

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

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

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Appellate Case No. 2013-002582 (Order, S.C. Ct. App., filed May 22, 2014)

Supreme Court Appellate Case No. 2014-001279

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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 Ray 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 a/k/a James Joseph Brown 2000 Irrevocable Trust  
u/a/d August 1, 2000

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**RETURN TO MOTION TO REOPEN APPEAL AND CERTIFY TO THE  
SUPREME COURT PURSUANT TO RULE 204, SCACR**

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The motion filed by Petitioner seeking to reopen a long ago dismissed appeal should itself be summarily dismissed. Consistent with Petitioner's pattern of litigating in complete disregard for the rule of law, this motion has no support in the law. It is a paper filled with bald allegations citing no authority. The Estate and Trust respectfully request

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that this Court finally put an end to Petitioner's never-ending attempts to propel herself back into the affairs of the Estate and Trust.

The dismissed appeal was taken by Petitioner from the circuit court's interim order ("Interim Appointment Order") temporarily appointing Russell L. Bauknight ("Bauknight") as the Personal Representative and Trustee of the James Brown Estate and Trust, and temporarily appointing David C. Sojourner Jr. as Limited Special Administrator and Limited Special Trustee of the Estate and Trust. Not a single heir, or claimed heir, objected to or challenged the Interim Appointment Order.

The court of appeals dismissed Petitioner's appeal from the Interim Appointment Order. On January 30, 2014, it ruled as follows:

Appellant has filed a notice of appeal from an interim order of Judge Doyet A. Early, III. Because "[o]nly a party aggrieved by an order, judgment, sentence or decision may appeal" and an appeal may only be taken "as provided by law[] from final judgment, appealable order or decision," this appeal is dismissed." *See* Rule 201, SCACR (emphasis added); *see also Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ("An appeal filed by one who has ceased to be a party to a suit is a mere nullity" (internal quotation marks and citation omitted)).

A petition for rehearing from the court of appeals' order was then filed.

On May 22, 2014, the court of appeals denied the motion, and ruled as follows:

Appellant has filed a petition for rehearing from this Court's January 30, 2014 order, dismissing this appeal because Appellant lacked standing and the underlying order was not immediately appealable. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Petitioner next petitioned this Court to grant a writ of certiorari to review the orders issued by the court of appeals. On October 23, 2014, this Court denied the petition.<sup>1</sup>

Five months after this Court denied the petition for a writ of certiorari, Petitioner now seeks to reopen the dismissed appeal. But, nothing has changed. Petitioner still was *not* a party to the proceeding in the circuit court. Petitioner still represents *no one*. Petitioner still has *no* legal interest in the James Brown Estate and Trust. And it is still telling to note that *everyone* who has a legal interest in the Estate and Trust, and that includes heirs who support the enforcement of the will and trust and others who do not, had no objection to the Interim Appointment Order. Once again, funds that would otherwise be deposited into a scholarship reserve fund are being diverted to litigation costs in order to prevent Petitioner, a former fiduciary who was removed, from further interfering in the Estate and Trust.

Petitioner's motion tries to recast Bauknight's service to the Estate and Trust in a negative light. She claims that he and others have engaged in "wrongful acts" and "improprieties." (Pope Motion, p.2). For the Court's information, what Petitioner is referring to is Bauknight's refusal, consistent with his fiduciary obligations, to publicly release the complete financial analysis of the music catalog—that is, the estate appraisal.<sup>2</sup>

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<sup>1</sup> The Estate and Trust, by way of reference, incorporate herein their Return in Opposition to Pope's Petition for a Writ of Certiorari.

<sup>2</sup> No appraisal of the deceased's estate had ever been conducted until Bauknight was appointed. The independent appraisal Bauknight obtained was provided by him to the IRS as he was defending an IRS audit of the estate tax return filed by his predecessor. At that time, the IRS was seeking additional estate taxes. The estate tax return had been filed by his predecessor, in a non-customary manner, without an appraisal. The IRS accepted the independent appraisal and its conclusions, and refunded to the Estate a tax payment previously made by his predecessor.

Petitioner has the appraisal in her possession but it is subject to a confidentiality order that precludes her from making it public.

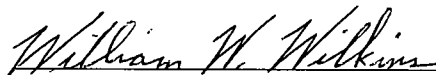
The appraisal contains highly confidential financial information. It analyzes songs copyrighted by James Brown and discusses the historical level of revenue each generates. It discloses aspects of the future business plans of the James Brown Estate and Trust, and projects future revenues of the Estate and Trust. The appraisal undertakes this analysis in order to arrive at the final value of the James Brown Estate at the date of James Brown's death. This analysis is highly confidential because it completely exposes the strengths and the weaknesses of the music catalog, and discloses confidential future revenue projections of the Estate and Trust. *E.g.*, *Diamond State Ins. Co. v. Rebel Oil Co.*, 157 F.R.D. 691, 697 (D. Nev. 1994) (defining confidential commercial information as "information which, if disclosed, would cause substantial economic harm to the competitive position of the entity from whom the information was obtained"). If made public, that information *will* be used against the Estate and Trust during future business negotiations and this *will* ultimately affect the amount of money that is available for scholarships.

