

THE STATE OF SOUTH CAROLINA
In the South Carolina Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early III, Circuit Court Judge

Appellate Case No. 2013-001649

RECEIVED

MAR 16 2015

S.C. Supreme Court

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.
Buchanana, 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 OF DAVID C. SOJOURNER, JR., LIMITED SPECIAL
TRUSTEE AND LIMITED SPECIAL ADMINISTRATOR
OF THE JAMES BROWN TRUST AND ESTATE,
TO RETURN OF APPELLANT ADELE J. POPE AND
IN SUPPORT OF
MOTION TO INTERVENE

On March 2, 2015, David C. Sojourner, Jr. (“Sojourner”), in his capacity as the Limited Special Administrator (“LSA”) of the Estate of James Brown (“Estate”) and as Limited Special Trustee (“LST”) of the James Brown August 1, 2000 Irrevocable Trust Agreement (“Trust”), filed a Motion to Intervene in the above-captioned appeal (the “Appeal”).¹ Sojourner asserts his October 2013 appointment as LSA and LST gives him standing to participate as a party in this Appeal.

On March 11, 2015, Appellant Adele J. Pope (“Pope”) filed a Return opposing Sojourner’s Motion to Intervene. Pope’s eleven-page Return largely asserts matters wholly unrelated to Sojourner’s motion. Pope’s Return is also riddled with false statements that unfairly and inaccurately attempt to paint Sojourner and others in a negative light to this Court.²

Since Sojourner’s appointment as LSA and LST, he has devoted substantial effort to carrying out the Court’s directive that he defend the Estate and Trust against claims of interest in the Estate brought by various individuals (including spousal and child claims), and legal challenges to the validity of the Will and Trust brought by various children and Tommie Rae Hynie a/k/a Tommie Rae Brown (such claims and challenges collectively, the “Will and Trust Challenges”).³

¹ Sojourner only seeks to intervene in Appeal No. 2013-001649. In spite of Pope’s references in her Return to two other appeals this Court has recently certified, Appeal Nos. 2014-00250 and 2014-002222, Sojourner is not seeking to intervene in those appeals.

² Sojourner is disappointed at Pope’s “scorched earth” approach reflected in her Return. Out of a natural concern to preserve his reputation with this Court, Sojourner acutely desires to “set the record straight.” However, Sojourner is mindful that such action would only help Pope to accomplish her apparent goal of diverting this Appeal down a side-road that leads abruptly away from the relevant issues.

³ See, October 1, 2013 Interim Order, pp. 9, 10. Exhibit A to Motion to Intervene; October 10, 2013 Interim Order Appointing Limited Special Administrator, Exhibit B to Motion to Intervene. Both Orders collectively referred to herein as the “October 2013 Appointment Orders.”

Sojourner responds to the only two items Pope has raised in her Return that are relevant to Sojourner's Motion to Intervene: (1) the timeliness of Sojourner's Motion to Intervene; and (2) the distinction between Sojourner's and Bauknight's roles as they relate to the Estate and why Bauknight does not and cannot represent Sojourner's legal interests in the Appeal.⁴

1. Sojourner's Motion to Intervene is timely.

On November 11, 2014, Pope filed a Motion for Certification and included allegations regarding Sojourner's actions before the trial court in the Will and Trust Challenges. Pope's Motion for Certification purports to bring Sojourner's actions under scrutiny as part of this Appeal.

On December 23, 2014, this Court certified and took jurisdiction under Rule 204(b), SCACR. The parties have not yet presented any substantive briefing.

On February 19, 2015, apparently in response to a motion by Pope, this Court issued an order related to the Will and Trust Challenges (the "Stay Order"). The Stay Order: (1) directed the Aiken County Clerk of Court to provide this Court with "all orders issued in any action related to the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown since May 8, 2013..." and (2) stayed "[a]ll proceedings in the Aiken County Circuit Court involving the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown...."

The Stay Order directly affects Sojourner's duties as LSA and LST, as it seeks to review and stay orders issued by the lower court in the Will and Trust Challenges as a result of Sojourner's representation of the Estate. The Stay Order also stays certain Will and Trust

⁴ At the Court's direction, Sojourner is more than ready to provide a point-by-point response to each of Pope's scurrilous allegations and otherwise irrelevant assertions.

Challenges currently in litigation at the trial level in which Sojourner, pursuant to the October 2013 Appointment Orders, is the sole and independent representative of the Estate and Trust.

Because the Court's February 19, 2015 Stay Order represents the first time this Appeal has directly affected Sojourner's actions and obligations in the trial court, Sojourner's March 2, 2015 Motion to Intervene is both appropriate and timely.

2. Sojourner has the sole and exclusive authority to address matters in this Appeal related to the Will and Trust Challenges.

