

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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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

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.

**REPLY TO OPPOSITION OF RUSSELL L. BAUKNIGHT TO MOTION TO  
REOPEN AND CERTIFY TO THE SUPREME COURT UNDER RULE 204**

Petitioner makes the within response to the return of Russell L. Bauknight,  
("Bauknight") to her motion to reopen this appeal and certify it for transfer to the  
Supreme Court of South Carolina under Rule 204, SCACR.

Appellant refutes every allegation in the return of Bauknight not affirmed herein.

She incorporates her motion dated March 24, 2015. Except for noting that she received the return of Bauknight after posting her response to David C. Sojourner, Jr. ("Sojourner"), Petitioner adopts her reply to the Sojourner return dated April 6, 2015 in its entirety.

### **Bauknight's Continuing Service As Fiduciary For Tommie Rae Hynie**

Bauknight and Tommie Rae Hynie ("Hynie") have worked since May 26, 2009 to dismember the "I Feel Good" Trust, James Brown's private foundation for needy students (the "Foundation") and secure its assets, including almost 900 copyrights, for those the Attorney General ("AG") elected to favor in his 2008 settlement. Today Bauknight serves as Hynie's Trustee. He also serves as agent for her son (with no GAL) in Case 4900. It is this relationship that has kept the Foundation's copyrights in jeopardy since May 8, 2013.

Bauknight, the AG and Hynie attempted to justify their alliance with a series of material misstatements generated by Bauknight, Hynie's advisors and Sr. Assistant AG Havird "Sonny" Jones. They include:

- a. The false claim that Hynie was Brown's spouse;
- b. The false claim that Brown's almost \$85 million music empire was worth only \$4.7 million when James Brown died;
- c. The false claim that the AG's 2008 settlement did not cause estate tax problems;
- d. The false claim that Brown's estate is entitled to an estate tax marital deduction for \$1+ million the AG gave to Hynie, and a federal estate tax charitable deduction for assets Brown gave to the Foundation of less than \$3 million;
- e. The false claim that the following heirs and claimed heirs under the Federal Copyright Act are not entitled to service of pleadings, notice of

hearings or participation in the Bauknight/Sojourner appointment case, the Hynie spousal cases or James B. case:

1. Michael Deon Brown, an incarcerated son; 2. Lisa Brown, daughter from 1<sup>st</sup> marriage; 3. James Curtis, claimed son seeking DNA testing. 4. Estate of La Rhonda Pettit, deceased DNA-proven daughter acknowledged by Estate in 2007; 5. DNA-proven & acknowledged daughters Jeanette Mitchell and 6. Nicole Parris; and the "Doe" Defendants;
- f. The false claim that there is no basis to continue to identify heirs of James Brown (the "Doe" Defendants) under the March 2008 Order of Judge Early, in order to protect the Foundation's copyrights;
  - g. The false claim that the Brown historical financial documents are confidential when they were made public by Order of the Honorable Doyet A. Early, III, on August 10, 2007, and remained public for almost two years with no negative consequences;
  - h. The false claim that disclosure of the \$4.7 million "appraisal" or the pre-2007 financial documents would cause "substantial economic harm";
  - i. The false claim that Brown's right to exploit his image and persona was worth little or nothing where Brown's I&A filed by Stan Jackson, Esq., in November 2007 valued these rights at \$45,963,261.50, based on an offer for the music empire;
  - j. The false claim that Richland Case 2010-cp-40-4900 ("Case 4900") was legal and appropriate, when it was both unconstitutional and inappropriate;
  - k. The false claim that it is appropriate for Hynie to intervene in a FOIA case to stop release of the Wingate Litigation Contract in Case 4900; that FOIA cases related to James Brown should be moved to Richland County and consolidated with Case 4900; and that 2011 FOIA request should be delayed for years;
  - l. The false claim that Hynie and her son control Copyright Act termination rights to the almost 900 copyrights Brown gave the Foundation;
  - m. The false claim that Adele Pope and Robert Buchanan, Jr. are greedy, incompetent intermeddlers motivated by an attempt to be paid a \$5 million commission from a \$5 million estate;
  - n. The false claim that there has never been a professional appraisal of Brown's assets, where Bauknight holds (but suppresses) a 2006 \$42

million appraisal of Brown's royalties prepared by the Royal Bank of Scotland (RBS); the household goods were appraised by Christie's at \$1.4 million; and Brown's Beech Island estate was valued at about \$1.2 million;

- o. The false claim that there was something wrong with the Christie's sale, when there was not; the sale was approved by three court orders; and the AG asked the Court of Appeals to approve the sale, with the GRAMMY;
- p. The false claim that there was some impropriety in the entirely proper withdrawal of the GRAMMY, without penalty, from the Christie's sale;
- q. The false claim that Brown's tangible personal property (TPP) was worth only \$0.5 million, when the Christie's sale of only about 350 items earned more than \$700,000; Christie's professional appraisal of the household goods alone was \$1.4 million; and thousands of items were placed by Buchanan and Pope in storage and at museums, including 45 boxes of music items and memorabilia, and numerous automobiles, clothing, furniture and other items remain.

