

STATE OF SOUTH CAROLINA
In the Court of Appeals

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NOV 26 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-001649

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 the.....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, Respondents.

**REPLY TO RETURN OF RUSSELL BAUKNIGHT TO MOTION OF
APPELLANT TO CERTIFY TO SUPREME COURT**

In his 3-page Return Russell Bauknight says Appellant has engaged
in "inexplicable, officious intermeddling that is costing the estate money."

[p. 2. footnote 2]. He says June 13, 2013 orders issued without notice or hearing which purport to prevent Appellant and Robert Buchanan, Jr. from participating in any James Brown trust or estate case are administrative.

[p.2]. He says the Supreme Court, if it takes Appellant's appeal, should do so solely to dismiss the appeal. [p. 2]. He says Appellant's motion to certify is "utterly without merit." [p.3]. He says there is an "unwavering decision to subvert" the decision of the Supreme Court in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). [p.2]. And he describes Richland County Case 2010-CP-40-4900 ("Case 4900")¹ as the *Estate's* claim against Appellant.

Mr. Bauknight says mediation in Case 4900, has nothing to do with whether Tommie Rae is the spouse of James Brown. [Footnote 2, p. 3].

Very little of what Mr. Bauknight says is correct. While he speaks for Brown's Estate and 2000 Trust, his words must be measured in light of his continuing fiduciary service to Tommie Rae, and as agent (without GAL) for her son, Respondent James B. One must consider, also, the joint actions of Tommie Rae, the Attorney General and Mr. Bauknight in Case 4900 and three FOIA suits. In that light it is clear that there is an unwavering decision to subvert the Supreme Court's May 8, 2013 decision. But it is not by Appellant. It is by these Respondents, and by the Attorney General. It is also by Louis Levenson, Esq.,

¹ In his affidavit of November 20, 2014 filed in this case, Adam T. Silvermail, Appellant's Case 4900 counsel, explains how Appellant's 2011 FOIA requests have been denied for three years. Appellant seeks the \$4.7 million appraisal which was used to accuse her of a federal felony; the Legacy Trust which sued her for tens of millions of dollars; and the Wingate 40% contract by which the AG and others sued her in 2010.

and David Bell, Esq..² Both Levenson and Bell signed the Case 4900 40% contingency fee contract. Both approved the baseless Case 4900 complaint.

As Mr. Bauknight asserts on page 2, the law should regard with jealousy, and even aversion, the officious intermeddling with a dead man's estate. It should certainly do so in the case of James Brown, where all challengers to the estate plan have now admitted in writing on August 27, 2010 in Case 4900:

... 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]

² The convoluted 7-year fraud on the Supreme Court, the Federal District Court and the Richland and Aiken County courts by David Bell, Esq., attorney for Respondents Forlando and Terry Brown from 2007 until 2014, demonstrates to the worst aspect of the James Brown litigation. Aided by Respondents Dallas, Cannon and the powerful Powell Goldstein law firm, on January 2, 2008 Bell filed Federal District Court Case No. 3:08-cv-00014-WOB to enjoin the 2000 Trust from taking any action until Cannon and Dallas were reinstated as trustees. Attached to the verified complaint was a fabricated "Schedule B" created by Cannon and Dallas after Brown died. The fabricated Schedule B made it appear that Brown's \$50 million publicity rights were in the 2000 Trust, not in the Estate. Bell then filed a false affidavit asserting Forlando was not a party to any State Court proceeding to remove Trustees. Forlando was *actually* a Plaintiff in Case 2007-CP-02-0122 ("Case 122"), a suit filed in Aiken County to remove the Cannon Group as trustees. But Forlando had switched sides. Bell simultaneously filed 6 grievances against Levenson in 2 states, claiming Levenson forged his 30% contract with Forlando.

Bell's dirty tricks, including threatening Buchanan with a grievance and taking opposite position for Terry and Forlando at the same time, continued until 2014.

