

State of South Carolina
County of Aiken

Court of Common Pleas

Deanna Brown Thomas)	
)	
Plaintiff,)	Transcript of Record
v.)	2019-CP-02-00320
)	
Venisha Armaa Brown)	
)	
Defendant.)	

January 31, 2020
Aiken, South Carolina

B E F O R E:

The Honorable Clifton Newman, Judge.

A P P E A R A N C E S:

Joyce Farr Cheeks, Esquire
Eddy L. Lane, Esquire
Attorneys for the Plaintiff

Adele Jeffords Pope, Esquire
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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P R O C E E D I N G S

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1 THE COURT: All right. Yes?

2 MS. CHEEKS: Thank you, Judge Newman. My name
3 is Joyce Cheeks. I'm here on behalf of the Estate
4 of Venisha Armaa Brown. This is my co-counsel,
5 Eddy Lane. And this is basically a case that is
6 seeking to get the personal representative appointed
7 for Venisha Brown, who is a decedent of James Brown,
8 the daughter of James Brown.
9

10 This is a hearing -- well, we initiated this
11 hearing to have Ms. Deanna Brown, who is sitting
12 behind me, named as personal representative of her
13 sister's estate, Venisha Armaa Brown.
14

15 We filed the petition for formal appointment
16 and Ms. Pope -- Pope, counsel to my left, she
17 answered the petition as a creditor and then
18 subsequently filed a motion to dismiss, a motion to
19 void ex parte order for publication, a motion to
20 strike summary judgment, as I said, and to name her
21 as personal representative of the estate.

22 Ms. Brown was previously represented by
23 another -- other counsel who asked to be relieved
24 from this case because he felt like it was too
25 complex for him. And the Court gave Ms. Thomas 60

1 days, I believe, to get other attorneys, and that's
2 when Ms. Lane and myself got involved in this case.

3 We subsequently also filed the motion for
4 summary judgment to name Ms. Brown Thomas as
5 personal representative of the estate and we also
6 filed motions to strike many of the allegations of
7 Ms. Pope's answer. So, I guess, Your Honor, this is
8 really Ms. Pope's motion to start.

9 I do believe, however, that the statute
10 essentially answers the whole question about this,
11 Your Honor, because Ms. Thomas -- Ms. Brown Thomas,
12 I'm sorry, is actually an heir of James Brown --

13 THE COURT: What statute is that?

14 MS. CHEEKS: That would be -- Your Honor, that
15 would be 62-3-203 (a) (4).

16 THE COURT: What does that say?

17 MS. CHEEKS: It assigns priorities to
18 appointment of personal representatives and it gives
19 Ms. Brown Thomas priority over creditors.

20 THE COURT: Okay.

21 MS. CHEEKS: Unless Ms. Pope is going -- unless
22 you want to go forward with Ms. Pope's motion --
23 because that's, I guess, where we are now. She
24 filed the first motion, Your Honor.

25 THE COURT: All right.

1 Ms. Pope?

2 MS. POPE: Well, Your Honor, I want to see if
3 Ms. Cheeks is withdrawing the career-threatening
4 motion to strike which she made against me. If she
5 is, then I -- if she is not, then I'd like her to be
6 heard and I'd like to answer that, because it was
7 a --

8 THE COURT: All right. Well, let's --

9 MS. POPE: It is a very serious allegation.

10 THE COURT: -- let's find out.

11 She wants to know if you're withdrawing the
12 career-threatening motion to strike.

13 MS. CHEEKS: No, sir.

14 THE COURT: All right. So that answers that
15 question.

16 MS. POPE: Your Honor, she's asking the Court
17 to strike the motion and hold me in contempt of the
18 Supreme Court. So I would like to be heard on what
19 she has to say about that and ask to respond to
20 that --

21 THE COURT: Well, you --

22 MS. POPE: -- because, obviously, if Your Honor
23 would grant that, there would be nothing else for me
24 to have to say.

25 MS. LANE: Your Honor --

1 THE COURT: Yes, ma'am?

2 MS. LANE: -- I have a memorandum and affidavit
3 from Ms. Deanna Brown Thomas. And I believe that
4 the arguments are here in the memorandum very clear.

5 THE COURT: All right.

6 MS. LANE: I'd like to hand that up, Your
7 Honor.

8 THE COURT: I usually sit and listen for as
9 long as people want to talk. But, today, we have to
10 leave at 3:00 because the court reporter is taking
11 her baby to the doctor and has a 4:00 appointment in
12 Lexington. We have to stop at 3:00. She has to get
13 to Lexington to get to the baby's doctor at 4:00,
14 unless he's going to meet you at the interstate. So
15 we have to stop at 3:00, not five after.

