

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

Appellate Case No. 2014-000794

MICHAEL DEON BROWN, JAMES CURTIS, AND JANE DOE and JOHN DOE
Numbers I, II, III and IV, by their proposed Guardian *ad Litem*, and Adele Pope, as
Creditor/Proponent of Will of James Brown dated June 15, 1999 and on behalf of
Others under S.C. Trust Code § 62-7-405 Appellants,

v.

James B., Terry Brown, Tommie Rae Hynie and David Sojourner, Jr.,.....
..... Respondents.

IN RE:
THE ESTATE OF JAMES BROWN, A/K/A JAMES JOSEPH BROWN

REPLY OF APPELLANTS TO RESPONSE
OF BODMAN AND BELL TO FILINGS

Appellants oppose the relief sought in the response of Matt Bodman, Esquire and David
B. Bell, Esquire on the following grounds:

1. Michael Deon Brown ("Michael") is entitled to an unconflicted Guardian *Ad Litem* ("GAL") in all James Brown proceedings, and David Bell, Esquire's alliance with Russell Bauknight and Tommie Rae Hynie to bring, and continue today, Richland County Case No. 2010-CP-40-4900 ("The Wingate Suit"), and their interference with FOIA disclosure in three FOIA

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cases, is in direct conflict with Michael's interest¹.

2. Bell has lacked candor with the state and federal courts in matters related to James Brown for 7 years.
3. Bell has actively participated, and been aided by Bodman, in substantially more than 5 James Brown cases for several years without proper *pro hac vice* admission, and/or in excess of the limits.
4. Since 2007 Bell has filed 6 baseless grievances against attorney Louis Levenson, Esquire; threatened a baseless judicial grievance against Robert Buchanan, Jr.; filed a fabricated schedule to the James Brown 2000 Trust in a Federal filing; and filed at least two false affidavits in Federal Court Case No. 3:08-cv-00014-WOB (Forlando Federal Suit).
5. Bell was the perpetrator of the false claims to the Supreme Court about the Christie's sale; was aligned with Kilpatrick Stockton, the source of a false claim about the sale of the GRAMMY; and Bodman/Bell made the knowing false representations to the S.C. Supreme Court that Brown's music empire was worth \$4.7 million at his death at the same time their client was conducting due diligence for a sale at as much as \$200 million; and knowingly made false representations to the Supreme Court about Brown's heirs and the Federal Copyright Act.
6. The affidavit of Michael Brown filed with the response was signed on May 19, 2014, before Bell and Bodman were terminated by Terry, and does not constitute a waiver of the Rule 17(c) requirement for a GAL.
7. Bell has been active since September 2013, and aided by Sojourner, in in siphoning off the "I Feel Good" Trust's rights to contract with Michael and others.
8. Bell and Bodman have not properly moved before any court for waiver by Michael of his required representation by a GAL under Rule 17 (c).
9. Dismissal of the appeal as to Michael is inappropriate, because the appeal addresses the refusal of the circuit court to conduct a hearing; appoint a GAL; and allow all Appellants to participate in cases where Tommie Rae or her son seek to be, or might be, determined heirs.

¹See, for example, Order of the Honorable Eugene C. Griffith dtd. July 8, 2014, denying Wingate/Bauknight intervention in Case No. 2012-CP-36-00688, where a journalist is seeking, among other documents, the so-called Hynie "diary" used by AG McMaster in his decision to give Ms. Hynie 25% of the "I Feel Good" Trust.

10. Dismissal is inappropriate because Respondent Sojourner has worked with Bell and Terry Brown to deny Michael and other heirs their rights, damaging both the "I Feel Good" Foundation and the HALF (or half + 1) of James Brown's real heirs not challenging the estate plan with whom the Estate/2000 Trust should have contracted in 2011 and since to protect the "I Feel Good" Foundation's \$3+ million annual royalty stream for needy students.

Bearing on the issue of David Bell's conflicts are the following and other facts consented to by his former clients Terry and Forlando Brown in the Statement of the Case in the initial brief of Appellant in Appellate Case No. 2013-001649:

The June 13 Orders, affecting fourteen Aiken County James Brown cases, were issued without service of a pleading on or notice to at least a dozen necessary parties, including:

- ...
- 2. Brown's DNA-proven daughters acknowledged by the Estate in 2007: LaRhonda Pettit; Nicole Parris; and Jeanette M. Bellinger;
- 3. Brown's daughter Lisa from his first marriage;
- 4. Brown's incarcerated son Michael and claimed son James Curtis [Both awaiting DNA testing];
- ...
- 6. Appellant and other creditors who have demanded notice.

[T]he Wingate Suit, filed May 19, 2010, currently has jurisdiction over material James Brown issues, including:

- ... 3. Was Tommie Rae Brown's spouse?

The AG/State agreed to join with Tommie Rae and others to :

... use their best efforts to extinguish any other outstanding interests or claims by any potential heir, devisee, or Successor...

