

STATE OF SOUTH CAROLINA
In the Court of Appeals
Case No. 2014-000794

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AUG 04 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III Circuit Court Judge

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

**MICHAEL DEON BROWN'S REPLY TO ADELE POPE'S
JULY 25, 2014 PLEADING**

NOW COMES NOW COMES Michael Deon Brown, by and through his chosen counsel, and makes this Reply to Adele Pope's pleading of July 25, 2014.

Michael Deon Brown has been adjudged to be a child of the late James Brown.(Aff. of Michael Deon Brown, ¶¶ 3, 5) Michael is presently incarcerated in the State of California. (Brown Aff., ¶2) Mr. Brown, a competent adult, has chosen attorneys Matt Bodman and David Bell to represent him in matters pertaining to the estate of James Brown. (Brown Aff., ¶ 4)

In an Affidavit and a Reply which purport to speak for Michael Brown, Adele Pope has raised numerous irrelevant and unsubstantiated allegations against David Bell, most if not all of which have been raised unsuccessfully in other courts. Pope complains of David Bell's conduct in the James Brown matters. (7/24/14 Aff. of Pope, ¶3) However, in spite of Ms. Pope's efforts, David Bell has never had any application for admission pro hac vice revoked or denied. He has not been subject to any sanctions or disciplinary actions, and he should be permitted to continue in his representation of Michael Deon Brown. Furthermore, Pope's efforts to be appointed guardian ad litem for Michael Deon Brown contravene Michael Brown's right to have the counsel of his choice.

Since March of 2007, David Bell has represented several members of the James Brown family regarding issues pertaining to the Estate and Trust of James Brown. His representation of these clients has not been continuous, and he has not represented his clients regarding all of the cases and legal issues in which they have been involved. While Adele Pope devotes a substantial part of her Reply to her complaints regarding the so-called "Wingate" litigation, thereby attempting to show that David Bell should not represent Michael Brown (Appellant's Reply p. 3-8), her allegations are unsubstantiated. Mr. Bell has never even made an appearance in the Wingate litigation. (Bell Aff. ¶ 19)

The allegations made by Pope in her Affidavit and Reply have been made before and rejected by other courts who have heard the same objections. For example, Mr. Bell was admitted to appear pro hac vice in the United States District Court for the District of South Carolina, Columbia Division, in the case of Forlando J. Brown v. Adele J. Pope and Robert L. Buchanan, Case No. 3:08-cv-0014-WOB-JGW. When David Bell was admitted pro hac vice in 2008, Defendants Pope and Buchanan raised numerous objections, many of them the same as the objections which are currently

before the court (e.g., allegations concerning the stipulation contained in ¶4(a) of Pope's Affidavit). The objections were sufficiently explained and addressed at that time. The federal district court accepted Bell's assurances that the errors complained of by Defendants in 2008 were inadvertent and the Court granted Bell's motion to appear pro hac vice. Mr. Bell represented Forlando Brown in that case from July 22, 2008 until March 27, 2012.

Mr. Bell withdrew from the federal case in March of 2012, and he did not have an attorney-client relationship with Forlando Brown from March of 2012 until August of 2013. (Bell Aff. ¶ 13) Bell resumed his representation of Forlando Brown in the summer of 2013. He reapplied for admission pro hac vice, and the federal court readmitted him in the case over the objection of Pope and Buchanan.

Contrary to the assertions in Pope's Affidavit ¶¶ 6-9, Mr. Bell has aggressively pursued the interests of his clients by contesting the claims of Tommie Rae as the purported spouse of James Brown. As early as 2008, Mr. Bell was concerned that Pope and Buchanan were not taking an active role in discovery of issues concerning the purported spouse claims. Mr. Bell wrote to Pope and Buchanan on January 4, 2008 expressing these concerns.¹ Mr. Bell continues to defend against these claims, and on behalf of Michael Brown and other clients he will oppose Tommie Rae's motion for summary judgment on this issue according to the scheduling order issued by the circuit court.