16 MS. CHEEKS: Well, let me say this, Your Honor:
17 Our main goal here is to get Ms. Brown Thomas
18 appointed.

19 THE COURT: All right.

20 MS. CHEEKS: There are some extenuating
21 circumstances from the Supreme Court that puts
22 contempt issues into play in this action. However,
23 if the Court determines that we are correct about
24 the statutory priority, I think that could shut this
25 case down very fast and we could eliminate the

1 motion for contempt.

2 THE COURT: Well, when someone is in contempt
3 of the Supreme Court, that is an independent
4 professional responsibility aside from the
5 pleadings. But if you'll just highlight the -- what
6 is the problem there with -- what is the issue of
7 being in contempt of the Supreme Court?

8 MS. CHEEKS: Thank you, Your Honor. The issue
9 there is that Ms. Pope's -- well, the Supreme Court
10 issued an order dated June 5th, 2015. That order
11 held that: Ms. Pope is hereby prohibited from
12 filing any further motions and appeals in actions
13 involving the Estate and Trust of James Brown and
14 cases like this in which she clearly has no
15 standing. We caution Pope that continued attempts
16 to involve herself in the resolution of the Estate
17 and Trust may result in contempt charges.

18 Our position is that Ms. Pope's entire effort
19 to get involved in Venisha Brown's estate derives
20 from the James Brown estate only. All of her
21 allegations relate solely to the James Brown estate.
22 There's nothing in this record that I can tell --
23 maybe she has something that she has to argue -- but
24 nothing in the record that has been submitted to
25 this Court, that I can tell, that addresses a debt

1 that's owed by Venisha Brown in this case.

2 THE COURT: Okay. Let me inquire, because as
3 you were explaining, Ms. Venisha Brown, sister of
4 someone, et cetera -- can you explain that again,
5 please?

6 MS. CHEEKS: Oh, yes, sir. So James Brown, of
7 course, the legendary James Brown, is the --

8 THE COURT: We know about him.

9 MS. CHEEKS: Okay. Now, he has several
10 children.

11 THE COURT: All right.

12 MS. CHEEKS: One of his children is Deanna
13 Brown, who is behind me. She is seeking to be
14 personal representative of the estate of her sister,
15 Venisha Brown, who died in 2018.

16 THE COURT: All right. And why is that in
17 court as a part of all these cases I'm hearing
18 today?

19 MS. CHEEKS: Because we were ordered here
20 today, Your Honor. That's the only -- that's our
21 point. It has nothing to do with the James Brown
22 estate. But our position is that Ms. Pope's only
23 involvement derives from the James Brown estate.

24 THE COURT: And then --

25 MS. CHEEKS: The Probate Court removed it from

1 probate to circuit court because this was a formal
2 appointment proceeding.

3 THE COURT: Well, that would bring it here. If
4 they removed it to here, that's why I have it.

5 MS. CHEEKS: That's right.

6 THE COURT: All right. So your argument is
7 that the language of the Supreme Court extends to
8 this particular matter because the Supreme Court
9 prohibited Ms. Pope from filing any sort of motions
10 and appeals in actions involving the estate of James
11 Brown and --

12 MS. CHEEKS: And cases like this.

13 THE COURT: In which she clearly has no
14 standing. So that is the question. And you're
15 saying, based on the statutes you cited, standing is
16 given to the next of kin or --

17 MS. CHEEKS: The heir first.

18 THE COURT: -- sole heir.

19 MS. CHEEKS: Yes, sir.

20 THE COURT: And she has no standing because
21 she's not in the estate; she's not related.

22 MS. CHEEKS: Correct. She's not related. And,
23 technically, in our opinion, she has not alleged
24 anything that makes her a creditor. She's alleging
25 she's a creditor from the James Brown estate, as far

1 as I can tell, from all of the pleadings and motions
2 that she has filed.

3 THE COURT: All right.

4 MS. CHEEKS: Everything she alleges is related
5 to the James Brown estate.

6 THE COURT: All right.

7 Ms. Pope?

8 MS. POPE: Well, Your Honor, if I could, my
9 being here today is -- comes from my having properly
10 served the Estate of James Brown, along with Robert
11 Buchanan, from March 2007 until May 2009, and our
12 successful appeal of an attempt by Ms. Thomas,
13 Ms. Brown, and others to -- along with the Attorney
14 General of South Carolina, to undue James Brown's
15 estate plan.

16 I've heard a lot today, by the way, and I'm
17 mindful of our time. I'm only going to say one
18 thing about everything that I heard this morning,
19 and that is that Mr. Black's statement that I was
20 sanctioned by the Court is absolutely false.

21 He was awarded \$1,000 -- not he; but
22 Mr. Bauknight was awarded \$1,000 as cost in an
23 appellate proceeding, the same way I was ordered to
24 be paid \$4,000 in appellate costs in Wilson vs.
25 Dallas. That was not a sanction.

