

STATE OF SOUTH CAROLINA  
In the Supreme Court

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MAR - 5 2015

APPEAL FROM NEWBERRY COUNTY  
Court of Common Pleas

**S.C. Supreme Court**

Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2014-002222

Applicant for Intervention Russell L. Bauknight, as Personal Representative of the  
Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust..... Appellant

In Re: Susan D. Summer..... Plaintiff,

of whom Susan D. Summer is..... Respondent,

v.

Alan Wilson, in his capacity as Attorney General for South Carolina ..... Defendant

AND

Susan D. Summer..... Respondent

v.

Alan Wilson, in his capacity as Attorney General of South Carolina..... Appellant,

and Applicant for Intervention Russell L. Bauknight, as Personal Representative of the  
Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust..... Cross-Appellant.

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**REPLY OF RESPONDENT TO RETURN  
TO MOTION TO REMAND**

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In his Return to Motion to Remand, Appellant Wilson argues that the Motion to Remand is unnecessary and “outside the limits of the Freedom of Information Act.” The appellant is incorrect for the reasons set forth herein.

Respondent Summer is a journalist who has been writing about the saga of the James Brown Estate and music empire for over five years. Crucial to her inquiry has been obtaining a copy of the Hynie diary documents. As referenced in previous filings, Summer obtained approximately five weeks ago by mail from an anonymous source a copy of the Hynie diary, and she wrote about Hynie's assertions in those documents to the effect that she wanted to be married to Brown but was not his wife. Subsequently, counsel for Hynie has filed documents implying that Summer may have obtained incorrect or forged documents. For this reason, in accordance with Judge Griffith's directive allowing her to request additional information in his Order of January 16, 2015, Summer moved for the production of this diary under seal for safekeeping by Judge Griffith until this Honorable Court has ruled on the pending petitions for writs of prohibition and for supersedeas.

In fact, in the Order of this Court dated March 4, 2015, in Ex Parte: Susan D. Summer, In Re: The Estate of James Brown, a/k/a James Joseph Brown, Appellate Case Nos. 2015-000186 and 2015-000215, the Temporary Restraining Order as to Ms. Summer regarding the "diary" was dissolved. Thus, the lower court, on remand, is now empowered to direct that the Attorney General produce the Hynie diary documents to Respondent outright. The Hynie diary documents that Summer has can be compared with the Attorney General's copy to ascertain their accuracy. Thus, the remand is necessary on this issue.

Further, journalist Summer, the respondent herein, is still seeking the \$4.7 appraisal documents which the Attorney General moved to be supplemented in the record after the Wilson v. Dallas decision. Respondent's position is that the Attorney General's actions are relevant under FOIA because it can be inferred from his actions that he "used" the appraisal and it is therefore "public." The inference would be: why would the Attorney General move to supplement the record to add the appraisal documents if he had not seen and/or "used" them under FOIA?

In its Return, the Attorney General asserts that he has never seen the \$4.7 appraisal. On page 8 of his Order dated January 16, 2015, Circuit Judge Griffith noted that the Attorney General was a named plaintiff in a suit brought by the legacy trust which controls the \$4.7 million appraisal. The lower court also noted that the appraisal had been referred to in court filings. The lower court concluded that because the Attorney General claims that he does not have the \$4.7 million appraisal, there was nothing further the lower court could do on the record as it exists. The lower court went on to rule: "If, on remand, the Supreme Court issues any directives on this issue, this Court will make whatever rulings are needed at that time." Thus, it is clear that Summer has a right to request that the Attorney General, as co-plaintiff with Russell Bauknight in the suit over the legacy trust be ordered to obtain from Bauknight his copy of the \$4.7 million appraisal documents and produce them under FOIA. Under this factual scenario, the Attorney General by inference "used" the appraisal documents.

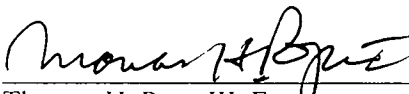
These issues need to be ruled upon in the lower court. The motion for additional information by plaintiff is pending, and this Court will ultimately have to decide these issues. A record needs to be made at the lower court in order for this to happen.

The Return of the Attorney General is an attempt to build a stone wall between journalist Summer and her efforts to obtain the Hynie diary (for confirmation purposes) and the \$4.7 million appraisal documents which have never been produced. The valuation of Brown's music empire is a matter of national media interest.

CONCLUSION

For the foregoing reasons, it is respectfully requested that this Court remand this matter so that Circuit Judge Griffith can rule on these final matters, after which either party has the right to appeal his Order, and the FOIA issues will be properly framed for this Honorable Court to make rulings based on the record in the case on appeal. Respondent's motion to remand should be granted.

Respectfully submitted,

By:   
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March 5, 2015

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**PROOF OF SERVICE**

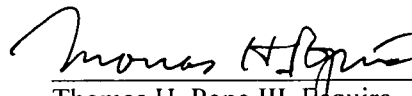
The undersigned hereby certifies he has served each of the following named individuals with a copy of the pleading indicated below via email and U.S. mail with postage in full prepaid on March 5, 2015:

**COUNSEL SERVED:**

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Email: esmith@scag.gov

**PLEADING SERVED:**

**REPLY OF RESPONDENT TO RETURN TO MOTION TO REMAND** dated March 5, 2015, in the above matter



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March 5, 2015