Bauknight's and Hynie's myths are slowly being dispelled. The February 19, 2015 order of the South Carolina Supreme Court halting the Aiken James Brown proceedings will help. Reopening the Bauknight appointment appeal will help.

#### **Bauknight's Claims Cannot be Verified.**

Bauknight makes numerous claims about his actions, but most are not supported by any record. For six years he has simply failed to properly account, reporting most assets at \$1, and violating two essential requirements of an accounting: stating the beginning value and the stating ending value. Nor do his accountings show what happened in between.

The Court is asked to take judicial notice of these accountings.

#### **Non-Parties to Bauknight's Action Did Not Approve His Appointment.**

Bauknight's claims about who supports his appointment are not borne out in the record. Bauknight filed a petition on July 29, 2013 to be appointed sole PR/Trustee, in

direct violation of the mandate of *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). The Petition did not name as parties, any heirs, beneficiaries of the Trust, devisees, beneficiaries of the 1999 Will, or Creditors with Demand for Notice, including Pope.

The petition was not served on anyone. The final "hearing" was held fewer than 40 days later. No notice of the hearing was given. At the "hearing" Judge Early did not allow anyone to ask questions.

At the "hearing", Judge Early did not question Bauknight about his FOIA interference, the \$4.7 million claimed value and other issues that were raised. He did not question Bauknight's continued service as Hynie's trustee and agent for her son James B. Judge Early did not question Bauknight about Pope's detailed June 10, 2013 Complaint to remove Bauknight for cause (the "Removal Complaint") which is now the subject of Appellate Case No. 2014-000250.

Judge Early appointed Bauknight as sole trustee on the nomination of four clients of Louis Levenson, Esq. who had announced their intention to reinstate the AG's 2008 settlement on May 29, 2013.

Before the Appointment Order was issued on October 1, 2013, Judge Early was informed that Bauknight's music agent, Peter Afterman, was assisting Hynie and her son, James B., in filing Copyright Act termination elections (as Brown's spouse) with Warner Chappell. These "Tomirae Terminations" directly conflict with the interest of the Foundation.

Bauknight's Appointment Order overlooks this serious Federal Copyright Act issue, and praises both Afterman and Bauknight.

The rights of Pope and the majority of Brown's heirs, like those of the Foundation, are damaged by the alliance of Bauknight and his music advisor with Hynie.

There is no evidence that Brown's heirs under the Copyright Act, and others excluded from Bauknight's appointment suit, approve of his appointment or service.

**Bauknight's Relationship With Hynie Threatens the Foundation.**

Afterman continues to promote Hynie as Brown's wife, while claiming on his Inaudible Productions website that he was hired by the State of South Carolina. Bauknight claims Afterman has helped him bring James Brown's \$4.7 million estate from the "brink of ruin and insolvency." Yet he suppresses the documents which he claims prove this. It is Bauknight's relationship with Hynie that threatens the Foundation.

**James Brown's Wishes Should be Important to the Estate and Trust.**

On pp. 1 and 2, Mr. Bauknight asks this Court to "finally put an end to Petitioner's never-ending attempts to propel herself back into the affairs of the Estate and Trust".

Pope is a South Carolina citizen with a legitimate interest in the protection of Brown's Foundation. Pope remains involved because she was sued by the Estate, the AG and Ms. Hynie in 2010. She counterclaimed, and the Plaintiffs are in default.

On May 8, 2013, a deposition notice for Hynie was in place. Summary judgment that Hynie was not Brown's spouse was could have been heard within a matter of months.

Instead, the AG, Hynie, and Bauknight asked that Case 4900 and FOIA cases pending since 2011 be stayed until all Aiken County cases are finalized.

It is Bauknight's use of charitable funds for Hynie which should end. By reopening his appointment, so that the positions Bauknight has taken can be fairly examined, the Court will help put James Brown's wishes back into Estate and Trust matters.

**The Record Does Not Support Bauknight's Claims About the \$4.7 Million.**

The record does not support Mr. Bauknight's claims in footnote 2 on page 2 that "[n]o appraisal of the deceased's estate had ever been conducted until Bauknight was appointed." Nor does it support Bauknight's claims throughout the return about the need for privacy of the "appraisal" and historical document. Instead the record shows the \$4.7 devaluation began by August 30, 2009 when Bauknight began to suppress public documents. The devaluation was a joint effort of counsel for Hynie, Sr. Assistant AG Jones and Bauknight. A brief chronology follows:

2003-2006 James Brown grosses \$18 million. \$9 million from copyrights and \$9 million from performance revenues.

2006 RBS values James Brown's major copyrights at \$42 million.

2007 RBS appraisal and all historical financial information made public by Order of Jg. Early dated August 10, 2007.

I&A shows image & persona ("Publicity Rights") at \$45,963,261.50. Net worth at \$85,663,562.99, after \$15 million TIAA/Pullman debt. [I&A filed by Stanley Jackson, Esq., who has authored a book on business valuations.]

