

THE STATE OF SOUTH CAROLINA
IN THE Court of Appeals

RECEIVED

NOV 13 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2014-000250

Adele J. Pope,.....Appellant,

v.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust;
Russell L. Bauknight, Individually, as former *Executor de son tort*, and in every
current and former fiduciary status claimed or held as to the Estate of James
Brown and the James Brown 2000 Irrevocable Trust,.....Respondents,

AND:

Robert L. Buchanan, Jr.,.....Interested Party.

**AMENDED MOTION TO CERTIFY TO THE SOUTH CAROLINA
SUPREME COURT IN ACCORDANCE WITH RULE 204**

TO: THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE
JUSTICES OF THE COURT:

The Appellant asks that this case be certified to the South Carolina
Supreme Court as a case that involves both issues of significant public
interest and legal principles of major importance for the following reasons:

1. This case is directly related to the case of *Wilson v. Dallas*, 403

S.C. 411, 743 S.E.2d 746 (2013) and involves applying the intent of the Supreme Court in its Opinion, which would be best reviewed by the Supreme Court which issued the Opinion.

2. *Wilson v. Dallas* disclosed a plan by the Office of the Attorney General to acquire full patronage authority to select and control those who would carry out the administration of the Attorney General's Legacy Trust, to be funded with assets James Brown gave to his "I Feel Good" private foundation.

3. The Office of the Attorney General purported to accomplish this by a now-void proposal to "settle" estate litigation by taking more than half of the millions of dollars intended for the benefit of needy students of South Carolina and Georgia and distributing those funds to parties in gross disproportion to any entitlement in exchange for those being offered the money to agree to the Attorney General's "settlement."

4. An unanticipated appeal of the Attorney General's action, which resulted in the *Wilson v. Dallas* decision, prompted the Attorney General and others to commence a 2010 civil suit in an attempt to stop the appeal. Since 2011 South Carolina Freedom of Information Act (FOIA) requests for public documents which reveal the settlement's flaws have been ignored. Suits to compel FOIA compliance are being consolidated with the Attorney General's 2010 lawsuit, or otherwise delayed and denied.

5. The State's charitable policy in relation to what should now be the largest private foundation in this State dedicated solely to the education of needy students, has been orchestrated for six years by a companion of James Brown whose interests are directly adverse to Brown's intention, but who is favored by the Attorney General.

6. Since May 2010 Respondent Bauknight, as agent and fiduciary for both the companion and the Attorney General, has carried out this policy, adverse to James Brown's foundation, through an unconstitutional lawsuit in which he claims to speak for the State of South Carolina.

7. Since 2011, while claiming to serve both the State and the companion, Respondent has interfered with two South Carolina Freedom of Information Act (FOIA) suits brought by the Appellant. He has succeeded in having one FOIA suit consolidated with the Attorney General's 2010 suit. FOIA compliance in both has been delayed for more than three years.

8. In 2011 and 2012 Respondent Bauknight told the Supreme Court that Brown's companion was Brown's wife, and that she and her son control the Federal Copyright Act termination rights to copyrights Brown gave to his foundation. At the same time Respondent concealed four DNA-proven children and a daughter from Brown's first marriage, all important to the foundation's protection of the copyrights. In 2013 Respondent paid a

law firm seeking to bar these five children from objecting to companion's spousal claim more than \$250,000 in two months.

9. On February 27, 2013 the Supreme Court issued its first *Wilson v. Dallas* decision, directing in footnote 29 that the Attorney General's FOIA suits and the 2010 tort suit be addressed in the first instance.

10. Ignoring the mandate, in April 2013, Respondent Bauknight began a two-year attempt to intervene in a third FOIA suit, by a journalist, to prevent release of public documents which will confirm that Brown's companion was not Brown's spouse; Respondent's claimed valuation of James Brown's music empire is without merit; and Respondent's representations to the Supreme Court about Brown's heirs and their rights under the Federal Copyright Act were known to be incorrect.

11. The May 8, 2013 *Wilson v. Dallas* decision did nothing to deter the Attorney General, Respondent Bauknight and Brown's companion. The dismissal under Rule 12(b) of Appellant's June 10, 2013 complaint describing their actions has enabled Respondents to continue with impunity to defy *Wilson v. Dallas* and accomplish the goal to reinstate the Attorney General's settlement, publicly announced by Brown's companion on May 29, 2013.

12. Respondent Bauknight, and those with whom he is in alliance, have not only refused but affirmatively resisted any attempts by the

Appellant or the public to reveal what monies have been disbursed or are to be disbursed by him from Trust funds. The effort is to keep secret information which the Court, any parties, and the public have a right to see until they have accomplished their goal of reinstating a settlement that is grossly inconsistent with the well expressed and clear intent of James Brown.

13. There is an important public interest in preserving James Brown's trust funds for the benefit of the children of South Carolina who are the intended beneficiaries of these funds and preventing their diversion through action of government officials, to wit, the Attorney General and Respondent Bauknight as his trustee, to divest the intended beneficiaries in favor of Brown's companion and other unintended beneficiaries, and to pay extremely high fees and commissions to various individuals and firms.

14. Respondent Bauknight and those with whom he is in alliance and serves have expended extraordinary amounts of time and resources which should have been directed for charitable purposes in a determined effort to defeat the Appellant, certain children of James Brown, and others who seek to protect the charity and the copyrights which are an important part of Brown's charitable fund. It is appropriate that this case not be a tool for extending the litigation and expenses more than necessary.