In 2011 Bell and a Sr. Assistant AG worked with James Trigg, Esq. of Kilpatrick Stockton (KS) as Terry secretly transferred his interest in the Estate to Forlando. The KS website was altered to include an incorrect claim that KS attorney Robert Potter had "halted" an improper sale of Brown's GRAMMY. Potter has confirmed that he did not know of the post. The GRAMMY was properly placed in the 2008 Christie's sale with the approval of the AG and three court orders. It was properly withdrawn without penalty for business, not legal, reasons over the urging of Christie's counsel that it remain in the sale. Levenson was present, and made no objection.

It should do so where seven of the Attorney General's and Tommie Rae's co-Plaintiffs in Case 4900 now confirm that Tommie Rae was not Brown's spouse; and they knew it when they reached the 2008 settlement.

The unwavering decision to subvert the judicial decision in Case 4900 began within two days of the *Wilson* decision. The Attorney General, Tommie Rae and other Case 4900 Plaintiffs asked the Honorable L. Casey Manning to stay Case 4900 until all James Brown matters were concluded in Aiken.

They did so because Case 4900 was poised for a summary judgment ruling that Tommie Rae was not Brown's spouse. Many of the Case 4900 Plaintiffs, and all trustees others than Mr. Bauknight, had also confirmed that the value of Brown's assets at death was about \$100 million, less the now-paid TIAA debt. It was not the \$4.7 million claimed by Mr. Bauknight and the Attorney General.

The assertion in the Case 4900 complaint that Buchanan and Appellant knew nothing about the Federal Copyright Act had been proven wrong. All except the Attorney General, Mr. Bauknight, Tommie Rae and her son now admit that Tommie Rae has no copyright termination rights. Everyone knows termination rights agreements with only half of Brown's children will protect the "I Feel Good" Trust's 800+ copyright for decades. All know that half can be made up solely of children (and children of deceased children) who did not receive a dime under the Attorney General's 2008 settlement; who are not challenging the estate plan; and whose expectations are modest compared to Tommie Rae and

Levenson.

The private law firm which serves as sole counsel to Tommie Rae, the Attorney General and the remaining Case 4900 Plaintiffs, all of whom are seeking relief from default as to the counterclaims of Buchanan and Appellant, asserts it is "judicially conflicted" by *Wilson*. But he has not resigned.

The Attorney General's Legacy Trust, also a Case 4900 Plaintiff, asserts in a FOIA suit that it is not subject to FOIA, and it might not exist after *Wilson*. But it continues to sue Appellant in Case 4900 twenty months after the first *Wilson* decision.

On May 29, 2013 Levenson and counsel for Tommie Rae announced their request to go *in camera* and reinstate the 2008 settlement. They, and Bauknight, urged the Court to eject Buchanan and Appellant from the James Brown cases.

Also on May 29 Mr. Bauknight, having secured an *ex parte* pre-remittitur appointment, delivered a Notice of Disallowance with Impending Bar to appellant. Mr. Bauknight claimed Appellant, Buchanan and their fine counsel who had protected the estate plan for four years at a legal cost of only about \$200,000, were not entitled to any attorneys' fees or costs; were not entitled to any PR/Trustee commissions; and Appellant might have to disgorge the court-ordered partial SA fee she received for her 2007 SA service.³

³ The cost of the 7-day hearing and 4-year appeal was kept low by the efficient work of Tressa Hayes, Esq., and James Bailey, Esq., and by the *pro bono publico* service of lead counsel appellate James Richardson, Esq.

Mr. Bauknight's disallowance forced Appellant to file an unnecessary lawsuit within 30 days to prevent forfeiture of these amounts, including fees already ordered by the Court. Required to file suit, on June 10 Appellant asked the Court to void the disallowance and remove Bauknight as a fiduciary based on his false copyright and heirs claims; his \$4.7 million valuation; his attempted destruction of the copyrights; his false felony claim made against Appellant while asserting he was an agent for the Attorney General; and his continuing fiduciary service to Tommie Rae, and service as agent for her son.

On June 13, 2013, without notice or hearing, the Aiken County lower court gave Mr. Bauknight, Tommie Rae and Levenson even more than they had asked for on May 29. Based on the lower court's interpretation of *Wilson*, the June 13 Orders purported to prohibit Appellant and Buchanan from participating in any James Brown estate or trust case. Appellant's unheard motions were directed to be removed from the public record. And the clerk was directed to reject all filings by Appellant in the cases which are the subject of this appeal.