On September 27, 2008 Brown's grandson Forlando... testified ... that offers of \$150 million were still available for the music empire.

On November 18 and 19 [2008] [t]he estate tax return was examined in detail. No objection to the \$84 million value was made.

On January 30, 2009 Terry joined the AG's settlement. Terry was given nearly 5% of Brown's assets and a right of first refusal... (the "ROFR").

In March 2009 Buchanan and Pope raised concerns to AG McMaster that Terry and others were seeking to devalue the music empire...

On May 19, 2010, the State/AG, Tommie Rae and others sued Buchanan and Appellant in the Wingate Suit...

On August 27 Tommie Rae and all who had challenged Brown's estate plan in the Levenson Intestacy Suit admitted in the Wingate Suit:

...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]

In January 2011 AG McMaster, Terry and Others amended the Legacy Trust, and Terry's interest in the estate and ROFR were transferred to Forlando.

In April 2011 Wm. Jeffrey Smith and Appellant circulated the draft of *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* for review by professionals.

In May, 2011 Bauknight filed an amended I&A asserting the value of Brown's music empire was about \$4.7 million...

August 3, 2011 Appellant filed a FOIA Suit in Newberry County to obtain:

1. A copy of the Legacy Trust, with amendments, which had sued her in the Wingate Suit; and
2. A copy of Bauknight's \$4.7 million appraisal [Complaint].

On August 10, 2011 Appellant filed a FOIA Suit in Newberry County to obtain a copy of the Wingate Litigation Retention Agreement.

In the fall of 2011 Tommie Rae, Bauknight and other Wingate Suit Plaintiffs moved to intervene in Appellant's FOIA Suits...

On November 1, 2011, Bauknight, through counsel, represented to the Supreme Court:

1. Tommie Rae's elective share claim was a "slam dunk."
2. Copyright termination rights are "all this case is about."

...

By Order dated January 11, 2012 the FOIA Suit seeking the \$4.7 million appraisal was moved to Richland County. The ... motion to consolidate it with the Wingate Suit is pending.

In June 2012 James Curtis wrote Appellant claiming to be Brown's oldest son. He asked to be DNA tested. Appellant notified Bauknight. ..

On July 20, 2012 Dallas gave a sworn statement confirming why the Estate/2000 Trust, during his administration, asserted Tommie Rae was not Brown's spouse.

In 2012 Summer filed a FOIA suit....

In 2012 the ... Bauknight joined Tommie Rae in a motion to dismiss the Gag Orders appeal.

In late 2012, Bauknight secretly paid Wingate \$563,000 from the Estate. This was in addition to Wingate's 40% contingency.

On February 27, 2013, the first *Wilson v. Dallas* opinion was issued. It contained Footnote 29, which said:

29 ...

Further, the AG, with Bauknight's knowledge and cooperation, allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate, to sue Appellant Pope on behalf of the State, Bauknight and others while representing private plaintiffs in the suit. The suit sought damages to Brown's estate allegedly arising during Pope's appointment. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this purported arrangement. These matters should be considered by the circuit court in the first instance and any fees found to be inappropriately incurred should be disgorged...

On March 6, 2013 Appellant met with AG Wilson to discuss concerns.

On March 14, 2013 the State/AG's Petition for Rehearing said of the Wingate Suit:

In this instance, the [AG] was particularly hesitant to sue because Appellants Pope and Buchanan enjoy a superb reputation throughout the legal community. Appellant Buchanan serves as a part-time federal magistrate judge and is a long time member of the South Carolina Bar... Appellant Pope has, for more than thirty years in South Carolina, been an outstanding attorney in the field of trust and estate matters. She is considered by the legal

community to be an exceptional attorney. [p.25]

On April 18, 2013 Wingate asked Judge Manning to delay any hearing in the Wingate and FOIA Suits. [Ltr. Gende]

On May 8, 2013 the Supreme Court issued the final *Wilson v. Dallas* decision....

Between May 8 and May 12, prior to the Remittitur, Bauknight obtained *ex parte* orders from Judge Early and the Probate Judge naming him SA and ST.

On May 12, 2013 Wingate wrote Judge Manning:

The Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 from the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. . . the court no longer puts any primacy or priority on any court hearing these matters.

...Therefore, Case 4900 Plaintiffs and Proposed FOIA Interveners respectfully request that [the Wingate & FOIA Suits] be held in abeyance in its entirety until all underlying issues related to the Plaintiffs are resolved by the Aiken Court. [Emphasis supplied.]

On May 17, 2013 Judge Early directed that any *Wilson v. Dallas* remand requests must be made by properly-filed motion by May 25.

No record was made of the May 29, 2013 status conference. Levenson and counsel for Tommie Rae announced their intention to attempt to reinstate the AG's settlement. ..

The AG announced his intention to withdraw from the Aiken cases.

