

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
MAR 24 2015
SC Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

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

Appellate Case No. 2013-002582
(Sup. Ct. Appellate Case No. 2014-001279)

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.....Petitioner,

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.

**MOTION AND MEMORANDUM TO REOPEN APPEAL AND CERTIFY TO THE
SOUTH CAROLINA SUPREME COURT IN ACCORDANCE WITH RULE 204,**

TO: THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE
SUPREME COURT, AND THE HONORABLE CHIEF JUDGE AND ASSOCIATE
JUDGES OF THE COURT OF APPEALS:

In response to action of the South Carolina Supreme Court of February 19, 2015,

in two appeals of Petitioner related to the estate of entertainer James Brown and his “I Feel Good” Trust, Petitioner respectfully moves to reopen the above-referenced appeal; vacate the order of dismissal of the Court of Appeals dated January 30, 2014, and orders denying reconsideration¹ of the dismissal order; and transfer the appeal to the Supreme Court under Rule 204 SCACR.

The appealed order was issued by the Honorable Doyet A. Early, III, on October 1, 2013 (the “Bauknight Appointment Order”). It appoints Russell L. Bauknight sole PR/Trustee under Brown’s will and 2000 Trust. David C. Sojourner, Jr. is appointed limited special trustee.

This motion is based on the fact that by January 30, 2015, the record in Appellate Case No. 2013-001649 (the “June 13 Orders” appeal) and Appellate Case No. 2014-000250 (the “Bauknight Removal” appeal) had revealed wrongful acts of David Bell, Esquire, Bauknight, and others, including 4-year FOIA interference by Bauknight and a 7-year history of deception by Bell.

Judge Early did not allow Pope to participate in the hearing which led to the Bauknight Appointment Order. He did not question Bauknight about his improprieties raised prior to the hearing. He did not allow others to do so. As a result, the Court of Appeals was deprived of a proper record on which to determine that Pope had standing to appeal; that the Appointment Order was appealable; and that it should be reversed.

This motion is supported by the record in the above-referenced appeals, including the orders of Judge Early filed in the Supreme Court on February 23, 2015. It

¹ After the Court of Appeals declined Pope’s petition for rehearing, the Supreme Court denied Pope’s request for a writ of certiorari on October 24, 2014.

is also supported by the attached Factual Addendum; and the memorandum below.

Memorandum in Support of Motion to Reopen and Transfer

James Brown died on Christmas Day 2006. He left his worldwide music empire, including its 892 copyrights, to the "I Feel Good" Trust to educate needy students.

A year later, in January 2008, Bell² filed Federal District Court Case No 3:08-cv-00014-WOB (the Forlando Suit). Bell sought to reinstate resigned Respondents David Cannon and Albert Dallas as Brown's trustees. Bell made the false claim that Forlando, the plaintiff, was not a party to any state court case involving the 2000 Trust. Bell continued the Forlando Suit for four years. The complaint was dismissed in 2012. During this time Bell filed six false grievances, and engaged in other wrongdoing.

In 2009 Judge Early approved a dismembering of the "I Feel Good" Trust by the AG, Bell, Louis Levenson, Esq., and Tommie Rae Hynie. Pope and Buchanan appealed.

In 2010 Bell, Levenson, Bauknight and Hynie contracted for the State/AG and others to sue Buchanan and Pope in Case 2010-CP-40-4900 (Case 4900). Case 4900 was an effort to stop the appeal.

In 2011 Bauknight began interfering with FOIA rights, as well as discovery in Case 4900, to prevent Pope and the public from seeing public documents, including: his \$4.7 million "appraisal" of Brown's worldwide music empire; the so-called Hynie "diary;" and the AG's Legacy Trust. All demonstrate that the AG's settlement was unsound.

On May 8, 2013 the Supreme Court voided the AG's settlement in *Wilson v.*

² Bell had even spoken with Hynie's husband Javed Ahmed, confirming the validity of their marriage. SEE Aff. Bell, filed 10/3/14, Cases 2013-CP-02-2849, -2850.

Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013), and remanded the case to Judge Early.

On May 29, 2013 Levenson and Hynie announced their intention to reinstate the settlement.

On June 13, 2013, without notice or hearing, Judge Early excluded Pope from the James Brown trust and estate cases. Pope appealed in Appellate Case No. 2013-001649.