1 It's important, Your Honor, to know, I think,
2 that since 2011, Ms. Thomas, Mr. Levenson,
3 Venisha -- but I don't believe she knew she was
4 doing it -- Mr. Bauknight, and the Wingate law firm
5 have repeatedly sought sanctions against me, and
6 none has ever been granted.

7 But with specific -- now, specificity to this
8 issue: This was a 2015 ruling by the Supreme Court
9 in another case. I won't go into it, unless Your
10 Honor wants. What's significant for today is at the
11 time that that order was issued, Ms. Thomas and
12 Ms. Brown were suing me. I did not sue them. And I
13 was counterclaiming in what is now known as Richland
14 County Case 4900. That's a case Ms. Thomas,
15 Ms. Venisha Brown, the James Brown Legacy Trust,
16 Tommie Rae Hiney, Tommie Rae Hiney's son James, and
17 others brought against Robert Buchanan and me in
18 2010. And it has been described today as a
19 breach-of-fiduciary-duty claim. I would describe it
20 as unsuccessful attempt to stop the decision which
21 became Wilson vs. Dallas.

22 That said, what's important is, at the time
23 this Supreme Court order was issued, Case 4900 had
24 been pending for five years in Richland County
25 Court; not over here in Aiken, but in Richland

1 County court. At the time, it was ongoing; it
2 continued to be ongoing. Today, it has two appeals
3 pending in the Court of Appeals and in --

4 THE COURT: All right. We heard all that
5 history about what's pending and all --

6 MS. POPE: Right --

7 THE COURT: -- of that.

8 MS. POPE: But let me tell you --

9 THE COURT: And the lawyers spent hours giving
10 me their positions and procedures and all that. So
11 I think that's enough of a recounting from this
12 morning. Let's focus on this issue, this case,
13 right now.

14 MS. POPE: Absolutely. But what I want to tell
15 you is this same argument was made in one of those
16 appellate cases by the Wingate -- I'm sorry, by
17 Mr. Black last year. And the Court of Appeals
18 issued an order denying that motion to strike. So
19 that's the only ruling we have, that I'm aware of,
20 of all these attempts since 2015 to hold me in
21 contempt.

22 And I brought a copy -- the order is only one
23 page. But -- and I did not bring their motion to
24 strike, but it's available in case 2019-0000362.
25 And you'll see my initial brief in that case, which

1 relates to the same order of Judge Early. That is
2 what they move to strike. And they based it --
3 well, the motion can speak for itself. But if I
4 could make an exhibit of this Supreme Court's
5 order -- I mean -- I'm sorry, Court of Appeals'
6 order filed January 13, 2020, denying that attempt
7 to strike.

8 I would also, if I could, make that an exhibit.

9 THE COURT: All right.

10 MS. POPE: If I could also, Your Honor, make an
11 exhibit of a hand-marked copy of only a portion of
12 the complaint --

13 THE COURT: All right. Well, let me say this
14 concerning the issue of contempt of an order of the
15 Supreme Court: Any contempt of an order of the
16 Supreme Court must be addressed by the Supreme
17 Court. The issue was raised. And, as I said,
18 that's a separate professional responsibility.

19 A record is being taken. It will be up to the
20 Supreme Court to determine whether or not you have
21 violated its order.

22 MS. POPE: That's fine.

23 THE COURT: So I'm not going to litigate the
24 contempt order. I'm going to address the specific
25 issue here, and that is the motion to be put in

1 charge of the named PR and whether you have any
2 standing to object to that and whether or not she's
3 entitled to be appointed pursuant to the statute.

4 And I don't need to hear the entire history of
5 the 10 or 12 years of litigation in order to make
6 that determination.

7 MS. POPE: Your Honor needn't worry, because I
8 think we have here only the history of the estate of
9 Venisha Brown. And I'd like to make, as Exhibit 2,
10 just a brief summary for all of us of the documents
11 that have been filed in this case. And that -- I
12 have provided that to Ms. Cheeks before the -- at
13 the break, and only for reference for all of us in
14 terms of the procedural history because I believe
15 that this history -- that we're only here about
16 Venisha Brown's estate and not anything else.

17 And so what I want to call to your immediate
18 attention, Your Honor, is -- and I can talk more
19 about this later. But it is -- I'm as certain as
20 I'm sitting here that Ms. Thomas is, in fact, a
21 biological sister of Venisha Brown. And as soon as
22 an estate is opened, she will be, if she requests to
23 be, determined to be an heir.

24 But in South Carolina -- and if I could pass up
25 this case which -- I only learned about it since

1 Venisha's death. But the Pinckney vs. D&S case of
2 2001, decision by the Supreme Court, which, of
3 course, has to be read in conjunction with our
4 current probate statute, which, if you don't mind,
5 I'll pass that up also -- that's Section 62-2-109.
6 Sorry if I made marks on some of these.

