



State of South Carolina  
The Circuit Court of the Second Judicial Circuit

Doyet A. Early, III  
Judge

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May 6, 2015

RECEIVED

MAY - 8 2015

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

S.C. Supreme Court

Re: Status Report / Alan Wilson et al v. Albert H. Dallas, et al  
Appellate Case Number 2009-142286

Dear Mr. Shearouse:

Please find enclosed the ordered Status Report and attachments.

Sincerely,

A handwritten signature in black ink, appearing to read "Doyet A. Early, III".

Doyet A. Early, III

Enclosures

**The Supreme Court of South Carolina**

Alan Wilson, et al

v.

Albert H. Dallas, et al

Appellate Case No. 2009-142286

Status Report

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MAY - 8 2015

**S.C. Supreme Court**

I conducted a status conference on May 29, 2013 concerning the remand of the Wilson v. Dallas appeal. All parties through their attorneys and some claimants were present. The paramount theme of the meeting was to insure that all remanded matters were to be moved forward in an expeditious manner concomitantly with a structured and efficient administration of the estate and trust. An administrative order was issued on June 13, 2013 which addressed all mandates of the remand and segregated all of the various matters, claims and challenges to the will and trust and identified the proper parties to each respective case. (I will make reference to many orders in my status report. I am not making them exhibits. I believe copies to all orders have been provided to the Court pursuant to previous order. If the Court requires any of the mentioned orders, they are readily available. Please let me know.)

I will first update the status of the litigation. At the time of the remand, the will and trust litigation involved claims challenging the validity of the will and trust, spousal claims and an omitted child claim. By order dated December 16, 2013 Tommie Rae Brown's claims for an omitted spouse's share of the estate, her claim for an elective share and James Brown II's claim for a pretermitted child share of the estate were all severed so each case could move forward, without interference from other cases and to facilitate efficiency. By order dated February 7, 2014 the parties were identified for each respective case. Tommie Rae Brown and James Brown, II were designated as petitioners in their respective actions. The respondents were David C. Sojourner, Jr. in his capacity as Limited

Special Administrator and Limited Special Trustee and all Devises of the Will who are Deanne Brown Thomas, Yamona Brown, Vanisha Brown, Larry Brown, Terry Brown and Daryl Brown. By order dated January 22, 2014 Jeanette Mitchell was granted her motion to intervene in these three cases.

James Brown, II's case has been resolved. By consent order dated May 8, 2014 the parties reached an agreement regarding the DNA test as to the paternity of James Joseph Brown, II. It required the minor child to submit to DNA testing. The protocol, test results and other confidential matters were subject to a protective order dated May 21, 2014. DNA samples were taken from the child on June 11, 2014 and from James Brown on December 25, 2006. The conclusion reached by the examiner showed a combined paternity index of : 1,087, 652 to 1 and a probability of paternity of: 99.99%.

Based on the test results the parties have agreed that Mr. Brown was the father of James Brown, II. A consent order has been circulated and awaits my execution if the stay is lifted.

Tommie Rae Brown's omitted spouse's share and/or elective share claim hinges on whether or not she was the surviving spouse of Mr. Brown. Both Tommie Rae Brown and the Limited Special Administrator filed requests for summary judgment for a determination of whether she is the surviving spouse of Mr. Brown. Each side submitted very detailed memoranda in support of their respective positions. The hearing was attended by all counsel representing all parties to this matter and related Brown Estate cases. Prior to the motions being heard, while discovery matters were being addressed, I strongly urged the parties to agree on a joint stipulation of the facts to eliminate any argument that factual issues precluded Summary Judgment. The parties, after much discussion, finally agreed to a Joint Stipulation of Facts. (This is attached, I do not believe the Court received a copy with the other orders).

After thorough deliberation, by order dated January 13, 2015, I granted Tommie Rae Brown's motion for summary judgment holding she was the surviving spouse of Mr. Brown. The factual basis, conclusions of law and

explanation of my decision are set out in the order. Motions to Reconsider are pending and I have held them in abeyance pending the status of the stay.