The June 13 Orders, in part:

1. Enjoined Appellant, other fiduciaries and creditors who support the 2000 Estate Plan and backup 1999 Will from participating in the James Brown estate and trust cases;
2. Directed that Appellant's unheard motions be removed from the public record;

3. Directed the Clerk not to accept any filings of Appellant in any case except the case she filed on June 10.

Since June 13 Appellant has made multiple requests for a hearing as to the 2008 Gag Orders.

On August 20, 2013, Bauknight was deposed in the Forlando Federal Suit. When questioned about whether appellant's service in appealing the AG's settlement helped the estate, he stated:

That's poppycock. Pure speculation from your client. Fantasy...I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that \$50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take \$5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic].

You don't know the value. . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T....

...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent....Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client. [Emphasis supplied.]

In August 2013 Brown's son Daryl launched a website to try to help save Brown's estate plan and the "I Feel Good" Trust.

On October 1, Bauknight and his appointee [Sojourner] were appointed fiduciaries based on a summons and petition not directed to or served on any heirs, devisees or beneficiaries as required by the Probate Code; and after a "hearing" where there was no required notice and those attending were not allowed to examine either Bauknight or his appointee. SEE SCPC §62-3-402 and §62-3-403.

In October 2013 Appellant filed a motion to be named GAL for incarcerated son Michael after seeing that Bauknight's appointee was trying to terminate his interest as an heir without his having been served or allowed to

undergo the Peoples DNA Protocol...

On October 10, 2013 Bauknight's appointee [Sojourner] was named limited SA in an *ex parte* probate court order...

On November 18, 2013, the Honorable J. Gregory Wehrman declared that the Wingate Contingency Fee Agreement was a public document..

The Wingate Agreement showed that the..contract was not signed by any Plaintiff other than Bauknight. It was signed by Levenson, Bell and counsel for Tommie Rae.

On January 6, 2014, the Appointee asked the Court to terminate La Rhonda's acknowledged heir status on January 8, 2014, even though she had died in December. [Ltr. Beach 1/6/14].

As of February 19, 2014:

...

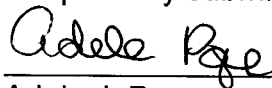
2. Appointee has ravaged the rights of Michael, LaRhonda, Lisa, Nicole and Jeanette, Daryl and James Curtis with knowledge, as defined in the Trust Code, of the damage he is doing to the "I Feel Good" Trust's royalty copyrights. [See Mots.Pope.Aff.]

3. Neither Bauknight nor Appointee has asked the Court to dismiss Tommie Rae's claims; lift the 2008 Gag Orders; and complete the People's DNA Protocol;

4. Judge Early has declined to hear Appellant's Motion to be GAL for Michael, and others not challenging the "I Feel Good" Trust.

...

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
S.C. Bar No. 4501
Attorney for Appellants

July 25, 2013

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
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The Honorable Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2014-000794

MICHAEL DEON BROWN, JAMES CURTIS, AND JANE DOE and JOHN DOE
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PROOF OF SERVICE

I certify that on the 25TH day of July, 2014, I have served the REPLY OF APPELLANTS TO RESPONSE OF BODMAN AND BELL TO FILINGS in the above matter on Respondents as shown below by depositing a copy of same in the United States Mail, postage prepaid, addressed to them or 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

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

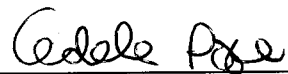
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SC Court of Appeals

Peter Shahid, Jr., Esquire
89 Broad Street
Charleston, South Carolina 29401

John F. Beach, Esquire
Adams and Reese, LLP
1501 Main Street, 5th Floor
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July 25, 2014

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July 25, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29211

Re: Michael Brown and Others v. James B.
Appellate Case No. 2014-000794

Dear Ms. Kitchings:

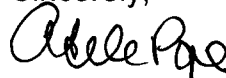
In connection with the above-referenced action, enclosed please find the following:

1. An original and seven copies of REPLY OF APPELLANTS TO RESPONSE OF BODMAN AND BELL TO FILINGS;
2. An original and seven copies of a RETURN OF APPELLANTS TO MOTION OF BODMAN AND BELL TO WITHDRAW AS COUNSEL;
3. An original and seven copies of an AFFIDAVIT OF ADELE J. POPE IN RESPONSE TO FILINGS OF BELL AND BODMAN RELATED TO RESPONDENT TERRY BROWN AND APPELLANT MICHAEL DEON BROWN; and
4. An original and one copy of Proofs of Service for each of the above.

I would appreciate your filing the original and appropriate number of copies and returning a file-stamped copy of each with the courier who delivers these.

Thank you.

Sincerely,



Adele J. Pope
Attorney for Appellants

Enclosures
Robert N. Rosen, Esquire
A. Peter Shahid, Esquire
David Bell, Esquire
Matthew D. Bodman, Esquire
John F. Beach, Esquire

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