

STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM AIKEN COUNTY
Court of Common Pleas

FEB 03 2015

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

S.C. SUPREME COURT

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 RESPONDENT TOMMIE RAE HYNIE TO
MOTION TO SUPPLEMENT RECORD
AND STAY SPOUSAL PROCEEDING**

Appellant submits this Reply to the Return of the Respondent Tommie Rae
Hynie ("Tommie Rae"), dated January 30, 2015, to Appellant's motion to supplement

the record with an order of the Honorable Doyet A. Early, III ("Judge Early") dated January 13, 2015, declaring Tommie Rae to be the surviving spouse of entertainer James Brown, and to stay Tommie Rae's spousal proceeding before Judge Early. Judge Early enjoined Appellant from participating in the spousal proceeding in the orders which are the subject of this appeal.

Appellant refutes each statement of Tommie Rae not consented to herein. She incorporates and adopts her motion and memorandum. In addition she addresses some of the incorrect statements in Tommie Rae's return.

Tommie Rae is Bound by Appellant's Statement of the Case.

Tommie Rae did not file a brief in this appeal. Under Rule 208 SCACR she is bound by Appellant's statement of the case, which includes the following:

The "June 13 Orders" which are the subject of this appeal were issued without notice or hearing, and affect fourteen Aiken County James Brown cases.

The Attorney General's [AG's] 2008 agreement gave 25% of Brown's assets to Tommie Rae and 25% to clients of Louis Levenson, Esquire (Levenson"). The AG stipulated Tommie Rae would be considered to be Brown's spouse "for all purposes."

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

At a May 29, 2013 status conference Levenson and counsel for Tommie Rae announced their intention to attempt to reinstate the AG's 2008 settlement. The AG announced his intention to withdraw from the Aiken cases.

The June 13 Orders, issued without notice or hearing, 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; directed that Appellant's unheard motions be removed from the public record; and directed the Clerk not to accept any filings of Appellant in any case except the case she filed on June 10. [R. pp. 29-31, 32-39, 27-28]

Appellant's Request was Proper

Tommie Rae asserts on pages 2 and 3 of the return that there is no procedure for the relief sought by Appellant, and that Appellant has not followed Rule 241 SCACR. Of the spousal proceeding, she asserts "Pope is not and cannot be a party to that case." Tommie Rae overlooks that the purpose of this appeal is to ask the Court to overturn the June 13 Orders which improperly prevented Appellant and Robert Buchanan, Jr. ("Buchanan") from being part of the James Brown Aiken cases, including Tommie Rae's spousal proceeding. They need to be parties where their interest and ability to protect themselves from the improper State action to favor Tommie Rae and others the AG favors, including Levenson and David Bell, Esq (Bell), is at stake. Pope also has a right to serve as an attorney for any party, as an expert or fact witness; and otherwise as appropriate. In light of the refusal of Judge Early to accept her filings, and direction to the clerk of court that they be rejected without filing, Appellant's application to this Court was appropriate.

Pope has Never Sought a \$5 Million Commission

Respondent Tommie Rae asserts on page 2 that Appellant has been interfering and continues to interfere in all actions involving the James Brown estate, "presumably to obtain leverage for her \$5 million fee claim and to increase her claim for fees." On

Page 3, Tommie Rae asserts that Appellant's "sole interest in the estate of James Brown is as a potential creditor claiming \$5 million in fees for approximately 1.5 years of service as co-personal representative and co-trustee." On page 4, Tommie Rae says "[w]hat Pope also fails to mention is that her \$5 million claim for fees, if paid, would come directly from the charitable interest, and nowhere else."

Respondent Tommie Rae is fully aware that Appellant has never sought a PR/Trustee commission of \$5 million; that the fee she sought was approximately half of that; and that it was not for a year and a half, but for as many years as would be necessary to honor and protect the noble estate plan of James Brown as he directed in his Will and 2000 Trust, and backup 1999 will.

Respondent Tommie Rae is also fully aware that Tommie Rae herself twice nominated Appellant to serve – first as special administrator and later as PR/Trustee. Tommie Rae never challenged Appellants competence, motives or fee requests until Buchanan and Appellant, in order to do their duty, could not justify a settlement which dismembered the "I Feel Good" Trust and damaged its copyrights in favor of a person who was clearly not Brown's spouse, and had no Federal Copyright Act rights.

