

STATE OF SOUTH CAROLINA
In the Supreme Court

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MAR 10 2015

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

S.C. Supreme Court

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 LETTER/RETURN OF MARK V. GENDE

Appellant respectfully submits that the relief sought by Mark V. Gende in his
Letter/Return dated March 6, 2015 should be denied. This Court should, however, take
judicial notice under Rule 201 SCRE of the actions of Mr. Gende and the plaintiffs in

Case 2010-CP-40-4900 ("Case 4900") and the two 2011 FOIA cases filed by Appellant Adele Pope ("Pope"), which AG Wilson and Mr. Gende were successful in transferring to Richland County. Case 4900 demonstrates a total disregard for the Due Process and First Amendment rights of Robert Buchanan, Jr. ("Buchanan") and Pope; FOIA; and the rulings of this Court in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013).

Mr. Gende Lacks Standing to Present His Concerns in This Appeal

On page 1 of the March 6, 2015 Letter/Return Mr. Gende states that he is concerned about the effect of this Court's interpretation of its own February 19 Order on an order filed in Aiken County Case 2013-CP-02-1337 ("Case 1337") on January 20, 2015 (the "Mediation Order"). The Mediation Order, in relevant part, states:

The Court, after conferring with counsel, Judge Manning, and I have determined that judicial economy would be served by a joint, Court-ordered mediation of the Aiken County Case.... 1337...and Richland County Case ...4900...

IT IS, THEREFORE, ORDERED:

1. That Karl Folkens, Esquire, is hereby appointed as the mediator
2. All parties and counsel of record are directed to participate in and attend the mediation in person.

...5. The Estate shall advance the cost and expenses of the mediation but will be allowed to deduct said advancements once a distribution is made.

...8. The parties shall provide the mediator with a memorandum... within twenty-five (25) days of the date of this order.

AND IT IS SO ORDERED.

The Mediation Order was filed in this Court on February 23, 2015, by direction of the Supreme Court in the February 19 Order. [pp.371-373.]

Mr. Gende does not represent any party to this appeal in this appeal.

He lacks standing to obtain relief from this Court.

Mr. Gende is Sole Counsel of Record for AG Wilson in Case 4900.

On p.1 Mr. Gende says he is counsel for all Case 4900 plaintiffs “except for the Attorney General.” This is incorrect. Mr. Gende’s firm is *sole* counsel of record in Case 4900 for AG Wilson. His firm is also *sole* counsel of record for Russell Bauknight (“Bauknight”) acting “on behalf of” AG Wilson. Finally, Mr. Gende is counsel for the “Legacy Trust” controlled by AG Wilson.

Some of Mr. Gende’s Case 4900 Clients Are Respondents in This Appeal.

On p. 1 Mr. Gende says that “...my clients are not parties to the instant appeal.” This is incorrect. Approximately a third of Mr. Gende’s Case 4900 clients are Respondents in this appeal. They are: James Brown’s estate, Tommie Rae Hynie; Brown’s 2000 Trust; James B.; and Terry Brown. But they are not represented by Mr. Gende herein.

Both Mr. Gende and John Donsbach, Esq., are counsel of record for Terry Brown in Case 4900, and also counsel for Forlando, the real party in interest to Terry’s former interest.¹

The Supreme Court has Jurisdiction to Interpret Its February 19 Order

Mr. Gende asserts that “[s]hould this Court rule on Mrs. Pope’s motion, such ruling may circumvent the authority of the trial judges to interpret their own order.” This

¹Forlando became a real party in interest to the Case 4900 complaint on January 3, 2011, when Terry assigned his interest to Forlando; and Terry, AG Henry McMaster, Tommie Rae and others amended the Legacy Trust so that Forlando could begin due diligence on his right of first refusal (“ROFR”) to buy Brown’s music empire.

argument is without merit.

The South Carolina Supreme Court is the proper court to interpret its February 19 Order, and the effect it has on any order issued by Judge Early.

Mr. Gende's Motion is Made in Bad Faith to Violate Appellant's FOIA Rights.

Both before and since this Court's first *Wilson* decision on February 27, 2013, Mr. Gende and the Case 4900 Plaintiffs have waged a bitter campaign to keep the public and courts from viewing *public documents* which support the following material facts in Case 4900:

1. Case 4900 is unconstitutional and improper because the AG, Tommie Rae, Terry and others share a private attorney, Mr. Gende's firm.
2. Tommie Rae was not Brown's spouse, and knew it.
3. Mr. Gende's 40% contingency fee contract was not signed by most Case 4900 Plaintiffs, but by Russell Bauknight, Louis Levenson, Esq., David Bell, Esq. and counsel for Tommie Rae.
4. In 2011 Bauknight began improperly colluding with Forlando Brown in Case 3:08-cv-00014-WOB, in which Forlando sought reinstatement of the Cannon Group as trustees.
5. Buchanan and Appellant properly valued Brown's music empire at about \$84 million on the federal estate tax return.
6. Advisors to Tommie Rae, a Sr. Assistant AG, and Bauknight concocted in 2009 the devaluation of Brown's music empire which culminated in the \$4.7 million Bauknight "appraisal" of September 2010.
7. Mr. Bauknight made an improper \$563,000 payment to Mr. Gende's firm in 2012, half a million dollars of which was returned without interest in 2013.
8. AG Wilson's 2012 Case 4900 "settlement" with Robert Buchanan, Jr. violates public policy because the Supreme Court was not told that the AG extracted a commitment that Buchanan not protect the "I Feel Good" charity in a Rehearing Petition in *Wilson*.

9. The Levenson challenges to the estate plan are wholly without merit.

In April 2013, between the two *Wilson* decisions, Mr. Gende sought to intervene in a FOIA suit by a journalist to stop release of the public so-called "diary" of Respondent Tommie Rae Hynie.

On May 12, 2013, Mr. Gende asked Judge Manning to stay Appellant Pope's two 2011 FOIA cases and Case 4900. He said:

The Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 from the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. . . the court no longer puts any primacy or priority on any court hearing these matters....

..Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that [Case 4900/ the FOIA Suits] be held in abeyance in its entirety until all underlying issues related to the Plaintiffs are resolved by the Aiken Court [Emphasis supplied.]

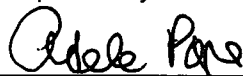
Mr. Gende claims that Case 4900, brought in 2010 in the name of the State of South Carolina to ruin the reputations and careers of Buchanan and Pope, cannot proceed because his firm is "judicially conflicted" by *Wilson*.

Mr. Gende's 2010 decision to commence a lawsuit in the name of the State, a nonspouse and others without explaining this conflict to the individual Case 4900 plaintiffs, and without obtaining the signature of most clients on his contingency fee contract, is not before this Court at this time. Mr. Gende's motion is made to prevent its ever reaching any court.

Conclusion

The relief sought by Mr. Gende in his Letter/Return should be denied. The February 19 Order should not delay either Pope's 2011 FOIA cases or Case 4900.

Respectfully submitted,



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PROOF OF SERVICE

I certify that on the 10th day of March , 2015, I have served the REPLY TO
LETTER/RETURN OF MARK V. GENDE on the parties and others described
below by depositing a copy of same in the United States Mail, postage prepaid,
addressed to their attorneys of record as follows:

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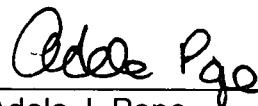
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March 10, 2015