Even if Mr. Bell were not qualified to represent Michael Deon Brown, Ms. Pope would not

¹ Specifically the letter said, ". . . Because it appears that I am the only attorney in the case interested in attacking the marriage, I believe it to be extremely important that both of you take an active role in the discovery phase of this issue. As personal representatives for the estate, you both have an obligation to make sure that Tommie Rae Hynie was lawfully married. Please allow me to request that you revisit your earlier decision to not participate in the discovery phase of the case. It is my strong belief that your involvement is extremely important and will give credibility to any attack on the marriage."

be a suitable substitute. First, Ms. Pope is neither a “relative or friend” who is eligible to be a guardian ad litem as described in SCRCP Rule 17(d)(4). Second, her participation in the case is not in the best interest of Mr. Brown. The South Carolina Supreme Court has affirmed the circuit court’s removal of Pope and Buchanan as PR/Trustees for the James Brown estate. Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (May 8, 2013). The court in Wilson found the circuit court had cause to remove Pope and Buchanan because their removal was in the best interests of the estate. 403 S.C. at 448, 450, 743 S.E.2d at 766, 767. The court noted that Pope and Buchanan sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. “In addition, [Pope and Buchanan] sought and obtained permission from the circuit court to sell iconic assets from Brown’s estate in order to raise funds, and a large portion of the amount raised went first to pay [their] own attorney’s fees. . . . These actions and the extreme discord between the parties convince us that [Pope and Buchanan’s] continued service as fiduciaries is not in the best interests of the estate.” 403 S.C. at 448-449, 743 S.E.2d at 766-767. The Supreme Court ordered the circuit court to review the propriety of all fees, including attorneys’ fees and trustees’ fees and to order all unearned fees or unapproved fees to be disgorged and returned to Brown’s estate. Id. at 450, 767. Ms. Pope still has a claim for fees against the estate, giving rise to a conflict of interest with the best interests of Michael Brown.

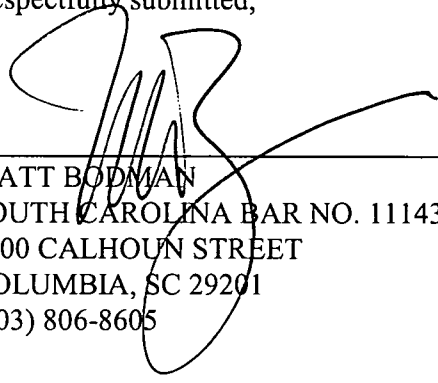
David B. Bell has been practicing law in the State of Georgia for over thirty-six years. During that time, he has distinguished himself in his service to the Bar, and he has been recognized for his achievements. He serves as Co-chairman of the Bench and Bar Committee of the State Bar of Georgia. (Bell Aff. ¶ 3) As a member of the Georgia Trial Lawyers Association, he served as President, Executive Vice-President, Vice President, Treasurer, and Secretary. (Bell Aff. ¶ 4) He

also served on the University of Georgia Law School Alumni Council from 2005 through 2012, including service as President from 2010 - 2011. (Id.) He has been recognized with awards from the State Bar of Georgia twice: he received the Justice Robert Benham Community Service Award in 2007 and he received the Traditions of Excellence Award from the General Practice and Trial Law Section of the State Bar of Georgia in 2012. (Bell Aff. ¶¶ 5, 6) He has been admitted *pro hac vice* by the South Carolina Court of Common Pleas for the Second Judicial Circuit in Case Nos. 2013-CP-02-02849 and 2013-CP-02-02850. Clearly, he is well qualified to represent Michael Deon Brown.