I specifically reserved for future determination the validity and effect of the prenuptial agreement. This was set forth in the order. My ruling is subject to the motions to reconsider and/or any appellate review; at which time the prenuptial agreement may or may not be an issue.

The litigation of the challenges to the Will and Trust is still outstanding. Discovery is being conducted. At the last status conference I requested a scheduling order with a day certain trial to be set no later than February 2016. This proposed order was being circulated at the time of the stay. We are also waiting on the court schedule for the first six months of 2016 to firm up the trial date. The parties to this case are correctly identified in the Wilson v. Dallas case, Appellate Case No. 2009-142286 except by my administrative order dated June 13, 2013 Adele Pope, Robert Buchanan, Alfred Bradley, Albert Dallas and David Cannon have been removed.

The following persons have been determined to be heirs: James Brown, II, as earlier reported, Michael Dean Brown as per my order of April 22, 2014 (probability of paternity: 99.99%), Lisa Marie Brown Sims a/k/a Lisa B. Sims as per my order of November 18, 2014, Sara Latonya Brown Fegan as per my order of December 18, 2014, Jeanette Mitchell as per my order of January 22, 2015, La Rhonda Petitt has filed a claim that she is entitled to an intestate share of Mr. Brown's estate, she presented a paternity test result in her pleadings revealing a 99.99% likelihood paternity by Mr. Brown, however, it appears she has not sought an order confirming her status as an heir. A person identifying himself as Kevin Jones from Louisiana has never filed pleadings, but has written letters saying he is Mr. Brown's brother, he has never followed up on his assertion.

I believe that all DNA testing that was ordered has been conducted.

The Wilson v. Dallas remand directed this Court to appoint fiduciaries to oversee the Estate and Trust. My Administrative Order of June 13, 2013 allowed anyone interested in filling a fiduciary position to file an "application" within 45

days of the order with supporting documentation. Five individuals sought appointment as Personal Representative of the Estate and Trustee of the Trust. Also an application was received for the appointment of Limited Special Administrator of the Estate and Limited Special Trustee of the Trust. In the interim, Russell L. Bauknight was ordered to continue to oversee the orderly administration and fiduciary duties of the Estate and Trust as Special Administrator and Special Trustee. At that time he had continuously served in a fiduciary capacity for the Estate and Trust since May 26, 2009 with no lapse in his authority. Hearings were held on September 4 and 11, 2013 to receive testimony from all applicants and answer questions posed by the Court. I found that Mr. Bauknight was by far the most qualified, had more knowledge about the Estate than anyone, had led the Estate from the brink of insolvency to repaying over \$14,000,000.00 on the Pullman bond debt seven years ahead of schedule, secured a deal for a movie on the life of Mr. Brown, resolved most of the creditor claims against the Estate and claims by the IRS and filed all income tax returns for all periods for Mr. Brown and the Estate and Trust, resolved IRS audits, plus performed many more services that have been beneficial to the Estate and Trust. Because Mr. Bauknight had also served under the Wilson v. Dallas settlement agreement, an issue arose whether a conflict of interest existed with respect to Mr. Bauknight's continued role as fiduciary of the Estate and Trust in the ongoing spousal elective share, the omitted spouse matter, the omitted child matter, and the legal challenges to the validity of the Will and Trust. I found no conflict of interest existed, but out of an abundance of caution and to avoid any appearance of impropriety I felt it was prudent to appoint an independent person to serve as Limited Special Trustee and as Limited Special Administrator solely and exclusively for the purpose of defending the Estate and Trust against these claims and challenges. I appointed David C. Sojourner, Jr. in this role and Mr. Bauknight was left to continue to oversee all other aspects of the administration of the Estate and Trust. These factual determinations are set out in detail in my order of October 1, 2013.

My Administrative Order of June 13, 2013 addressed the remand mandate for a review of the propriety of fees paid in relation to the Brown Estate. To

accomplish this, the Clerk of Court was directed to open a new civil action entitled "In Re: James Brown : Review of fees paid in Case 1647 appeal of May 26, 2009 settlement agreement". The Clerk was directed to send notice of the new civil action to all the current parties of record in Case 1647 and ten other individuals as identified in the order and directed that each submit a statement of the attorney's fees and trustee fees paid by the Estate in Case 1647.

