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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early III, Circuit Court Judge

Appellate case No. 2015-002417

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AUG 09 2018
SC Court of Appeals

Tommie Rae Brown, Respondent,

v.

David C. Sojourner, Jr., in his capacity as Limited Special Administrator of the Estate of James Brown, a/k/a James Joseph Brown and Limited Special Trustee of the James Brown Irrevokable Trust, u/a/d August 1, 2000, Deanna Brown Thomas, Yamma Brown, Venisha Brown, Larry Brown, Terry Brown and Daryl Brown, Respondents below,

Of whom David C. Sojourner Jr., in his capacity as Limited Special Administrator and Limited Special Trustee, Deanna Brown Thomas, Yamma Brown, Venisha Brown, Terry Brown, Michael Deon Brown and Daryl Brown are the Appellants.

PETITION FOR REHEARING

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Appellant Michael Deon Brown respectfully petitions the Court for a rehearing and suggests a Rehearing En Banc of Opinion No. 5578, dated, July 25, 2018, pursuant to SCACR Rule 221(a), SCACR Rule 240(i) and SCACR Rule 219(b), as this Court has overlooked and misapprehended points at issue.

ARGUMENT

1. The Court misapprehended Lukich v. Lukich

When Tommie Rae Brown married James Brown on December 14, 2001, she was married to Javed Ahmed, whom she married on February 17, 1997 . This Court has overlooked or misapprehended that the facts of this case are not applicable to Lukich v. Lukich, 379 S.C. 589, 666 S.E.2d 906 (S.C. 2008), when the facts are directly on point. This Court said:

The general rule applicable in situations as before us is stated in 52 Am. Jr. 2d Marriage 57:

Apart from statute, bigamous marriage does not acquire validity when the prior subsisting marriage is legally terminated by divorce or by the death of the first spouse. The same rule is generally followed where the prior subsisting marriage is annulled after the second marriage is contracted, even though the purpose of an annulment proceeding is to declare that no valid marriage ever took place between the parties or that no valid marriage relation ever existed between the parties. Even where the annulment decree expressly declares the first marriage null and void ab initio, it does not relate back so as to validate the second marriage. In order for the subsequent marriage to be valid, it has been held that there must be a new ceremony following the termination of the earlier marriage.

Lukich v. Lukich, 368 S.C. 47, 55, 627 S.E.2d 754, 758 (S.C. Ct. App. 2006). In this case, because she was married to Ahmed at the time she married James Brown, Tommie Rae Brown's marriage to James Brown was void ab initio. Futhermore, the South Carolina Supreme Court said in footnote 16 in the Wilson v.

Dallas decision:

The circuit court noted the decision of the Court of Appeals in Lukich v. Lukich, 368 S.C. 47, 627 S.E.2d 754 (Ct. App. 2006), in which the Court of Appeals held that an annulment declaring a spouse's first marriage void could not retroactively validate the spouse's second marriage. The Circuit court distinguished Brown's situation, opining that the rule in Lukich did not apply where the first marriage was never valid because one of the parties was already married. This Court has since affirmed Lukich v. Lukich, 379 S.C. 589, 666 S.E.2d 906 (2008). We express no opinion, however, on the circuit court's interpretation here.

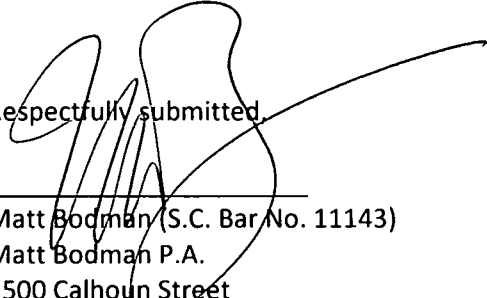
Wilson v. Dallas, 403 S.C. 411, 2013 S.C. Lexis 240, (S.C. 2013), footnote 16.

2. The Court misapprehended summary judgment

On appeal from an order granting summary judgment, the appellate court reviews all ambiguities, conclusions, and inferences arising in and from the evidence in light most favorable to the non-moving party below. Williams v. Chesterfield Lumber Co., 267 S.C. 607, 610 (1976). Because of the reasons above and below, the Court misapprehended the law and evidence as it applies to this case as every inference was improperly decided in favor of the Respondent.

3. Appellant Michael Deon Brown also hereby adopts all the arguments advanced by co-Appellants Deanna Brown Thomas, Yamma brown, Venisha Brown, and Terry Brown in their Petitions for Rehearing

Respectfully submitted,



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PROOF OF SERVICE

The undersigned hereby certifies that on August 9, 2018, he has caused a copy of the PETITION FOR REHEARING to be served on all counsel in this matter by depositing a copy of it in the United States Mail, postage prepaid, addressed to the following:

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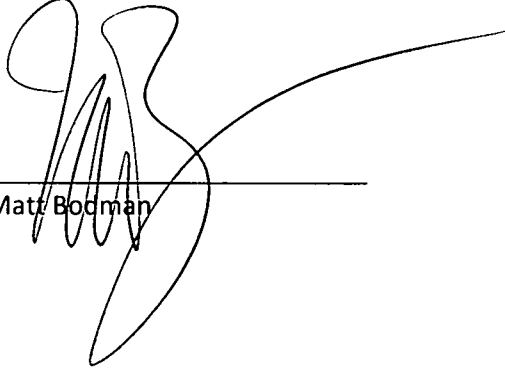
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