Furthermore, Michael Brown is a competent adult who has expressed a desire to be represented by David Bell and Matt Bodman. He does not need nor does he desire to have a guardian ad litem appointed on his behalf. (Brown Aff. ¶ 6) He has expressly waived any right that he would otherwise have or be entitled to a guardian ad litem. (Id.) He does not want Adele Pope to be appointed as a guardian ad litem for him and if the Court were to determine, against his wishes, that a guardian ad litem were required then he would want the guardian ad litem to be anyone other than Adele Pope. (Brown Aff. ¶ 7) Although SRCP Rule 17 would allow Mr. Brown to have a guardian ad litem if he chose to have one, when a prisoner is already represented by competent counsel, the court need not appoint a guardian ad litem. Ex parte Foster, 350 S.C. 238, 565 S.E.2d 290 (2002). The courts of our nation recognize the importance to a party of having their counsel of choice. *See, e.g., U.S. v. Gonzalez-Lopez*, 548 U.S. 140, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006). Mr. Brown should be permitted to have the representation of his choice without further interference from Ms. Pope.

This 4th day of August, 2014.

Respectfully submitted,



MATT BODMAN
SOUTH CAROLINA BAR NO. 11143
1500 CALHOUN STREET
COLUMBIA, SC 29201
(803) 806-8605

Counsel for Michael Deon Brown

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on opposing counsel by placing a copy of same in the United States mail with appropriate postage affixed thereon and being addressed as follows:

Mr. Robert Rosen
Rosen Law Firm, LLC
18 Broad Street, Suite 201
Charleston, SC 29401

Mr. William J. Barr
108 N. Academy St.
Kingstree, SC 29556

Mr. Louis Levenson
Levenson and Associates
125 Broad Street, SW
Atlanta, GA 30303

Mr. John Fisher Beach
1501 Main Street, Fifth Floor
Columbia SC 29202

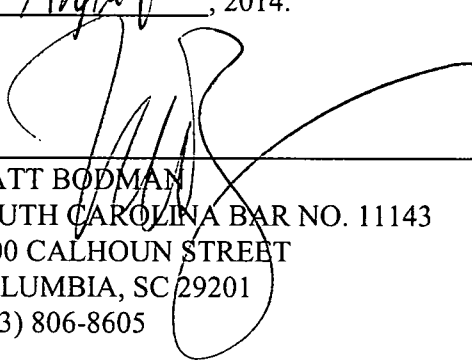
Mr. A. Peter Shahid, Jr.
Shahid Law Office, LLC
89 Broad Street
Charleston SC 29401

Mr. James Mixon Griffin
Lewis Babcock & Griffin, LLP
P.O. Box 11208
Columbia, SC 29211

Mr. S. Alan Medlin
1713 Phelps Street
Columbia, SC 29205

*Ms. Adele Pope
1223 Walnut Street
Nunberry SC 29108*

This 4th day of August, 2014.



MATT BODMAN
SOUTH CAROLINA BAR NO. 11143
1500 CALHOUN STREET
COLUMBIA, SC 29201
(803) 806-8605

Counsel for Michael Deon Brown

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Matt Bodman, P.A.

Attorney at Law

1500 Calhoun Street
Columbia, South Carolina 29201



Telephone (803) 806-8605 • Facsimile (803) 758-6087
matt@mattbodmanlaw.com • www.mattbodmanlaw.com

Monday, August 4, 2014

VIA HAND DELIVERY

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

RE: *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 v. James B., Terry Brown, Tommie Rae Hynie and David Sojourner Jr. – In Re: the Estate of James Brown a/k/a James Joseph Brown*
Appellate Case No. 2013-001649

Dear Ms. Kitchings:

On behalf of Michael Deon Brown, I am enclosing the original and 6 copies of Michael Deon Brown's Reply to Adele Pope's July 25, 2014 Pleading in the above-captioned case. Please file the original and return the clocked copy through the bearer of these documents.

By copy of this letter, I am serving this document to all parties in this action as noted on the Certificate of Service.

With warmest personal regards, I am,

Sincerely,

Matt Bodman

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