7 The law in South Carolina, I believe, based on
8 the statute and based on the Pinckney vs. D&S
9 Development case, will surely determine that
10 Ms. Thomas is, in fact, an heir of James Brown.

11 THE COURT: Is this a disputed issue?

12 MS. POPE: It -- well, the interesting thing,
13 Your Honor, is, as this case says --

14 THE COURT: Well, let me get an answer to the
15 question.

16 MS. CHEEKS: It is not disputed, Your Honor.

17 THE COURT: All right. So why do you need
18 authority to -- for the proposition that is not --
19 the petition says she is the -- tell me the
20 relation. What's her name?

21 MS. CHEEKS: Venisha Armaa Brown --

22 THE COURT: Is the --

23 MS. CHEEKS: -- is the daughter of James Brown
24 and the sister of Deanna Brown Thomas. The decedent
25 is the sister of Deanna Brown Thomas. That's

1 undisputed.

2 THE COURT: All right. So we're not litigating
3 that issue; it's undisputed.

4 MS. CHEEKS: That's correct, Your Honor.

5 MS. POPE: Your Honor, it's only undisputed
6 that she is a biological sister. And that's --

7 THE COURT: How many different types of sisters
8 do you have?

9 MS. POPE: Well, Your Honor, that's what this
10 case says, which is a little bit surprising.

11 THE COURT: Okay.

12 MS. POPE: It is that --

13 THE COURT: What does it say?

14 MS. POPE: -- Venisha Brown's sole undisputed
15 heir, as of her death, under South Carolina law, not
16 biologically, is either Leroy Fair, Jr., the only
17 child of her mother, or, if he's deceased, his
18 heirs. All other heirs -- that would be heirs
19 claiming through the father -- must meet certain
20 criteria and they must meet it strictly. And --

21 THE COURT: So, as I'm listening to you, what
22 standing do you have to raise this issue, contest
23 this issue, or in just being like a friend of the
24 Court?

25 MS. POPE: Well, a little bit of each --

1 THE COURT: All right.

2 MS. POPE: -- because, in my status of
3 creditor, I should come ahead of all of them.

4 THE COURT: For --

5 MS. POPE: What I want the Court to do is find
6 a way to proceed with this efficiently. And one of
7 the ways is to get a PR appointed so that the
8 six-month statute to determine, not that Ms. Thomas
9 is an heir -- and her sister, Yama Brown, they are
10 clearly both heirs, but the 13 other people that
11 were named, we don't have to go looking for them.
12 They -- we -- I'm sorry. I mean Venisha's estate.
13 They have to come forward.

14 But they can't come forward, or, at least their
15 time limit for coming forward doesn't begin until a
16 PR is appointed.

17 THE COURT: And that's what we're here
18 concerning today?

19 MS. POPE: Absolutely.

20 THE COURT: Okay.

21 MS. POPE: But, having said that, I don't --
22 and having listened to Your Honor this morning, I
23 think we need a hearing. And I'll tell Your Honor
24 just four or five reasons why I believe we need a
25 hearing.

1 THE COURT: All right.

2 MS. POPE: The first is that Section 62-3-203
3 says: An objection to an appointment can be made in
4 any formal proceeding. In case of objection, the
5 priority stated above -- and that would put, if
6 qualified, Ms. Thomas in fifth space and, if
7 qualified, Mr. Levenson and me and sixth space.

8 It says: The priority stated in A, above,
9 apply, except if the Estate appears to be more than
10 adequate to meet exemptions and costs of
11 administration, but inadequate to discharge
12 anticipated unsecured claims, the Court, on petition
13 of creditors, may appoint any qualified person.

14 So that --

15 THE COURT: So what makes you a creditor of
16 this estate?

17 MS. POPE: Well, that I -- the only -- and the
18 good news about some of the delay, Your Honor, is
19 that I believe, standing here today, there are only
20 two properly qualified creditors. There is a third
21 creditor for \$2.4 million who I'm hoping has not met
22 the criteria to be a creditor.

23 THE COURT: My question is, what makes you a
24 creditor?

25 MS. POPE: Mine is that I've timely filed, as

1 required, as has Mr. Levenson, a complete statement
2 of my creditors' claim in conjunction with a request
3 for appointment of a PR in compliance with the
4 statute. And both Mr. Levenson and I followed the
5 only statutory procedure that is allowed to file a
6 creditors' claim prior --

7 THE COURT: What's the amount of your claim?

8 MS. POPE: I put in excess of \$500,000. And it
9 is --

10 THE COURT: Has any of that been ruled on by
11 the --

12 MS. POPE: No.

13 THE COURT: Any court?

14 MS. POPE: No -- well, there have been rulings,
15 but no final ruling. It is related -- and, as Your
16 Honor knows, you must file a claim within the
17 period, whether or not it's liquidated.