On October 1, 2013 Judge Early appointed Bauknight PR/Trustee based on a petition not served on anyone, after a hearing at which those allowed to attend were not allowed to question Bauknight. He was nominated by four Levenson clients who are challenging the estate plan.

Pope appealed the Bauknight Appointment Order. The appeal was dismissed on January 30, 2014.

In just one year – by January 30, 2015 – Bauknight and Sojourner had demonstrated the finality and damage of the Bauknight Appointment Order, and why Pope should have been found to have standing to proceed with the appeal.

With the June 13 Orders, Bauknight, aided by Sojourner, had used the Appointment Order to stop any action in Pope's two 2011 FOIA cases; continue the false claims against Pope and Buchanan, but stay Case 4900 so they could not protect their careers and reputations; eject real heirs not part of the 2008 settlement from the Hynie spousal cases; allow Bell to siphon off termination rights contracts with heirs not part of the settlement; dismantle the DNA & Dignity program begun by Pope and Buchanan to protect the 892 copyright from dissipation under the termination rights provisions; and suppress the \$4.7 million appraisal, the Hynie "diary" and other material,

public documents both in discovery and under FOIA. And Judge Early had declared Hynie to be Brown's spouse.

When the Hynie "diary," public since 2007, was republished on January 30, 2015, despite Judge Early's 2008 gag order, the second dismembering was dealt a setback. Everyone had known for years that Hynie was not Brown's spouse. But the Levenson and Bell clients had allowed themselves to be gagged to make the settlement appear plausible.

On February 19, 2015, the Supreme Court issued an order in Pope's two appeals. It said in part:

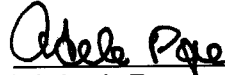
We hereby direct the Aiken County Clerk of Court to provide this Court with all orders issued in any action related to the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown since May 8, 2013, the date of this Court's opinion in *Wilson...* All proceedings 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 shall be stayed pending further order of this Court.

The Court's action provided the first hope that Pope and Buchanan would be given the right to restore their reputations and careers, and that the "I Feel Good" Trust and its copyrights would be saved from a second dismembering.

Conclusion

The Bauknight Appointment Order was issued in an unjust proceeding from which Petitioner and others were improperly excluded. By wrongful action, the Court of Appeals was deprived of an adequate record to confirm Pope's standing and the finality of the Appointment Order. Justice and judicial economy will be served by reopening this appeal and transferring the case to the Supreme Court.

Respectfully submitted,

A handwritten signature in black ink that reads "Adele Pope". The signature is written in a cursive style and is positioned above a horizontal line.

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com
S.C. Bar No. 4501

March 24, 2015

Factual Addendum

Background - Before *Wilson v. Dallas* Decision (Before May 8, 2013)

- Dec. 25, 2006** Entertainer James Brown dies, leaves music empire, including 892 copyrights to "I Feel Good" Foundation to educate needy students.
- 2007-2008** DNA protocol identifies 3 heirs. More being identified. Incarcerated son Michael seeking DNA testing. With no spouse, agreement with only half of children needed to stop Federal Copyright Termination rights elections as they mature over next 35+ years.
- Jan. 2008** BELL (Forlando) sues in federal court to enjoin 2000 Trust until David Cannon and Albert Dallas reinstated.
- 2008** AG agrees to stipulate HYNIE is Brown's spouse; give HYNIE 25% of "I Feel Good" Trust, give LEVENSON clients 25%.
- Sept 2008** Sr. Assistant AG says:

SO IF ANYBODY DISAGREES WITH WHAT THE ATTORNEY GENERAL IS DOING IN THIS CASE, THEY HAVE NO STANDING. (Jones, Tr. Hg. Case 122, pp.15)
- 2009** Bell joins settlement. Jg. Early approves AG's settlement. POPE and Buchanan appeal.
- 2010** AG, HYNIE, others sue POPE and Buchanan in Case 4900.
- 2011** POPE files FOIA #1 and #2 seeking copy of Legacy Trust; \$4.7 million appraisal documents; Wingate contract. (Pending in 2015)
- 2011-2012** AG and Terry Brown modify Legacy Trust. Forlando gets right of first refusal to buy music empire. Drops federal suit & claims he has no assets.