It is apparent that Petitioner is motivated by something other than the best interests of the Estate and Trust. *See also Wilson v. Dallas*, 403 S.C. 411, 449, 743 S.E.2d 746, 767 (2013) ("These actions and the extreme discord between the parties convince us that Appellants' continued service as fiduciaries is not in the best interests of the estate."). It is apparent that Petitioner's constant intermeddling is being done for at least one other purpose: to try and "restore [her] reputation[] and career[]." (Pope's Motion, p 5). But Petitioner cannot change the past; further, she has no legal right to use these proceedings

for that purpose and in doing so abuse a dead man's estate. *See Salvo & Wade v. Schmidt*, 29 S.C.L. 512, 2 Speers 512(1844) ("The law regards with jealousy, and even aversion, the officious intermeddling with a dead man's estate.").

Petitioner continues to waste everyone's time and the Estate and Trust's money trying to create a narrative with no foundation in reality. The incontrovertible evidence is that Bauknight's actions have taken the Estate and Trust from the brink of ruin and insolvency at the time of his appointment to a debt free and cash flow positive position. During his tenure, the Estate and Trust paid off \$14 million owing on the Pullman bond debt seven years ahead of schedule. During his tenure, the Estate and Trust has been able to retain a host of accomplished music industry professionals to assist in marketing the music catalog in order to significantly increase revenue. During his tenure, the Estate and Trust entered into a movie deal that has propelled the music and image of James Brown back onto the world stage. During his tenure, the Estate and Trust have set aside a significant amount of funds for future scholarships. During his tenure, the Estate and Trust have been able to resolve all but three of the twenty-nine outstanding claims that were pending, resulting in millions of dollars in savings. Petitioner's outsized \$5 million fee claim is one of the three remaining claims. Nothing Petitioner writes can change these incontrovertible facts. Petitioner's motion should be summarily dismissed.

Respectfully submitted,



William W. Wilkins, SC Bar No. 6112  
Burl F. Williams, SC Bar No. 77901  
NEXSEN PRUET, LLC  
55 E. Camperdown Way Suite 400  
Greenville, South Carolina 29601  
Telephone: 864.370.2211  
Facsimile: 864.282.1177  
[BWilkins@nexsenpruet.com](mailto:BWilkins@nexsenpruet.com)  
[BWilliams@nexsenpruet.com](mailto:BWilliams@nexsenpruet.com)

J. David Black, SC Bar No. 68499  
NEXSEN PRUET, LLC  
Post Office Drawer 2426  
Columbia South Carolina 29202  
Telephone: 803.771.8900  
Facsimile: 803.727.1409  
[DBlack@nexsenpruet.com](mailto:DBlack@nexsenpruet.com)

*Counsel for Russell L. Bauknight, the  
Personal Representative of the Estate of  
James Brown and the Trustee of  
the James Brown August 1, 2000  
Irrevocable Trust Agreement*

April 3, 2015

Greenville, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

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

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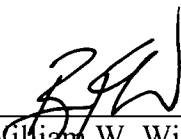
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I certify that on the 3rd day of day of April, 2015, I have served the RETURN TO  
MOTION TO REOPEN APPEAL AND CERTIFY TO THE SUPREME COURT  
PURSUANT TO RULE 204, SCACR in the above matter on Respondents and others as  
shown below by depositing a copy of same in the United States Mail, postage prepaid,  
addressed to them or their attorneys of record as follows:

Adele J. Pope  
1228 Walnut Street  
Newberry, SC 29108

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, 5<sup>th</sup> Floor  
Columbia, SC 29201



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William W. Wilkins, SC Bar No. 6112  
Burl F. Williams, SC Bar No. 77901  
NEXSEN PRUET, LLC  
55 E. Camperdown Way Suite 400  
Greenville, South Carolina 29601  
Telephone: 864.370.2211  
Facsimile: 864.282.1177  
[BWilkins@nexsenpruet.com](mailto:BWilkins@nexsenpruet.com)  
[BWilliams@nexsenpruet.com](mailto:BWilliams@nexsenpruet.com)

*Counsel for Russell L. Bauknight, the  
Personal Representative of the Estate of  
James Brown and the Trustee of  
the James Brown August 1, 2000  
Irrevocable Trust Agreement*

**William W. Wilkins**  
Member  
Admitted in SC

April 3, 2015

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

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Re: Appellate Case No. 2013-002582  
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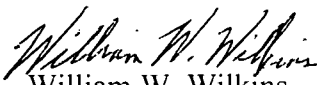
**S.C. Supreme Court**

Dear Mr. Shearouse:

Please find enclosed the original and one copy of RETURN TO MOTION TO REOPEN APPEAL AND CERTIFY TO THE SUPREME COURT PURSUANT TO RULE 204, SCACR in the above-referenced matter. Please return a file stamped copy in the enclosed self-addressed, postage paid envelope.

By copy of this letter, I am serving Appellant's counsel with a copy of the same.

Sincerely,

  
William W. Wilkins  
WWW/vgp

Enclosures  
cc: Counsel of Record

Charleston  
Charlotte  
Columbia  
Greensboro  
**Greenville**  
Hilton Head  
Myrtle Beach  
Raleigh