2008 Christie's appraises household items at \$1.4 million Sale of only 350 items generates \$.7 million. Thousand of items and 45 boxes of music items placed in sound storage and with museums under Jg. Early's order (requested by Buchanan & Pope).

Buchanan & Pope value music empire at about \$84 million and TPP at \$2 million on sworn estate tax return.

2009 Hynie's attorney emails. AG Jones, Bauknight & others:

Attached please find a case hot off the press dealing with the Tax valuation issues of the second greatest country music songwriter ..It is a treasure trove of information for us, including: (1) the method of valuation for songwriter royalties includes an average of some prior years royalty stream multiplied by a multiple (somewhere between 5 and 8 seems reasonable based on the opinion); (2) names of some experts; (3) the Service accepted the multiple of 8. Based on the info in the opinion, Bobadele has grossly overvalued the estate for 706 purposes. [Ex. A. Soj. Ret.]

As to Brown's \$45 million Publicity Rights, Hynie's counsel said to the AG, and Bauknight:

Of course among ourselves, we are not sure we have the right to image and likeness under SC law, so any separate valuation of that should be discounted accordingly.

2010 Buchanan, the AG, and Hynie sue Buchanan & Pope for not accepting 2007 \$100 million offer for music empire.

Backed by the AG, Bauknight presents \$4.7 million value to IRS and gets closing letter. Closing letter is not an audit.

2011 AG, Hynie and Bauknight tell Supreme Court there has never been an offer for Brown's assets. Claim value is \$4.7 million. All begin to accuse Buchanan & Pope of the federal felony of overstating assets to IRS by \$79 million on estate tax return for improper purpose of obtaining \$5 million commission on \$5 million estate.

2014 AG tells the Court in a FOIA suit that neither he, his predecessor AG, nor anyone in the AG's office ever reviewed the \$4.7 million appraisal.

**Brown's Financial Records Are Public and Will Not Support the \$4.7 Million Value.**

The records Bauknight claims are confidential were made public by Order of Judge Early dated August 10, 2007. No harm came of it. The harm came after 2009 when the 150 boxes of public "Brown Historical Records" were delivered to Bauknight, and concealed.

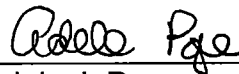
### **James Brown Put James Brown on the World Stage.**

On page 5, Mr. Bauknight makes numerous claims about his tenure. Many, such as the movie, were already in progress when Brown died. The suggestion that Mr. Bauknight propelled James Brown back onto the world stage is without merit. James Brown propelled himself onto the world stage, and never left.

### **Conclusion**

Appellant adopts the facts and argument in her motion and her reply to the return of Mr. Sojourner. The Court of Appeals was deprived of an adequate record when it dismissed the appeal of the Bauknight Appointment Order. Justice and judicial economy will be served by reopening Bauknight's appointment and transferring the appeal to the Supreme Court.

Respectfully submitted,



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

April 7, 2014

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In Re: The Estate of James Brown and The James Brown 2000 Irrevocable  
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PROOF OF SERVICE

I certify that on the 7<sup>th</sup> day of April, 2015, I have served the REPLY TO  
OPPOSITION OF RUSSELL L. BAUKNIGHT TO MOTION TO REOPEN AND  
CERTIFY TO THE SUPREME COURT UNDER 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, 5<sup>th</sup> Floor  
Columbia, SC 29201

*Adele Pope*

---

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

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

April 7, 2015

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

RECEIVED  
APR 09 2015  
SC Court of Appeals

April 7, 2015

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

CERTIFIED MAIL

Re: *Wilson v. Dallas*  
Appellate Case No. 2013-002582

Dear Mr. Shearouse:

In connection with the REPLY TO OPPOSITION OF RUSSELL L. BAUKNIGHT TO MOTION TO REOPEN AND CERTIFY TO THE SUPREME COURT UNDER RULE 204 in the above matter, enclosed please find an original and seven copies of the Reply and Proof of Delivery.

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.

The Return is being filed in both the Supreme Court and 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.

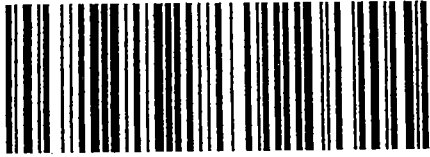
Sincerely,  
*Adele Pope*  
Adele J. Pope  
S.C. Bar No. 4501

Enclosures as stated

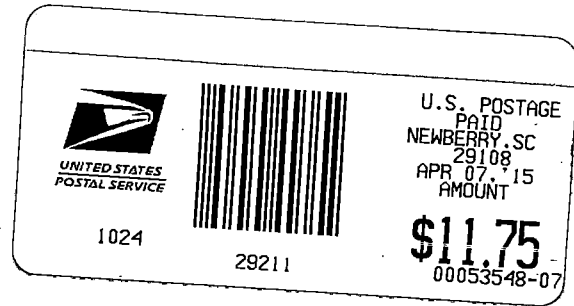
cc: Counsel and parties as shown on  
Proofs of Delivery  
✓ The Honorable Jenny Abbott Kitchings

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Post Office Box 11629  
Columbia, South Carolina 29211