18 THE COURT: You said there are no final
19 rulings. There has been a ruling by what court?

20 MS. POPE: Well, there have been a number of
21 rulings.

22 THE COURT: All right.

23 MS. POPE: Venisha sued --

24 THE COURT: As it relates to your claim for
25 \$500,000 --

1 MS. POPE: That's what I --

2 THE COURT: -- what's the -- some court ruled
3 that you're not entitled to it?

4 MS. POPE: No, no, no. No court has ruled on
5 my entire -- well, Judge Early granted summary
6 judgment. That is on appeal.

7 THE COURT: Saying that you're not entitled to
8 it?

9 MS. POPE: Not entitled to it.

10 THE COURT: Okay.

11 MS. POPE: But that is on appeal. And Ms. --
12 among many other things, Venisha and Ms. Thomas
13 settled with Bob Buchanan on the exact same claim.
14 And, fortunately, the Estate has not filed a claim
15 against Venisha to try to get her portion of the
16 settlement.

17 THE COURT: What is the value of the estate?

18 MS. POPE: The value of Venisha's estate?

19 THE COURT: No; the estate of James Brown.

20 MS. POPE: Well, Robert Buchanan and I, under
21 oath, value his music empire at \$84 million.
22 Mr. Bauknight, under oath, valued it at 4.7
23 million --

24 THE COURT: Okay. So where the statute says
25 if -- the statute that you just read, that if it

1 appears -- if the Estate appears to be more than
2 adequate to meet exemptions and costs of
3 administration, but inadequate to discharge
4 anticipated unsecured creditors, the Court, on
5 petition of creditors, may appoint any qualified
6 person. So you contend the Estate is inadequate?

7 MS. POPE: To meet the current -- Your Honor,
8 we're not talking about James Brown's estate; we're
9 talking about Venisha Brown's estate.

10 THE COURT: But you have a claim against
11 Venisha Brown's estate.

12 MS. POPE: Right. And so the value of her
13 estate, I believe, is between 600,000 and a million
14 five.

15 THE COURT: Which you're --

16 MS. POPE: And I --

17 THE COURT: Which you're claiming that she owes
18 you \$500,000 of or the Estate does?

19 MS. POPE: Well, that is the statement of my
20 claim as an unliquidated amount. The claims against
21 her are three: They are Mr. Levenson, which, I
22 believe, are also unliquidated; the filed, but I
23 hope improperly filed, \$2.4 million claim, which, of
24 course, would have interest way beyond that, which
25 is, I believe, a 2014 judgment, which, hopefully,

1 would still apply to her real estate -- small
2 interest in real estate in Georgia, but, if properly
3 handled, hopefully could be resolved by her estate,
4 and mine.

5 And the assets of the estate, according to the
6 sworn filing of -- filings of the original
7 plaintiff, are little or no assets. But, in fact,
8 if I -- the document that I just handed up, I think
9 it's just real important to glance at just two
10 paragraphs. And these --

11 THE COURT: Okay. But I know what you think is
12 important and then I have some things in my mind
13 that I think are important. What pleadings have you
14 filed relating to this particular matter before us?
15 The application for appointment, you filed a --

16 MS. POPE: I filed creditors' claim and my
17 answer and many, many other documents --

18 THE COURT: Did you file something objecting to
19 the appointment?

20 MS. POPE: Absolutely. Many, many documents
21 that -- this has been going for a year. And they
22 are outlined in the little summary that I handed up
23 to Your Honor. I've objected to her appointment;
24 she's objected to mine. Mr. Levenson objected to
25 her appointment, then we're through it. So we're

1 clearly in that position.

2 THE COURT: Okay. And then the argument that
3 the -- because all of your claims are derived from
4 the estate of James Brown --

5 MS. POPE: That is absolutely incorrect, Your
6 Honor.

7 THE COURT: That's their contention; that
8 you're prohibited from filing any motions, appeals,
9 et cetera, and actions involving the estate of James
10 Brown and cases like this in which you clearly have
11 no standing. So that may be true or may not be
12 true.

13 I'm going to have the Supreme Court make a
14 determination of that based on the record here today
15 and the pleadings on file.

16 MS. POPE: Your Honor --

17 THE COURT: They may meet regularly, at least
18 once a month, and I think they would give priority
19 to this question because, you know, you've been
20 arguing probably 15 or 20 minutes, and if you're not
21 supposed to be, per Supreme Court order, then I
22 shouldn't be listening or we shouldn't be
23 proceeding. So that's one of the issues to be
24 determined.