Respondent Tommie Rae is also aware that Appellant has served *pro bono publico* since May 8, 2013, offering her experience and expertise in the relationship between the Federal Copyright Act and State Probate law to anyone seeking to honor James Brown's wishes to leave his entire music empire for the education of needy students in his "I Feel Good" Foundation.

Appellant's Right to Protect Herself from Joint Action of Attorney General, Tommie Rae, Levenson and Bell

On page 3, Tommie Rae set out with emphasis the following claim:

Pope has no interest in the cases pending before Judge Early ... Pope has no interest in the elective share and omitted spousal share matters.

The opposite is true. Since May 19, 2010, when she was sued by Tommie Rae and the AG for millions of dollars in Richland County in Case 2010-CP-40-4900 ("Case 4900"), Appellant has had a direct interest in showing that Tommie Rae was not Brown's spouse, and that AG McMaster knew it when he gave her a quarter of Brown's assets and "stipulated" that she would be considered Brown's spouse.

Since 2011, Tommie Rae's interference with Appellant's FOIA rights and request for sanctions against Appellant for exercising FOIA rights has enhanced Appellant's legal interest in the Tommie Rae cases.

In 2011 and 2012 the AG, his trustee and Tommie Rae claimed to the Supreme Court that Tommie Rae was Brown's spouse; that Brown's assets were worth only \$4.7 million when he died; that Tommie Rae and her son control the Federal Copyright Act termination rights held by the "I Feel Good" Trust; and that Tommie Rae's elective share claim was a "slam dunk." Appellant and Buchanan have an interest and need to protect themselves both from these false joint claims by Tommie Rae and the State.

Since 2012, as Tommie Rae, the AG and others have viciously fought Judge Early's voiding of 2008 gag orders and the release of handwritten notes which Tommie Rae and the AG's staff knew would make clear that AG McMaster's 2008 settlement and decision to treat Tommie Rae as Brown's spouse was unwise. Appellant's interest

and need to protect herself from efforts to prevent her from discussing known, public facts is clear.

Between 2012 and 2015, as Judge Early has refused her repeated requests to conduct a hearing to ungag Appellant from the unconstitutional 2008 Hynie "diary" Gag Orders, Appellant's need to conduct this appeal to protect her interest in the Aiken cases became more clear.

Between 2013 and 2015 as AG Wilson, Bauknight and David Sojourner have wasted tens of thousands of taxpayer dollars and millions of dollars James Brown gave to needy students, to damage her as well as the "I Feel Good" Trust's copyrights, Appellant's need to protect herself continues.

On January 13, 2015, when Judge Early – after enjoining Appellant from participating – declared Tommie Rae Brown's spouse, giving the AG and Tommie Rae an improper unfair advantage in Case 4900, where both are in default as to Appellant's counterclaims, Appellant's interest in the spousal proceedings was enhanced.

On January 30, 2015, when Judge Early issued yet another *ex parte* order to try to punish a journalist who received and published Tommie Rae's handwritten notes which confirm she was not Brown's spouse and knew it, Appellant's interest in the Aiken cases before Judge Early was again enhanced.

For 6 ½ years two AGs have allowed Tommie Rae to direct the Tax, Copyright and Valuation policy of the State of South Carolina in relation to The James Brown "I Feel Good" Trust. The AG and Tommie Rae have worked jointly since May 8, 2013 to try to dismember the "I Feel Good" Foundation a second time; damage its copyrights a

second time; interfere with FOIA and the publication of public documents which will demonstrate their course is unwise; and damage and discredit anyone who dares to challenge the AG and Tommie Rae. Appellant has had a direct interest in the cases pending before Judge Early so that she can protect herself from these improper actions.

Improper State Action Prevents the Distribution of Charitable Funds

On page 4, Tommie Rae asserts that [u]nless and until the competing interests in the James Brown estate are determined, not one penny will pass to any charitable beneficiary. Tommie Rae asserts that Appellant is causing the delay. This is incorrect. The delay is being caused by the AG's and Tommie Rae's joint effort to prevent hearings in FOIA cases; consolidate FOIA requests with Case 4900; and then delay Case 4900 for what may be years.

The Buchanan Settlement Violated Public Policy and Is Void

Tommie Rae alleges in footnote 2 on page 3 that Robert Buchanan "settled long ago." This is not correct. For years the Estate/2000 Trust refused to pay both Buchanan and Appellant the court-approved, liquidated amount they were due under Order of Judge Early for their service through May 26, 2009. Payments were refused even though the amounts due were approved by the court, liquidated and earning interest at the legal rate.

