

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

MAR 14 2013

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

**S.C. Supreme Court**

Doyet A. Early, III, Circuit Court Judge

Case No. 2008-CP-02-1647

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Daryl J. Brown, on behalf of his minor children, Lindsey B. and Janise B.; Deanna J. Brown Thomas, on behalf of her minor child, Jason L.; Yamma N. Brown, on behalf of her minor children, Sydney L., Carrington L., and Tonya B.; Vanisha Brown; Larry Brown; Tommie Rae Hynie Brown; and James B., through his Guardian ad Litem.....Respondents,

v.

Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust; Adele J. Pope and Robert L. Buchanan, Jr., Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust; Terry Brown; Romunzo Brown; Forlando Brown; Cinnamon N.M. Paris; LaRhonda Pettitt; Jeanette Mitchell; and Russell L. Bauknight, as Special Administrator and Special Trustee for The Estate of James Brown and the James Brown 2000 Irrevocable Trust, Defendants

of whom Robert L. Buchanan, Jr., and Adele J. Pope, as Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust are.....Appellants,

and Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust; Terry Brown; Romunzo Brown; Forlando Brown; Cinnamon N.M. Paris; LaRhonda Pettitt; Jeanette Mitchell; and Russell L. Bauknight, as Special Administrator and Special Trustee for The Estate of James Brown and The James Brown 2000 Irrevocable Trust are.....Respondents.

In re: The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d August 1, 2000

**MOTION TO SUPPLEMENT THE RECORD PURSUANT TO  
RULE 212(b), SCACR**

Respondent James B. respectfully requests that this Court supplement the record of this appeal to include (1) the Jay B. Ross faxed copy of James Brown's unexecuted will codicil (Appendix of James B. Pages 1-5); and (2) a picture of James Brown on which he transcribes "To Little Man Daddy love The Little Man" (Appendix of James B Page 6). These Documents are cited in the Petition of Respondent James B. for Rehearing, filed March 14, 2013.

In Wilson v. Dallas, Op. No. 27227 (S.C.Sup.Ct. filed Feb. 27, 2013) (Davis Adv.Sh. No. 10 at 14), this Court reversed and remanded the circuit court's order approving a settlement of this matter, holding that there was insufficient evidence to support the lower court's findings that there was a good faith controversy and that the settlement was just and reasonable. Under the standard of review stated by the Court, the factual findings may be reversed only if there is "no evidentiary support" for them in the record. Respondent James B. submits that there is sufficient evidentiary support in the record on appeal to support the lower court's findings, and has moved for rehearing on this basis. However, Respondent James now moves to supplement the record on appeal to include additional evidence supporting the lower court's findings.

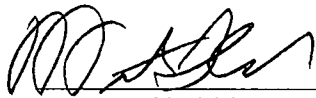
First the Jay B. Ross faxed copy of James Brown will codicil shows that, at some point after James Brown's marriage to James B.'s mother, James Brown intended to provide for James B. and his mother after his death. This unexecuted copy, faxed to Dallas one month after James Brown's death, shows a will form, drafted by Ross after James Brown's marriage to Tommie Rae and James B.'s birth, leaving 5% of his estate to James B. and 17% to James B.'s mother. Of course, if an original existed, and the advisors were involved in undue influence, they could have destroyed the original. It is

undisputed that they alone had access to the house after James Brown's death, and that they excluded James B. and his mother from the house. Certainly, it is not beyond belief that fiduciaries (one of whom has admitted lying under oath and another who has taken an Alford plea to the charge of stealing millions of dollars from James Brown) would destroy a will that would disrupt their nefarious scheme.

Second, before the circuit court was a picture of James Brown inscribed to James B. The inscription reads "To Little Man Daddy love The Little Man." It is undisputed that James B. was called "Little Man" by James Brown and others. Thus, in addition to the other evidence cited in James B.'s Petition for Rehearing showing that he was in fact James Brown's namesake and son, the circuit court had a picture signed by James Brown in which he indicates he is Little Man's (James B.'s) father.