Had Appellant not hand-carried her Rule 59 motion to the clerk, it would not have been filed. Only after Appellant explained its importance to the clerk did she depart; make a phone call; and allow the filing.

By October 2014 Mr. Bauknight, who represented to the Supreme Court that copyright terminations are "all this case is about," had selected a limited SA who claims he has no duty to protect the 800+ copyright James Brown gave to the "I Feel Good" Trust. In two months in 2013 the limited SA's law firm had been

paid a quarter of a million dollars for trying to undo the heir status of four of Brown's DNA-proved children, including one incarcerated in California. These were four of the five or so *not challenging the estate plan* needed to protect the "I Feel Good" Trust's 800+ copyrights for decades. They were identified under an official DNA protocol set up by the estate in 2007 to protect the copyrights by screening all non-presumed children. A full heirs determination had been ordered by Judge Early in March 2008 because of the copyright issue.

The limited SA and Bauknight did not stop with damage to the copyrights to benefit Tommie Rae. They abandoned Brown's 1999 backup Will which makes Brown's plan to leave his music empire to the "I Feel Good" Foundation ironclad. After December 2015, under the 10-year rule, it cannot be probated.

By 2014 Bell, the embodiment of what has gone wrong in the James Brown cases, was siphoning off termination rights contracts with non-acknowledged children which should belong to the Estate/"I Feel Good" Trust.

In October 2014 Mr. Bauknight asserted to Judge Early that the Estate could not pay Appellant the unpaid portion of her 2007 SA fee, or any of her court-ordered PR/Trustee commissions through May 26, 2009, until the conclusion of Case 4900.⁴ Appellant asserted this was both unfair to her and

⁴ Appellant has not been paid \$48,000 of the SA fee she earned in 2007 or the approximately \$1.38 million for her PR/Trustee service from November 20, 2007 through her replacement on May 26, 2009. Both amounts were approved by order of Judge Early, and are earning interest at the legal rate under the order's terms. Buchanan was paid the amount awarded to him under the same order in 2012 only after his financial situation forced him to agree to release Tommie Rae, the Attorney General and others from his counterclaims in Case 4900. Without notifying the Supreme Court, the Attorney General extracted Buchanan's commitment not to file any Petition for

bad for the estate. Under Judge Early's 2008 order, high interest has been accruing on the amount due Appellant since 2009. And Mr. Bauknight, Tommie Rae and others were seeking to stay Case 4900 for years.

In response, on November 3, 2014 Judge Early notified the parties that Judge Manning would be ordering mediation in Case 4900.

After learning on November 10 that Bauknight's limited SA and Tommie Rae intended to proceed on November 24 with her summary judgment hearing that she was Brown's spouse, and that significant material facts showing she is not Brown's spouse were intentionally omitted from stipulated "facts", Appellant asked for a stay until the Case 4900 mediation. A determination of Tommie Rae's claim to be Brown's spouse is ready for hearing in Case 4900, awaiting only the deposition Tommie Rae has evaded for years. Case 4900 is in Richland County only because Tommie Rae, the Attorney General and Bauknight prevailed against Buchanan's and Pope's attempts to dismiss Case 4900 or change venue to Aiken.

Tommie Rae and Mr. Bauknight reacted strongly to the request for a brief stay of Tommie Rae's summary judgment motion pending the Case 4900 mediation. To date no stay has been granted.

On November 20 Judge Early announced that Karl Folkens had been selected as the mediator in the Case 4900 mediation.

from his counterclaims in Case 4900. Without notifying the Supreme Court, the Attorney General extracted Buchanan's commitment not to file any Petition for Rehearing in *Wilson*, and not to do anything to help Appellant if she filed one.