By May of 2012, Buchanan was in financial crisis. He accepted the AG's terms to settle Case 4900, even though the AG violated public policy when he demanded that Buchanan not file a Petition for Rehearing in *Wilson*. The AG also allowed "I Feel Good" Trust funds to be used to secure releases for the State and Tommie Rae.

The Supreme Court was not advised of this unconscionable attempt of the AG to force a fiduciary not to protect a charity.

In October 2012 Judge Early "double approved" payments to Buchanan; praised his service, which was always joint with Appellant; and paved the way for the reopening of Buchanan's Case 4900 "settlement". The matter is pending.

The Attached Orders Confirm the Need to Stay the Spousal Proceeding

Tommie Rae attaches three appellate court orders as evidence that Appellant is delaying the orderly process of administration of Brown's estate to obtain leverage as to her fee claim. This is not correct. Each of the attached orders is addressed below.

The Court of Appeals Order of December 4, 2014

While Appellant's request to transfer this case to the Supreme Court was pending, Bauknight sought an order removing the most Respondents from the caption. On information and belief, it was Bauknight's intention to make it appear that the Brown's Estate and 2000 Trust, speaking through him, were the only Respondents.

The fact is that there were six other important Respondents, including Tommie Rae. And none had filed a brief.

To the extent the Court of Appeals denied Appellant's request for supersedeas and stay, Judge Early's January 13, 2015 order finding Tommie Rae to be Brown's spouse gives cause to reopen the issue. The same is true, since the motion was filed, of Judge Early's *ex parte* Order of January 30, 2015 seeking to recall a journalist's publication of the long-public handwritten notes of Tommie Rae which add to the existing evidence that she was not Brown's spouse and knew it.

The Tommie Rae spousal order was issued in a proceeding where half the heirs, creditors and others supporting the "I Feel Good" Trust who know she is not Brown's spouse were intentionally excluded by Judge Early.

Nothing in the Court of Appeal's December 4, 2014 Order suggests that the Supreme Court is restrained from considering these important matters.

The Dismissal of the Michael Deon Brown, James Curtis and Doe Appeals

Should this Court grant Appellant's unopposed motion to add certain real heirs of James Brown, including the Estate of daughter La Rhonda, and Brown's incarcerated son Michael Deon Brown, the fraud perpetrated on the Court by Bell in connection with this the Court of Appeal's dismissal of the appeal will become clearer. Bell, with the knowledge of the AG and consent of the limited special administrator, is siphoning off Federal Copyright Act termination rights and agreements which should belong to Brown's estate and the "I Feel Good" Trust.

In an extraordinary order of January 8, 2014, Judge Early, with the consent of the limited special administrator and a lawyer La Rhonda had fired before she died, *consented* posthumously to undo La Rhonda's heir status conferred by the Estate in 2007 when she passed the Estate's official Peeples DNA protocol.

The unopposed motion to add certain heirs of James Brown should be granted to make these troublesome issues clear. Tommie Rae failed to oppose the motion.

The Supreme Court's Denial of Certiorari

On October 23, 2014, the Supreme Court denied Appellant's Petition for Certiorari to this Court to review the Supreme Court's dismissal of the above appeal.

This cannot be seen as a vindication of Judge Early's or the AG's failure to protect the "I Feel Good" Trust and election to favor Tommie Rae.

Conclusion

Since May 8, 2013, the Attorney General, Tommie Rae, Levenson and Bell have worked to reinstate a 2008 settlement which favors Tommie Rae; damages at least half of Brown's real heirs; damages the "I Feel Good" Foundation and its 800+ copyrights; and damages Buchanan and Appellant in Case 4900, the exercise of their FOIA rights, and the exercise of their First Amendment rights. Supplementing the record as requested, and staying the spousal proceeding from which Appellant is excluded by orders which are the subject of this appeal, will help restore a level playing field.

Respectfully submitted,



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February 2, 2015

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PROOF OF SERVICE

I certify that on the 2nd day of February, 2015, I have served the REPLY TO
RETURN OF TOMMIE RAE HYNIE TO MOTION TO SUPPLEMENT THE
RECORD AND STAY SPOUSAL PROCEEDING on the parties described below by
depositing a copy of same in the United States Mail, postage prepaid, addressed
to their attorneys of record as follows:

ATTORNEYS OF RECORD FOR RESPONDENTS OR RESPONDENTS

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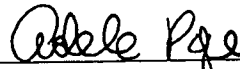
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February 2, 2015