25 And if the Supreme Court says it is proper for

1 you to be heard, based on your claim to be a
2 creditor and based on the adverse rulings that might
3 have been made on that issue have yet to be
4 determined on appeal, then we can have a hearing to
5 litigate whether or not the heir is a priority or
6 not.

7 You know, as I listened to all of this this
8 morning, I find that I'm just hearing lawyers who
9 are suing to get each other money from the Estate,
10 basically, and not very much about the estate
11 itself.

12 MS. POPE: Well, Your Honor --

13 THE COURT: And this is -- now, that may be --
14 I don't know how the quagmire got to the extent that
15 it is. But this is just my preliminary impressions.
16 And this is yet another --

17 MS. POPE: Well, Your Honor, if I could just
18 have a minute --

19 THE COURT: -- attack to prevent an heir from
20 being involved in the administration of a loved
21 one's estate, you know, that's --

22 MS. POPE: Your Honor, I --

23 THE COURT: I don't know if this statute
24 reaches there. And so I think it should be
25 scrutinized through a ruling by the Supreme Court.

1 MS. POPE: Your Honor, might I have just five
2 minutes --

3 THE COURT: Yes, ma'am.

4 MS. POPE: -- to tell you why I think this is
5 wholly unrelated to James Brown --

6 THE COURT: Five minutes. Yes.

7 MS. POPE: Yes. I would ask Your Honor to take
8 judicial notice under Rule 201.

9 And have I already marked this partial
10 document?

11 This is a complaint filed by Venisha Brown in
12 February of 2018, just before her death in
13 California, which is now pending before the
14 Honorable Michelle Chiles in District Court in
15 Columbia. And I want, specifically, to tell you
16 that -- during my five minutes, that the primary
17 asset of the estate of Venisha Brown, unrelated to
18 James Brown, is her interest in what is called
19 termination rights proceeds under Sections 203 and
20 304 of the U.S. Copyright Act.

21 And if you'll just simply look with me at
22 paragraph 12 and paragraph 32 of a document filed by
23 Venisha shortly before her death. Just the pages
24 that I've handed up talks about these termination
25 interests. And they say: The termination interest

1 is, without a doubt, the most important interest
2 under the Copyright Act, other than the copyright
3 itself. That's paragraph 12, page 4.

4 And then it says: Upon an author's death, his
5 statutorily defined heirs, principally his surviving
6 spouse, so and so and so, have these rights.

7 Now I want to look at paragraph 32. And this
8 is Venisha Brown's own filing in a federal court.
9 It says: Importantly, an author -- and that would
10 be James Brown. An author's termination, intent,
11 and will are irrelevant to the operation of the
12 Copyright Act -- Act's termination, rights,
13 provision, and the rights and interests of the
14 statutory heirs, as designated.

15 They have told the Federal Court correctly that
16 Venisha's interests in these termination rights has
17 nothing to do with her father's estate; it is her
18 asset.

19 Now, it is more complex than that, of course.
20 But that is the primary asset. And in the documents
21 on file in this case, you will see that Venisha's
22 own expert has valued all of the termination rights
23 proceeds just in 2018 at 8.8 million. And this is
24 unrelated to her father's estate; this is something
25 she owns. And that would be of all the heirs. And

1 Venisha is known to be at -- somewhere between a
2 tenth and a fifteenth of the heirs, and it will be
3 affected by whether there was a spouse.

4 THE COURT: All right. I think that's seven
5 minutes.

6 MS. POPE: Thank you.

7 THE COURT: Ms. Cheeks?

8 MS. CHEEKS: Thank you, Your Honor. As far as
9 the contempt action is concerned, I understand Your
10 Honor's position in that regard; however, I think
11 you can rule on our summary judgment motion for
12 appointment, regardless --

13 THE COURT: Summary judgment motion for
14 appointment?

15 MS. CHEEKS: Yes, sir.

16 THE COURT: I've had a summary judgment on
17 everything I've heard today.

18 MS. CHEEKS: I know you have, Your Honor.

19 THE COURT: A summary judgment for the
20 appointment of --

21 MS. CHEEKS: Personal representative.

22 THE COURT: Is that recognized in the Probate
23 Code, summary judgment for appointment or --

24 MS. CHEEKS: We're in circuit court, Your
25 Honor. They put us in circuit court, so we --

1 THE COURT: You know, I highly disfavor summary
2 judgments.

3 MS. CHEEKS: I understand.

4 THE COURT: Particularly on matters I have very
5 little knowledge about.

6 MS. CHEEKS: But if you'll just hear me out,
7 Your Honor.

8 THE COURT: All right.

9 MS. CHEEKS: Of course, summary judgment -- a
10 summary judgment motion is based on there are no
11 genuine issues of fact.

12 THE COURT: All right.

13 MS. CHEEKS: There are no issues of fact here.
14 First of all, Ms. Brown Thomas is the only heir of
15 priority who is here today to be appointed.