***Wilson* to Dismissal of Bauknight Appointment Appeal (May 8, 2013 - January 30, 2014)**

- May 8, 2013** S.C. Supreme Court voids AG's appointment. Remands for fiduciaries to be appointed in accordance with Brown's documents.

May 29, 2013 LEVENSON & HYNIE announce intention to reinstate settlement.

June 10, 2013 In required suit, POPE seeks removal of BAUKNIGHT for cause (the "Bauknight Removal")¹

June 13, 2013 JG. EARLY ejects POPE from James Brown estate and trust cases in "June 13 Orders." Directs Clerk to remove/reject POPE's filings.

July 26, 2013 Buchanan/POPE file financial report required by *Wilson*.²

July 29, 2013 POPE appeals June 13 Orders.³

Aug. 20, 2013 BAUKNIGHT calls Pope dishonest in Forlando Suit deposition. Claims Forlando did nothing wrong. Buchanan/POPE wrongdoers.

Sept. 2013 LEVENSON clients accuse BAUKNIGHT's music manager, Peter Afterman, of assisting HYNIE filing Federal Copyright Act termination elections against Estate/2000 Trust despite "glaring conflict of interest." [Ltr. Toberoff 9/23/13]

2013 - 2015 Afterman's claims on website that he was "hired by State of South Carolina to manage all the assets of the James Brown Estate including over 892 music copyrights and all name, likeness and merchandising rights." [Inaudible Productions]

Oct. 1, 2013 JG. EARLY appoints BAUKNIGHT PR/Trustee on nomination of 4 Levenson clients contesting estate plan. No heirs, devisees served. No questions allowed at "hearing."

Oct. 8, 2013 JG EARLY praises Buchanan service, all joint with POPE, says:

1. Case 2013-CP-02-1337. Pope's appeal of Jg. Early's dismissal under Rule 12(b) of the Bauknight Removal complaint is now Supreme Court Appellate Case No. 2014-000250.

2

Pope has been paid nothing as PR/Trustee. Buchanan filing says:

In 2012, I settled out of Richland County Case No. 4900 in which I was a defendant-counterclaimant...I had to go back to work. After this year, I think (and hope) I am now about half way to reestablishing my law practice... I remain a party to the federal case [Forlando Suit]... but only as a counterclaimant...

³ The "June 13 Orders Appeal" is Appellate Case No. 2013-001649.

THE COURT...I have reviewed....the submission....And from my own personal observation of all of the work that Mr. Buchanan did in his diligent representation of the Estate, I certainly find there is no money that should be disgorged...

THE COURT... I'm double-approving it in my court, whether it should be or not... and I approve the same whether I have to or not, on the \$500,000. [Tr. Hg. 10/8/13, p.5]

MR. BUCHANAN: Yes, sir. I'm asking that I not be required to disgorge any of that money that I received for what I did. And the only caveat is that I reserve the right to take any position I need to if the settlement in Columbia [Case 4900] is somehow challenged by a party. [Hg, 10/8/2013, pp. 2-5]

- Oct. 10, 2013** SOJOURNER appointed limited SA in *ex parte* probate ct. order.
- Nov. 15, 2013** Federal Court releases Wingate Contract as public. It was requested nearly 2 years earlier under FOIA, but not released. Shows AG and a dozen other Plaintiffs did not sign 40% contingency. Contract signed by BELL, LEVENSON, counsel for HYNIE and BAUKNIGHT.
- 2013-2015** JG. EARLY declines POPE's requests for hearing for GAL for MICHAEL and other heirs seeking DNA testing; to void so-called HYNIE "diary," etc.
- Dec. 8, 2013** MICHAEL, unsolicited, calls POPE from prison to thank her for seeking to be appointed his GAL. Says something like "I'll probably get in trouble for this...."
- Dec. 23, 2013** BAUKNIGHT's counsel writes Court of Appeals. Says:

"In what can only be described as complete disregard for the rule of law, Mrs. Pope continues to meddle in the affairs of the James Brown Estate and Trust. Her selfish desire to re-write history is needlessly costing the Estate and Trust monies that have been directed to charitable purposes. ... the Estate and Trust respectfully requests that this Court put an end to it..."
- Jan. 2014** POPE requests delay in hearing to terminate her heir status because of La Rhonda's death. Sojourner asks Jg. Early to proceed. Heir status of La Rhonda, Nicole rescinded.