In 2012 Tommie Rae sought mediation in Case 4900 to avoid her scheduled deposition. Then she obtained permission not to attend. Within two hours after the mediation concluded, however, she made the following public post on Facebook:

This mediation today is to get rid of Adelle Pope an X trustee appointed by the state that has misappropriated and slandered this family with her hatred. Do not start a fire where there is not one! Be patient. This is The Supreme Court they will rule justly...We got rid of them Adelle Pope is the last of the rats! [Silvernail Aff., p. 7]

Hopefully the latest Case 4900 will require Case 4900 Plaintiffs, all seeking relief from default as Appellant's and Buchanan's counterclaims, to attend.⁵

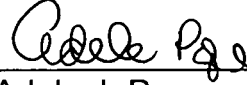
CONCLUSION

This appeal should be certified for transfer to the Supreme Court. Judicial intervention is required to protect the "I Feel Good" Foundation; to enforce *Wilson*; and to restore confidence in private philanthropy in South Carolina. It is needed to stop the state action which is denying Appellant her property rights; her First Amendment and Due Process rights; and her rights under the Probate Code and Trust Codes. That state action has threatened Appellant's career, and even her liberty, for years. The June 13

⁵ Appellant rejects all arguments of Bauknight not specifically addressed herein, including his claim for fees and costs. She adopts her Motion to Certify and incorporates the Silvernail Affidavit. She asks the Court to take judicial notice of the FOIA Order of the Honorable Eugene C. Griffith, Jr. and Bauknight's appeal of Judge Griffith's refusal to allow him to intervene contained in S.C. Court of Appeals Case 2014-002222.

Orders should be vacated. Case 4900 and the James Brown FOIA suits should be concluded in the first instance.

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

November 23, 2014

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

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NOV 26 2014

The Honorable Doyet A. Early, III, Circuit Court Judge **SC Court of Appeals**

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v.

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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, Respondents.

PROOF OF SERVICE

I certify that on the 24th day of November, 2014, I have served a copy of the
REPLY TO RETURN OF RUSSELL BAUKNIGHT TO MOTION OF
APPELLANT TO CERTIFY TO SUPREME COURT in this matter on the
Respondents described below by depositing a copy of same in the United States
Mail, postage prepaid, addressed to them or their attorneys of record, and email
where shown, as follows:

Tanya A. Gee, Esquire
PO Drawer 2426
Columbia, South Carolina 29202-2426

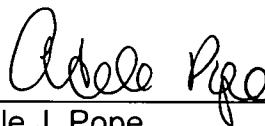
David G. Cannon
P. O. Box 865
Barnwell, SC 29812

Eugene C. Covington, Jr., Esquire
P. O. Box 2343
Greenville, SC 29602

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

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

John A. Donsbach, Sr., Esquire
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November 24, 2014

Pro Se

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November 24, 2014

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

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CERTIFIED MAIL

SC Court of Appeals

Re: *Wilson v. Dallas*
Appellate Case No. 2013-001649

Dear Mr. Shearouse:

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

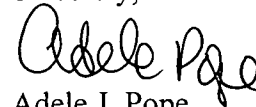
1. Original and seven (7) copies of a REPLY TO RETURN OF RUSSELL BAUKNIGHT TO MOTION OF APPELLANT TO CERTIFY TO SUPREME COURT;
2. Original and seven (7) copies, Proof of Service; and

By copy of this letter, I am delivering an original and seven (7) copies of the Reply and an original and one copy of the Proof of Service to the South Carolina Court of Appeals.

I request that each Court kindly file the originals and required copies, and return a file-stamped copy of each in the enclosed, stamped envelope provided. Thank you.

This Motion to Certify is being filed in connection with a Motion to Certify in a related matter, South Carolina Court of Appeals Case No. 2013-000250.

Sincerely,



Adele J. Pope
S.C. Bar No. 4501

Enclosures

cc: The Honorable Jenny Abbott Kitchings, Clerk, South Carolina Court of Appeals
Respondent David G. Cannon, *pro se*
Eugene C. Covington, Jr. Esquire, Attorney for Respondent Albert Dallas
Robert N. Rosen, Esquire, Attorney for Respondent Tommie Rae Hynie
Tanya A. Gee, Esquire, Attorney for Respondent, James Brown Estate/2000 Trust
Peter Shahid, Jr., Esquire, Attorney for Respondent James B.
John A. Donsbach, Sr., Esquire, Attorney for Respondents Terry and Forlando Brown