16 THE COURT: Except that Ms. --

17 MS. CHEEKS: I said heir. She's definitely not
18 an heir.

19 THE COURT: All right.

20 MS. CHEEKS: Ms. Pope, if she is a creditor,
21 which we deny because she's not given even a
22 scintilla of evidence that she is a creditor of
23 Venisha Brown's estate -- everything she has
24 discussed with Your Honor has been related to the
25 James Brown estate. And when you asked her what --

1 how is she a creditor of the Venisha Brown estate,
2 she proceeded to tell you how everybody else might
3 be a creditor but herself. There's still no
4 evidence that she is a creditor of Venisha Brown's
5 estate. So --

6 THE COURT: But she's claiming to be a
7 creditor.

8 MS. CHEEKS: But even if she's claiming to be a
9 creditor, she's still, as she argued, a lower
10 priority than Deanna Thomas Brown -- Brown Thomas
11 is.

12 THE COURT: Given what I've heard about
13 everything today involving all the estate matters,
14 summary judgment is not the appropriate way to
15 address these issues, in my view. And I'm not going
16 to grant summary judgment when I'm going to have it
17 forwarded to the Supreme Court to review whether
18 Ms. Pope can be present to make an argument.

19 If the Supreme Court says, yeah, well, she has
20 standing because she's claiming to be a creditor,
21 then we have to evaluate the implication that this
22 statute in which she claims to be -- have priority
23 over the next of kin.

24 But we have to --

25 MS. CHEEKS: I don't think she's claiming to

1 have priority; she's saying that she can be
2 appointed. But I heard her say that Ms. Brown
3 Thomas has priority over creditors. Not only that,
4 Your Honor --

5 THE COURT: It says: In case of objection, the
6 priority stated in (A) apply, except that...

7 So the net effect is she's claiming that -- to
8 have priority over someone who otherwise would have
9 priority.

10 MS. CHEEKS: Well, even if she could be, Your
11 Honor, I think the Court also heard her say that
12 there's ongoing litigation between Venisha Brown and
13 Ms. Pope. So if there's ongoing litigation between
14 the two of them and this Court appoints her as the
15 personal representative, then she's the plaintiff
16 and the defendant in those cases.

17 THE COURT: And that would be a good reason why
18 she should not be appointed.

19 MS. CHEEKS: Why she should not be appointed.
20 Exactly.

21 THE COURT: Except that it could be information
22 overload in this case all in one day or -- I don't
23 know. But I'm not going to grant summary judgment.

24 MS. CHEEKS: Is the Court open to granting
25 appointment then? I mean, that's the whole

1 reason that this is -- that we started this.

2 THE COURT: We will need to review it after the
3 Supreme Court reviews it. I think that's the --
4 we're back to the same --

5 MS. CHEEKS: So we'll have to come back to the
6 Court for appointment, is the bottom line of it?

7 THE COURT: Yes. We need to address the
8 issues. I'm not precluding anyone from -- I mean,
9 the -- I'm not sure what the -- you know, the
10 urgency of confirming the appointment today in a
11 matter that's been going on for many years.

12 MS. CHEEKS: Well, the only urgency, Your
13 Honor, is that there are several cases out there
14 that Ms. Brown Thomas is the pending personal
15 representative for her sister's estate, and nothing
16 has been confirmed on that yet.

17 THE COURT: All right. Well --

18 MS. CHEEKS: And, Your Honor, if you -- I'm
19 sorry. If you recall, this issue was raised in the
20 previous hearing. And the Court said the same
21 thing; that they would submit it to the Supreme
22 Court at that time.

23 THE COURT: Yeah. And we got a transcript of
24 it, and I didn't submit it. But now we're here
25 again, and I will submit it. So I'll submit both

1 transcripts. And then, hopefully, on an expedited
2 basis, the Court will address it.

3 But as soon as we find out whether or not
4 they're going to give Ms. Pope status to do as she's
5 seeking to do in this case as opposed to saying
6 she's in contempt of court and she's improperly
7 seeking to frustrate the administration of this
8 estate or whatever they might say, she indicates
9 this is a career-threatening move on the part of
10 this Estate to -- against her. And the Supreme
11 Court has issued its ruling.

12 Who wants a transcript of this hearing -- this
13 hearing? Anyone intends -- all right. Mr. Black.

14 MS. LANE: We will probably request one, Your
15 Honor.

16 THE COURT: All right. So I'm just -- you
17 know, the court reporters charge for these
18 transcripts. And if the Judge orders one, then it's
19 free. So I want to get a copy of what someone else
20 has ordered.