Because these documents provide *support* to the circuit court's decision to approve the settlement agreement, their inclusion in the record would neither undercut the circuit court's decision, nor hamper appellate review of it. Cf. Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006) ("Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide [the Court] with a platform for meaningful appellate review."). Appellate courts have "the inherent equitable power to allow supplementation of the appellate record if it is in the interests of justice." CSX Transp., Inc. v. City of Garden City, 235 F.3d 1325, 1330 (11th Cir. 2000). Respondent James B. respectfully submits that permitting supplementation as to these two documents is in the interests of justice.

Respectfully submitted,



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Guardian *ad Litem* for Respondent James B.

March 14, 2013  
Charleston, South Carolina

**FACSIMILE TRANSMITTAL**

FOR THE ATTENTION OF: **MR. BUDDY DALLAS**

COMPANY:

FAX NO: **(706) 595-7174**

FROM: **JAY B. ROSS AND ASSOCIATES P.C.**

DATE: **1/17/07** TIME: **11:26AM**

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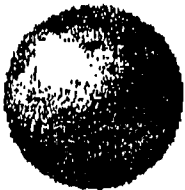
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practice Law in  
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Illinois

Please remember that any Codicil must be signed and witnessed in the same way as your original Will. Instructions for signing are set out below. If once a Codicil has been signed and witnessed, you should change your mind, under most state law you should either make an additional or a revocational Codicil

#### Instructions for signing your codicil.

1. Obtain as many witnesses as witnessed your will, usually two or three. They must not be: 1. Beneficiaries under your Will or Codicil, 2. Your Wife, 3. Your executor
2. You must all three or four be present when you sign and have the it witnessed.
3. The witnesses must actually watch you sign.
4. Sign your name in ink where indicated at the end of the Codicil. Use your normal signature.
5. The Witnesses must sign where shown and add clearly their full names, addresses and preferably their occupations
6. Do not attach anything to you Codicil! For example, do not attach paper clips or pins as this may cause difficulties in proving your Will with the Probate Registry. Don't write anything on it either. Send it back to me and I will correct it or change it.
7. It is vital that all formalities are properly observed otherwise your Codicil may be invalid.
8. Insert the date of the old will in the blank lines in the first paragraph
9. Insert the date that you are signing this document.
10. You should check with a South Carolina Probate Attorney, just to make sure.

Sincerely,

Jay B. Ross

\_\_\_\_\_  
Occupation \_\_\_\_\_

**SECOND WITNESS**

\_\_\_\_\_  
Signature of the Second Witness

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Occupation \_\_\_\_\_

**THIRD WITNESS (if required)**

\_\_\_\_\_  
Signature of the Third Witness

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Occupation \_\_\_\_\_

**MY WILL shall be construed and take effect as if it contained the following clauses:**

Notwithstanding the clauses in my will that may conflict with the following, I wish the following percentages of my assets not distributed in my will as personal property to go as follows:

1. To my wife, Tommie Ray, Seventeen (17) percent
2. To Daryl Brown Five (5) percent
3. To James B. [REDACTED] Five (5) percent
4. To Roosevelt Johnson Five (5) percent
5. To David Washington Five (5) percent
6. To Mr. Bobbit ten (10) % of any monies received by litigation or settlement of my suit against Corbis. He holds 4% of the 10% of such monies for Judge Al Bradley or his heirs leaving six (6) percent for Mr. Bobbit.
7. The rest of my assets, not previously disposed of as personal property shall go to the Richmond County for kids of all backgrounds. The money will be handled during their life times by Mr. Babbit, Mr. Johnson and Mr. Washington, who may charge a reasonable fee to handle such funds.
8. In the event of a conflict between my WILL and/or a prior codicil, if any, and this codicil, this codicil will prevail.

IN All other respects I confirm my Will and any prior Codicils, if any.

IN WITNESS whereof I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

Signed by the said, James Brown,

X \_\_\_\_\_  
signature of testator above

00026

as and for this Codicil to his Will in my presence and by us jointly attested and subscribed in his

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Occupation \_\_\_\_\_

**SECOND WITNESS**

\_\_\_\_\_  
Signature of the Second Witness

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Occupation \_\_\_\_\_

**THIRD WITNESS (if required)**

\_\_\_\_\_  
Signature of the Third Witness

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Address \_\_\_\_\_

\_\_\_\_\_  
Occupation \_\_\_\_\_