A review of this file shows I received statements from Tressa T. H. Hayes after being retained by Pope and Buchanan to render legal services to the Estate. These were settled by the Estate and approved by the Probate Court. I did not find any impropriety. The amount was for \$105,546.75 less payments of \$29,580.00 for a balance of \$75,966.75 which was paid. A statement was received from James D. Bailey who also provided legal services to Pope and Buchanan. The total amount of fees and costs were \$201,465.00 less payments of \$116,605.42 with a balance due of \$84,859.58. This claim has been paid. I did not find any impropriety.

Robert L. Buchanan was appointed as one of two Special Administrators of the Estate of James Brown in March 2007. On November 20, 2007 he was appointed as a Co-Personal Representative of the Estate of James Brown and 2000 Irrevocable Trust along with Adele J. Pope. He responded to my order advising he had been paid \$153,000.00 during the period of time from February 27, 2008 through April 21, 2009. If I calculated right, he submitted an itemized statement for time he expended through March 31, 2012 totaling \$746,598.00

Mr. Buchanan and Mrs. Pope were sued in Richland County 2010-CP-40-4900. Mr. Buchanan settled the case against him for \$500,000.00 which resolved all claims either side had against the other in case number 10-CP-40-4900 in Richland County and all Aiken County matters. I enclose a copy of the settlement agreement and Order of Dismissal signed by Judge Manning.

Mr. Bauknight also filed an affidavit reporting this payment on July 29, 2013 in the review of fees case. I had also issued a previous order restricting personal representative and trustee distributions being paid in Case 1647 until the appeal

concluded. Accordingly, Mr. Bauknight had not paid personal representative or trustee distributions in that matter.

In response to the administrative order of June 13, 2013, Mrs. Pope filed a twelve (12) page "Statement of Fees". She filed hundreds of pages of attachments with her statement. I include the statement, but not the attachments. I am not sure if my interpretation of her statement is correct, but she appears to claim in excess of \$2,000,000.00 for SA fees for service through May 26, 2007.

She claims since May 26, 2007 she has spent more than 4000 hours in connection with the Wilson v. Dallas appeal and other matters which protect the 2000 Estate Plan of James Brown. She stated her hourly rate was \$325-\$350. She states the amount exceeds the request she made for a full commission of \$2,845,930.00. Her claim remains unresolved. It appears that she claims approximately \$5,000,000.00 in fees. The Richland County suit with her counterclaims is still pending. She moved for summary judgment on the fees owed to her in the Aiken matters. I heard the motion and denied it because of the existence of factual issues in dispute.

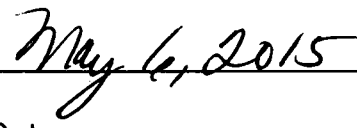
Judge Manning and I signed a joint order requiring that the parties in both cases participate in mediation. One attempt at mediation had been unsuccessful, but all parties were agreeable and seemed to me to be motivated to once again try to reach a global resolution of the issues. All agreed to let Karl Folkens mediate. He had issued a mediation plan that addressed the concerns of all parties and had a date scheduled when the stay was ordered. Judge Manning and I are hopeful that this mediation will be productive.

The Order requesting this status report inquired whether any proposed settlement agreement has been submitted for court approval. The answer is an unequivocal no. No lawyer, party or anyone else has discussed, mentioned, suggested or inquired of me anything about settlement. Neither am I aware of any rumor or "courthouse talk" of any proposed settlement.

This case has been and continues to be very complicated, challenging, diverse, contested, interesting, and time consuming as any matter I have presided

over. There are scores of legal issues which have and must be decided with over fifty (50) lawyers having appeared, each having been an outstanding advocate for his client, which has made this case very confrontational. Notwithstanding all the "bumps in the road", I am confident my management of this case has now put it in a posture for the final resolution of all issues which will now allow the complete administration of Mr. Brown's Estate.

  
\_\_\_\_\_  
Judge Doyet A. Early, III

  
\_\_\_\_\_  
Date