21 MR. BLACK: We'll be happy to arrange that with
22 the court reporter, Your Honor.

23 THE COURT: All right.

24 So, Madam Court Reporter, when you perform it
25 for Mr. Black and anyone else, please provide me

1 with a copy as soon as possible so we can have the
2 Supreme Court review this and, you know, we get an
3 early ruling.

4 I'm going to be in Bamberg with little to no
5 business that week and I'm filling it in with all
6 these other hearings. I'm happy to address this one
7 too.

8 MR. GENDE: Your Honor, others and I represent
9 the plaintiffs in Case 4900, as you heard this
10 morning, and want to supplement whatever you're
11 sending to the Supreme Court, because I would want
12 to underline what Ms. Cheeks just pointed out that
13 Ms. Pope is attempting to be a plaintiff and a
14 defendant in the estate.

15 THE COURT: All right.

16 MR. GENDE: And I think that there are numerous
17 problems with that request. Is there an afternoon
18 for us to do that?

19 THE COURT: Anything that is submitted to me, I
20 will submit to the Supreme Court.

21 MR. GENDE: Thank you, Your Honor.

22 MS. POPE: Your Honor, may I have an
23 opportunity to reply with things that are being
24 submitted by nonparties to Your Honor for submission
25 to the Supreme Court of --

1 THE COURT: Nonparties? He is a party, isn't
2 he? He represents a party.

3 MS. POPE: No. No, Your Honor, he is not a
4 party.

5 MR. GENDE: I represent the parties in Case
6 4900.

7 THE COURT: In which --

8 MR. GENDE: And Venisha is one of the clients
9 that I represent. So this impacts Case 4900.

10 THE COURT: I think you can address the issue
11 as well.

12 MR. GENDE: Thank you, Your Honor.

13 THE COURT: And as far as replying, you don't
14 need to reply to me; you would want to reply to the
15 Supreme Court because it's going to be submitted to
16 them. I'm sure they would want to know your
17 position concerning it. So --

18 MS. POPE: So Your Honor --

19 THE COURT: So you would have every opportunity
20 to respond to them.

21 MS. POPE: So -- so we submit it to Your Honor
22 or -- how should we do this? Online? How should we
23 do this? I mean, this is very serious.

24 THE COURT: Matters are typically sent to me
25 electronically. And either I print it and submit it

1 to the Supreme Court or they make a copy or get a
2 copy mailed to them or whatever means that is
3 acceptable to the Court.

4 MS. POPE: Thank you.

5 THE COURT: So we will -- you know, I recall
6 the earlier hearing. And Ms. Brown was given a
7 period of time to get counsel. But now she has two
8 counsels or --

9 MS. CHEEKS: Co-counsel.

10 THE COURT: Co-counsel. So that's been
11 addressed. And now we have the new glitch which
12 must be addressed after we have the Supreme Court
13 weigh in on whether or not Ms. Pope appearing is
14 proper or in violation of the Supreme Court's order.

15 But for me to go through this litigation
16 blindly of the fact that the Supreme Court has
17 issued this order would be a dereliction of my
18 responsibility, which I'm unwilling to do. And,
19 with that, we will adjourn.

20 MS. CHEEKS: Your Honor, before you -- is
21 there -- did you say we need to submit briefs to the
22 Supreme Court? Is that the procedure?

23 THE COURT: No, I didn't say that. Submit the
24 transcript.

25 MS. CHEEKS: Okay.

1 THE COURT: Mr. Black indicates he wanted to
2 weigh in to supplement whatever by explaining --

3 MS. CHEEKS: So there's nothing for us to do
4 with --

5 THE COURT: No.

6 MS. CHEEKS: -- this submission?

7 THE COURT: No.

8 MR. GENDE: I'm going to submit something to
9 Your Honor and you will forward it to --

10 THE COURT: I'm not seeking to have you-all
11 argue anything to the Supreme Court vicariously
12 through me. I don't -- I'm not soliciting anything
13 from anyone --

14 MS. CHEEKS: Okay.

15 THE COURT: -- other than soliciting a copy of
16 that transcript, free of charge, that's going to be
17 charged to Mr. Black or whomever else she charges.

18 MR. GENDE: I just want to make sure I will
19 submit my document to the correct place. That's to
20 you; not to argue in front of you, but for you to
21 bundle whatever you send up to the Court. Correct?

22 THE COURT: That's correct.

23 MR. GENDE: Thank you, Your Honor.

24 MS. POPE: And, of course, we would be provided
25 a copy?

1 THE COURT: Well, you should send Ms. Pope a
2 copy of whatever you send to me.

3 MR. GENDE: Correct, Your Honor.

4 THE COURT: All right. Very good. Thank
5 you-all.

6 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Aiken County, South Carolina, on the 31st of January, 2020.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 2, 2020

s/ *Bethanie K. Creppon*Bethanie K. Creppon
Circuit Court Reporter