- Jan. 7, 2014** JG. EARLY dismisses Bauknight Removal Complaint.
- Jan. 30, 2014** S.C. Court of Appeals dismisses POPE's appeal of October 1, 2013 BAUKNIGHT Appointment Order.
- From Dismissal of Appeal of Bauknight Appointment Order to Present**
(Jan. 30, 2014 - March 20, 2015)
- Feb. 7, 2014** POPE files appeal dismissal of Bauknight Removal Complaint.⁴
- Mar. 13, 2014** BAUKNIGHT calls POPE's appeal of Rule 12(b) dismissal of Bauknight Removal Complaint "vexatious litigation."
- Mar. 2014** BELL seeks *pro hac vice* admission in HYNIE and James B. cases to represent Terry and Daryl. [Mot. Dtd. 3/20/14.]
- 2014** BAUKNIGHT engages Wingate to prevent counsel for POPE from being paid for Forlando Suit defense.
- Mar. 31, 2014** POPE appeals Jg. Early's orders damaging 892 copyrights. [Appellate Case No. 2014-000794.]
- Apr. 9, 2014** SOJOURNER moves to dismiss POPE's appeal related to Copyrights. Accuses POPE of trying "to bootstrap her way into the position of "party" by seeking to be named guardian *ad litem* for various individuals." [Mot. Dis., 4/9/14.]
- April 24, 2014** HYNIE moves for summary judgment she is spouse.
- June 10, 2014** JG. EARLY directs parties to file stipulation of "facts necessary for the Court to Rule upon Petitioner's motion..." Stays discovery and hearing on Hynie "diary" gag orders until after summary judgment.
- June 16, 2014** Ct. of Appeals dismisses Case 2014-00794, appeal of Jg. Early/Sojourner actions to damage copyrights. Relies on false representations of BELL that he is Michael's attorney in all James Brown estate cases.
- July 2014** BAUKNIGHT moves for summary judgment that POPE not entitled to any payment, expenses, after May 26, 2009. [Mot. PSJ]

⁴ Bauknight Removal appeal is Case 2014-000250, pending in the S.C. Supreme Court.

July 8, 2014 JG. EARLY continues stay of discovery in HYNIE cases, declines to hear “diary” motion before summary judgment.

JULY 2014 Newberry Judge directs AG to produce documents in 2012 Summer FOIA Case. BAUKNIGHT not allowed to intervene.

July 29, 2014 Order of JG. EARLY continues stay of discovery in HYNIE case pending HYNIE spousal ruling. [Ord. Early, 7/29/14]

July 31, 2014 BELL withdraws as counsel for Terry, Forlando & Romunzo in 5 James Brown cases. [2007’ES-02-00056; 2008-CP-02-1647; 2013-CP-02-2849, -2850, -2851.] [Ord. Early, Dtd. 7/31/14.]

2014 -2015 BELL and BAUKNIGHT work together to prevent Forlando from paying legal costs for Forlando Suit he pursued 2008-2012.

Sept. 5, 2014 Stipulation of Facts filed in HYNIE cases ignores material facts showing HYNIE not spouse.

Sept. 8, 2014 JG. EARLY sets HYNIE summary judgment hearing for Nov. 10.

Sept. 29, 2014 BAUKNIGHT appeals Summer FOIA Order.

Oct. 3, 2014 BELL affidavit in HYNIE cases confirms conversation with her husband in 2008, validity of HYNIE 1997 marriage.

Oct. 24, 2014 Supreme Court denies Certiorari in Bauknight Removal Case.

Nov. 26, 2014 In filing in Case No. 2014- 000250 BAUKNIGHT says POPE “officious intermeddling with a dead man’s estate” must be put to an end. Seeks costs and attorneys’ fees.

Dec. 2014 Supreme Court certifies three James Brown cases for transfer.