15. Respondent Bauknight and those with whom he is in alliance and

serves have the ability to litigate using the resources of the state's taxpayers and/or the resources of funds intended for the benefit of the children.

16. This case is related to cases commenced, and FOIA interference, tenaciously pursued by Respondent Bauknight under claimed State authority, and by others, over an extended period of time

- a. to take over the administration of the James Brown Estate and assets by the Office of the Attorney General and Respondent Bauknight, acting in concert with the Office of the Attorney General and Brown's companion.
- b. to divert funds from the charitable trust that were for the benefit of the children of South Carolina and Georgia as clearly directed by James Brown,
- c. to, in part, accomplish this by improperly using the funds that should be in the Charitable Trust to induce parties with no material claims to accept large sums to join a "settlement" that would enable the Office of the Attorney General, Respondent Bauknight and the companion to accomplish their goal of thwarting the crystal clear intent of James Brown in directing how his assets were to be handled at his death.
- d. to prevent the public and this petitioner from having access to information that would reveal the actions taken by or on behalf of the estate and the Office of the Attorney General even when requested both by petitioner and the press under the FOIA.
- e. to use overwhelming legal and other resources to fend off the efforts of this Petitioner to fulfill the intent of James Brown and to carry out his purposes for the benefit of the children of South Carolina and Georgia.

Within days after the remittitur was handed down in *Wilson v. Dallas*,

Brown's companion had publicly announced her intention to reinstate the settlement voided by the Supreme Court; the Richland County Court had been asked to stay FOIA actions for years; and Respondent Bauknight had filed the notice of disallowance with impending bar which forced the Appellant to file this lawsuit. By January 2014, when attempts to stop Respondent Bauknight were dismissed under Rule 12(b) without the hearing required by the Probate Code, more than a million dollars had been expended, without judicial review, to reinstate the Attorney General's settlement; damage the Appellant; and damage the foundation's copyrights by depriving Brown's real heirs not supporting the Attorney General's settlement of their acknowledged status under the law.

Judicial economy and justice will be served by a transfer of this case to the Supreme Court.

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com
S.C. Bar No. 4501

November 12, 2014

STATE OF SOUTH CAROLINA
In the Court of Appeals

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NOV 13 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III Circuit Court Judge

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v.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust;
Russell L. Bauknight, Individually, as former *Executor de son tort*, and in every
current and former fiduciary status claimed or held as to the Estate of James
Brown and the James Brown 2000 Irrevocable Trust,..... Respondents,

AND:

Robert L. Buchanan, Jr.,..... Interested Party.

PROOF OF SERVICE

I certify that on the 12th day of November, 2014, I served the AMENDED
MOTION TO CERTIFY TO THE SOUTH CAROLINA SUPREME COURT IN
ACCORDANCE WITH RULE 204 in this matter on Respondents and on the
Interested Party by hand-delivery, or by depositing a copy of same in the United
States Mail, postage prepaid to them or their attorneys of record as follows:

William Wilkins, Esquire
J. David Black, Esquire
Tanya A. Gee, Esquire
William G. Newsome, III Esquire
Nexsen Pruet
1230 Main Street, Suite 700
P.O. Box 2426

Columbia, South Carolina, 29202-2426

Sheila Bias, Esquire
Frederick Crawford, Esquire
Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, South Carolina 29202

Robert L. Buchanan, Jr.
212 Newberry St., NW
Post Office Box 463
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Pro Se

November 12, 2014

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

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SC Court of Appeals

November 12, 2014

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
1231 Gervais Street
PO Box 11330
Columbia, South Carolina 29211

Re: Pope v. Estate of James Brown and others
Appellate Case No. 2014-000250

Dear Mr. Shearouse:

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

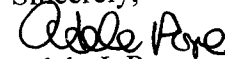
1. Original and Seven (7) copies, AMENDED MOTION TO CERTIFY TO THE SOUTH CAROLINA SUPREME COURT IN ACCORDANCE WITH RULE 204;
2. Original and seven (7) copies, Proof of Service;
3. My check in the amount of \$25.00 to cover the filing fee.

By copy of this letter, I am sending a copy of the Amended Motion to the S. C. Court of Appeals.

Kindly file the originals and required copies and return a file-stamped copy of each. Thank you. I apologize that the Motion as filed with the Courts today contained an incorrect year in the Case number.

A related Motion to Certify S.C. Court of Appeals Case No. 2013-001649 has been filed.

Sincerely,



Adele J. Pope

S.C. Bar No. 4501

Enclosures

cc: The Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals
Tanya A. Gee, Esquire - Attorney for James Brown Estate and 2000 Trust
William W. Wilkins, Esquire - Attorney for James Brown Estate and 2000 Trust
J. David Black, Esquire - Attorney for James Brown Estate and 2000 Trust
William G. Newsome, III, Esquire - Attorney for James Brown Estate and 2000 Trust
Sheila M. Bias, Esquire - Attorney for Russell L. Bauknight, Individually
Frederick A. Crawford, Esquire - Attorney for Russell L. Bauknight, Individually
Robert L. Buchanan, Jr. - Interested Person

Law Office of Adele J. Pope, PC
1228 Walnut Street
Newberry, South Carolina 29108



The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201