Sojourner is both directly affected by the Stay Order and also the only party who can address issues in the Appeal related to the Will and Trust Challenges, including, among many others, how the Stay Order may affect those cases.

The October 2013 Appointment Orders define Sojourner's limited role as LSA and LST and Bauknight's complementary, but distinct, role as Personal Representative of the Estate and Trustee of the Trust. As recited in Sojourner's Motion to Intervene, the Court appointed Sojourner to this fiduciary role:

solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges until final resolution thereof.

See October 1, 2013 Interim Order, pp. 19-20.

In contrast, the Court appointed Bauknight with "full, absolute, and exclusive authority to carry out the Estate's administration and the Trusts' administration" *Id.* at p. 20.

To further distinguish Sojourner's role from Bauknight's, the lower court directed that "Sojourner, in his limited capacity, shall remain independent from Mr. Bauknight, [and] shall act with sole and absolute authority in his limited capacity." *Id.* at p. 20.

Bauknight's and Sojourner's roles and obligations in relation to the Estate and Trust are both clear and demonstrably distinct. The October 2013 Appointment Orders establish that Bauknight does not represent the same legal interest in this Appeal as Sojourner. The Court need look no further than this Court's February 19, 2015 Stay Order to see this.

The Stay Order stays "[a]ll proceedings in the Aiken County Circuit Court involving the Estate and Trusts of James Brown *and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown...*" (emphasis added). The Stay Order stays cases in which Sojourner currently and exclusively represents the Estate. However, that Order does not identify the exact cases stayed, either by case number, or otherwise.

On February 25, 2015 Pope herself asked this Court to clarify what cases the Stay Order affects, asserting the Order does not stay Case Nos. 2010-CP-40-4900 and Appellant's 2011 FOIA case that the South Carolina Attorney General and the Estate are purportedly seeking to consolidate with Case No. 4900. *See* Motion and Memorandum Seeking Confirmation that Order of February 19, 2015 Staying James Brown Aiken Cases Does not Stay FOIA Cases and "Case 4900" ("Motion Seeking Confirmation"). Pope's Motion Seeking Confirmation establishes she does not know the exact scope of the Stay Order.

Sojourner also needs clarification on the scope of the Stay Order so he can carry forth his obligation as LSA and LST. It is not clear, for example, whether the Stay Order stays James Brown II's claim against the Estate as a pretermitted child, Case No. 2013-CP-02-02851. That case deals solely with James Brown II's statutory claim as a purported child of the Decedent. That case arguable does not "Involve[] the marital status of Tommie Rae Hynie," but only the child status of James Brown II. The status of other cases included in the Will and Trust Challenges are similarly uncertain.

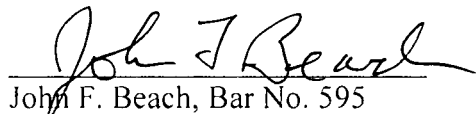
Bauknight has no direct interest in how the Stay Order may affect the Will and Trust Challenges because his obligations, as defined by the October 2013 Appointment Orders, do not include representing the Estate in the Will and Trust Challenges. Sojourner's representation in those matters is "exclusive" of and "independent from" Bauknight's role with the Estate.

These dynamics of the Stay Order demonstrate Sojourner is affected by the Appeal and his legal interests are not currently represented. There are many other elements of this Appeal that will directly affect Sojourner to which he will be peculiarly situated to both identify and respond.

CONCLUSION

The LSA therefore respectfully requests that the Court grant his Motion to Intervene and allow him to participate fully as a party of record in the above-captioned appeal.

Respectfully submitted,



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March 16, 2015.

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PROOF OF SERVICE

I, the undersigned paralegal, of the law offices of Adams and Reese, LLP, attorneys
for Attorney for David C. Sojourner, Jr., as Limited Special Representative of the Estate of
James Brown and Limited Special Trustee of the James Brown August 1, 2000 Irrevocable
Trust Agreement, do hereby certify that I have served the South Carolina Court of Appeals as

well as all counsel in this action with a copy of the *Reply of David Sojourner, Jr., Limited Special Trustee and Limited Special Administrator of the James Brown Trust and Estate in Opposition to Return of Appellant Adele J. Pope and in Support of Motion to Intervene* in Appeal, via U.S. Mail to the following addresses as indicated below on the 16th day of March, 2015:

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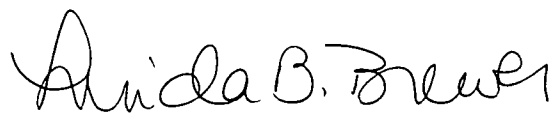
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A handwritten signature in cursive script that reads "Linda B. Brewer". The signature is written in black ink and is positioned above a horizontal line.

Linda B. Brewer, Paralegal

Columbia, South Carolina