2015 BAUKNIGHT tells 4th Circuit in Forlando Suit appeal:
“Pope’s motion....intimates positive significance from the.... Supreme Court’s decision to accept her appeal. It is more likely, however, that the Supreme Court has decided to stop Pope, a South Carolina lawyer acting *pro se* in the state court of appeals, from meddling in the affairs of an estate and trust of which she has no interest. *Salvo & Wade v. Schmidt*, S.C.L.512, 2 Speers 512 (S.C. 1844). (“The law regards with

jealously, even aversion, the officious intermeddling with a dead man's estate.") [Ret. Abeyance Mot, p. 4]

- Jan. 13, 2015** JG. EARLY signs order granting HYNIE judgment on claim to be Brown's spouse.
- Jan. 26, 2015** JG. EARLY issues order declaring Tonya an heir of James Brown and entitled to intestate share.
- Jan 29, 2015** In response to POPE's Request that AG seek reconsideration of the HYNIE Spousal Order and Tonya Order, AG Jones writes:
- "I am writing in response to your email of this morning. This Office does not plan to seek reconsideration of these orders."
- Jan. 2015** POPE serves motion to alter, amend HYNIE spousal order.
- Jan. 30, 2015** HYNIE handwritten notes, "diary," republished. Jg. Early directs Summer to appear on Feb. 2, 2015. Hearing cancelled by Supreme Court.
- Feb. 4, 2015** SOJOURNER files opposition to POPE's HYNIE Order motion.
- Feb. 5 2015** Aiken Clerk returns POPE'S motion to alter HYNIE Order. Says:
"Mrs. Pope Per Judge Early. I can not file these pleadings. You are not a party in the above case numbers listed. Thank you, Shannon"
- Feb. 6, 2015** POPE moves to alter, amend TONYA Order.
Feb. 19, 2015 S.C. Supreme Ct. issues Order in Case 2013-001649 and 2014-000250 which says, in part:
- We hereby direct 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, the date of this Court's opinion in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 747 (2013). All proceedings in the Aiken County Circuit Court involving the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie ...shall be stayed pending further Order of this Court.
- March 2015** SOJOURNER seeks to intervene in June 13 Orders appeal.

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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.

PROOF OF SERVICE

I certify that on the 24th day of March, 2015, I have served the MOTION AND MEMORANDUM TO REOPEN APPEAL AND CERTIFY TO THE SOUTH CAROLINA SUPREME COURT IN ACCORDANCE WITH RULE 204 in the above matter on Respondents and others as shown below by depositing a copy of same in the United States Mail, postage prepaid, addressed to them or their attorneys of record as follows:

David B. Bell, Esquire
Matthew D. Bodman
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1101

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

J. David Black, Esquire
William W. Wilkins, Esquire
William G. Newsome, Esquire
PO Drawer 2426
Columbia, South Carolina 29202-2426

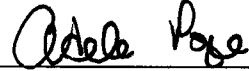
Peter Shahid, Jr., Esquire
89 Broad Street
Charleston, South Carolina 29401

John A. Donsbach, Esquire
Donsbach & King, LLC.
504 Blackburn Drive
Augusta, GA 30907

The Honorable Alan Wilson
Attorney General of South Carolina
Post Office Box 11549
Columbia, SC 29211

John F. Beach, Esquire
Adams And Reese, LLP
1501 Main Street, 5th Floor
Columbia, SC 29201

The Honorable Doyet A. Early, III
Post Office Box 190
Bamberg, South Carolina 29003



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com

S.C. Bar No. 4501
Petitioner, *pro se*

March 24, 2015

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

March 24, 2015

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

RECEIVED
MAR 24 2015
SC Court of Appeals

Re: *Wilson v. Dallas*
Motion to Reopen and Transfer Appellate Case No. 2013-002582
(Cert. Denied October 23, 2014, Appellate Case No. 2014-1279)

Dear Mr. Shearouse:

In connection with the MOTION AND MEMORANDUM TO REOPEN APPEAL AND CERTIFY TO THE SOUTH CAROLINA SUPREME COURT IN ACCORDANCE WITH RULE 204 in the above matter, enclosed please find:

1. An original and seven copies of the Motion and Proof of Delivery.
2. My check in the amount of \$25 to cover the motion fee.

Kindly file the original and copies as appropriate, and return a file-stamped copy of each to me in the enclosed, stamped envelope provided for your convenience.

Because the Motion is directed both to the Supreme Court and to the Court of Appeals, by copy of this letter I am providing a duplicate original and copies to the Honorable Jenny Abbott Kitchings, Clerk of the Court of Appeals. I ask that she also provide me with a clocked copy in the stamped envelope provided to her.

Thank you very much.

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

cc: Counsel and parties as shown on
Proofs of Delivery
The Honorable Jenny Abbott Kitchings