

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM AIKEN COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Doyet A. Early III, Circuit Court Judge

Trial Court Case Nos. 2013-CP-02-02849 and 2013-CP-02-02850
Appellate Case No. 2015-002417 (Court of Appeals)
Appellate Case No. 2018-001990 (Supreme Court)

In Re: The Estate of James Brown a/k/a James Joseph Brown,

Tommie Rae Brown.....Respondent,

v.

David C. Sojourner, Jr., in his capacity as Limited
Special Administrator and Limited Special Trustee,
Deanna Brown-Thomas, Yamma Brown, Venisha Brown,
Larry Brown, Terry Brown, and Daryl Brown Respondents below,

Of whom Deanna Brown-Thomas, Yamma Brown, and
Venisha Brown are the Appellants.

**TOMMIE RAE BROWN’S MOTION FOR LEAVE TO SUPPLEMENT
PURSUANT TO RULES 212 AND 240, SCACR**

Appellee Tommie Rae Brown (“Mrs. Brown”) moves to obtain the Court’s leave to file a supplemental memorandum and affidavit to clarify and provide a more complete answer to the Court’s question about charitable scholarships at the beginning of the oral argument on October 16, 2019, which had not been briefed. See at 3:24 in the archived video (<http://media.sccourts.org/videos/2018-001990.mp4>).

The memorandum would show that, with respect to scholarships, the charitable trust will effectively lose the ability to provide scholarships within six years if Mrs. Brown is not the surviving spouse, for the following reasons:

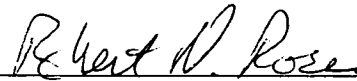
- (1) Mrs. Brown and the Estate (and charitable trust) entered into a settlement agreement in which Mrs. Brown agreed, in part, to contribute to the estate and charitable trust 65 percent of her 50 percent share of the federal copyright termination rights, estimated to be worth tens of millions of dollars;
- (2) By federal law, the copyright termination rights belong to the intestate heirs (50 percent to the surviving spouse and the rest to the children) and not to the Estate or charitable trust. Without Mrs. Brown's contribution, the Estate and charitable trust would not have any right to these valuable termination rights;
- (3) Mrs. Brown will receive share of these termination rights *only* if she is the surviving spouse of James Brown;
- (4) If Mrs. Brown is not determined to be the surviving spouse, the Estate and charitable trust will not receive any part of the termination rights proceeds. James Brown's children will receive all of the termination rights and the children have not agreed to make any contributions to the charitable trust;
- (5) If Mrs. Brown is not the surviving spouse, the charitable trust will also be substantially diminished because, as the children terminate the copyright assignments, the royalty income stream from the copyrights—which currently constitutes the most substantial available source of funds for the charitable trust to provide scholarships—will be concurrently reduced; and

(6) This is why the Estate and charitable trust, having settled with Mrs. Brown, support her status as surviving spouse because it is the children, not Mrs. Brown, who pose a threat to the existence of the charitable trust and scholarships.

The memorandum will also show that any delay in providing scholarships to date has been the result of the children's own contest of the will and trust and their contest of Mrs. Brown's status as surviving spouse, because the charitable trust could not make distributions while its existence is being contested.

In conclusion, Mrs. Brown respectfully requests that she be allowed to supplement the record with the Affidavit of Peter Afterman (attached as Exhibit B) and the settlement agreement between the Estate and Mrs. Brown dated March 8, 2017 (see Exhibit 1 to the Limited Special Administrator's Notice of Withdrawal from Appeal filed August 4, 2017 (attached as Exhibit A)), together with the attached memorandum explaining this issue in more detail.

Respectfully Submitted,



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