. Bauknight sought to keep them in place. It is natural that those favored by the June 13 Orders would do so.

The transcript, however, makes clear that it is the improper action of the

State, acting through the Court, which compels reversal of the June 13 Orders.

[See Exhibit B. ]

Since there was no hearing; no notice; and no request for injunction and other relief, the matter is properly resolved by voiding the June 12 Orders; joining heirs, devisees and other Interested Parties in each of the fourteen affected cases, as needed; and having the required hearings.

The questions presented in Appellant's initial brief filed February 21 demonstrate that it is State – not Estate/Trust action – which is the problem with the June 13 Orders:

- I. The June 13 Orders violate the Due Process and First Amendment Rights of Appellant, Buchanan and others, and the... rights of Brown's Incarcerated son Michael and other heirs.
- II. The Attorney General's withdrawal, jeopardy to Brown's backup 1999 will, and the threat to Brown's Royalty copyrights... give Buchanan and Appellant Special Interest Standing under Section 62-7-405...
- III. The June 13 Orders promote fraud on the Courts and damage to Appellant and the "I Feel Good" Foundation by allowing Tommie Rae, the State/AG and Bauknight to escape the jurisdiction of the Richland County Court; delay FOIA Compliance indefinitely...

Mr. Bauknight correctly states that there is confusion related to the caption. It is caused by the June 13 Orders. They violate the Rules of Civil Procedure by not naming the parties. More importantly, they violate the Constitution. Far-reaching injunctions and mandates purport to bind unnamed heirs, devisees and beneficiaries, including those not even parties to the cases.

The June 13 Orders, with the AG's abrupt withdrawal without bringing three FOIA Suits and the State/AG's Richland County tort suit against Appellant

and Robert Buchanan to an end, continue the State's action against them;  
Brown's real heirs; and the "I Feel Good" Foundation.

2. Counsel for the limited special administrator ("LSA"), who was appointed *ex parte* as a result of the June 13 Orders, is currently the major threat.

As a result of the injunction against virtually all supporters of the "I Feel Good" Trust resulting from the June 13 Orders, the "I Feel Good" Foundation faces the same jeopardy it faced in 2008.

On October 10, 2010 the Honorable Sue H. Roe, Probate Judge for Aiken County – declaring that no hearing was necessary, and without notice to a single heir, devisee, beneficiary or Interested Person -- issued an *ex parte* order appointing a limited special administrator ("LSA") to protect Brown's estate plan.

The LSA was wholly unprepared or unwilling to do so.

In four months, the LSA has not asked to lift the 2008 Gag Orders which purport to prevent more than a dozen witnesses from discussing the widely-known contents of Ms. Hynie's handwritten notes. He has not moved to dismiss Ms. Hynie's spousal claims, although they were filed in the wrong court and were fatally defective.

He has not sought to bind Ms. Hynie and the will contestants to their written admissions in the Wingate Suit that all spoke to James Brown in the three years before his death about his estate plan and:

...the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown. [Mem. Opp., p.2, 8/27/10]

The LSA has not moved to dismiss Daryl Brown's challenges to the Will

and Trust, although Daryl has launched a website to support the "I Feel Good" Trust and Brown's estate plan.

The LSA has refused DNA testing to sons Michael and James Curtis.

The LSA has not sought to dismiss the Petition of non-presumed son James B unless he takes and passes the Peeples DNA Protocol.

The LSA has – without serving them – tried to defeat the heirs status of three acknowledged, DNA proven daughters: La Rhonda, Jeanette and Nicole.

The LSA has fought – contrary to Rule 17(c) SCRPC – the appointment of a GAL for Michael, incarcerated in California; supported during minority by James Brown; and seeking DNA testing since 2007.

In short, the LSA has continued, without basis, the State's special status and treatment of Ms. Hynie and her son even though every fiduciary other than Mr. Bauknight and all of Brown's acknowledged children have confirmed neither is an heir. And neither is a beneficiary.

The State action begun by the Attorney General and continued by the June 13 Orders and the *ex parte* LSA order threaten to take \$11 million from the "I Feel Good" scholarship funds for Ms. Hynie; about \$10 million for her attorneys; and another \$9 million for Mr. Levenson.

And trample on the rights Brown's real heirs of anyone who dares to complain.

3. The LSA threatens the 1999 Will and the "I Feel Good" Foundation's "DNA & DIGNITY" plan to secure its royalties to 800+ songs for decades.

By 2011 everyone knew that AG McMaster's "stipulation" that James

Brown had a wife when he did not – then giving her 25% of the “I Feel Good” Trust to relinquish termination rights she never had — was a bad idea.

But for the State’s interference the DNA & DIGNITY initiative and agreements with the half of Brown’s heirs not challenging his noble estate plan could have been in place in 2011.

La Rhonda, Jeanette, Nicole, Lisa, Michael, and James Curtis all have equal or higher status than James B. Appellant has been working *pro bono publico* since May 8, 2013 to try to help the “I Feel Good” Foundation hold onto the \$50 million the Supreme Court restored to it. And its copyrights.

The LSA has again placed it in great jeopardy.

Worse, the LSA had done nothing to present James Brown’s 1999 Will for alternate probate or to ask the Court to hear – in his own voice – James Brown’s intentions as he contemplated setting up the “I Feel Good” Trust.

In two short years, the 1999 backup will cannot be probated.

4. Bauknight’s service as agent for Tommie Rae Hynie and James B. in 3 FOIA Suits & the Wingate Suit conflicts with Brown’s estate plans.

A year after the first *Wilson v. Dallas* decision Mr. Bauknight still holds the following positions, and has made no effort to change them:

1. He is agent for James B., who has no GAL, in the Wingate Suit.
2. He is agent for Ms. Hynie in the Wingate Suit.
3. He is a Plaintiff in the Wingate Suit as Trustee of the James Brown Legacy Trust “Legacy Trust” created by AG McMaster.
4. On behalf of Ms. Hynie and James B., since 2012 he has sought to intervene in a FOIA suit brought by journalist Sue Summer.

5. He has been seeking to intervene for Ms. Hynie and James B. since 2011 in 2 FOIA Suits to prevent release of:

- a. His less-than \$4.7 million appraisal of the music empire;
- b. A signed copy of the Legacy Trust Trust and amendments;
- c. The AG's copy of Ms. Hynie's handwritten notes and the typed transcription of them;
- d. The public Wingate Litigation Retention Agreement.

In addition, substantial questions have arisen about whether the Wingate Suit was brought in the names of the State/AG without proper authorization. And AG Wilson has confirmed no written authorization existed for Mr. Bauknight to claim he was a Plaintiff "on behalf of" the Attorney General in the Wingate Suit.

In October 2013 Mr. Bauknight filed an accounting revealing he had paid \$563,000 from the Estate to the Wingate firm in 2012. This was in addition to the 40% contingency fee he had agreed to pay.

In late 2013 a federal judge released the Wingate Litigation Agreement which the State/AG, acquiescing in Mr. Bauknight's interference, had refused to release under FOIA since 2011.

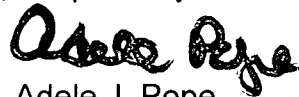
The injunction of the June 13 Orders and subsequent orders of Judge Early have blocked or delayed what should have been immediate inquiry into these acts.

Mr. Bauknight's continued service to Ms. Hynie and her son, alone, would preclude his speaking for the Estate/2000 Trust in this appeal.

## CONCLUSION

Mr. Bauknight is neither an indispensable nor a necessary party to this appeal. His continued service to Ms. Hynie and James B. creates an irreconcilable conflict to his claim that he may speak for the Estate/2000 Trust. The Attorney General has been served as an Interested Party to this appeal, which involves a claim of improper state action.

Respectfully submitted,



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February 24, 2014

### List of Exhibits

Exhibit A - DNA & DIGNITY

Exhibit B - Excerpts, June 9, 2013 Hearing on Motion to Alter, Amend, etc.  
[With annotation]

Exhibit C - Ltr. of Mr. Toberoff