

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Laurens County  
The Honorable Robert Frank Addy, Jr. Circuit Court Judge

\_\_\_\_\_  
Case No 20010-GS-30-1929

**RECEIVED**  
JUN 11 2013  
**SC Court of Appeals**

The State,

Respondent,

vs.

Richard Brandon Lewis,

Appellant.

\_\_\_\_\_  
Motion for Bond Pending Appeal  
\_\_\_\_\_

Pursuant to Rule 246 of the South Carolina Appellate Court Rules, Richard Brandon Lewis, the Appellant herein, moves the Court for an order granting him bail in this matter during any further appeal by the state. This motion is based upon the following:

FACTS OF CASE

The facts of this case are fully set forth in the order of this Court decided on May 15, 2013 in which this Court reversed the conviction of Mr. Lewis on the ground that the facts were not sufficient to convict Mr. Lewis of the crime of aiding and abetting homicide by child abuse. Mr. Lewis was arrested on September of 2010 approximately 11 months after the death of the child. Mr. Lewis was released on a Twenty-five thousand (\$25,000) surety bond. He was

permitted to post 10% in cash. Mr. Lewis was permitted by the trial judge to remain free during the eight day trial.

#### DISCUSSION OF MERITS FOR APPEAL BOND

This Court has now determined that the facts were not sufficient to convict Mr. Lewis of the crime of homicide by child abuse. In the event the state seeks a petition for writ of certiorari, the decision in this case may not become final for close to one year.

#### Granting of Appeal Bond

When Brandon Lewis applied for an appeal bond before the lower court, the only factor by which the trial judge determined an appeal bond would not be granted is the probability of reversal on appeal. All other factors the trial judge decided weighed in favor of Mr. Lewis.

This Court has now reversed the conviction

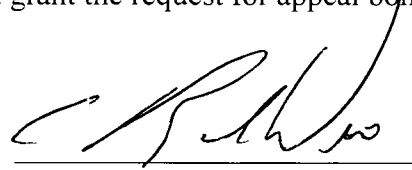
In addition to the above, Daniel Hepburn, the father of Audrina Hepburn, the child who was killed, supported the granting of an appeal bond for Mr. Lewis in Mr. Lewis original application for an appeal bond. *See* Affidavit of Daniel Hepburn attached as Exhibit A.

Substantial justice in this matter can be served by granting the appeal bond to Mr. Lewis. If the decision of this Court is reversed by the South Carolina Supreme Court, the State will still be able to require Mr. Lewis to serve the remainder of his sentence. But if the appeal bond is not granted and the decision of this Court is affirmed by the South Carolina Supreme Court, the state will never be able to give back to Mr. Lewis the time he lost while the South Carolina Supreme Court reviewed his case.

CONCLUSION

For the foregoing reasons, this Court should grant the request for appeal bond.

June 6, 2013

A handwritten signature in black ink, appearing to read 'C. Rauch Wise', written over a horizontal line.

C. RAUCH WISE  
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S. C. Bar № 06188

Attorney for Brandon Lewis

STATE OF SOUTH CAROLINA

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Affidavit of Daniel Hepburn

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PERSONALLY Appeared before me DANIEL HEPBURN, who after being duly sworn deposes and says:

1. I am the father of Audrina Hepburn who was killed by her mother, Ashley Hepburn.
2. I have attended every hearing involving the death of my daughter. This would include bond hearings, the preliminary hearing and the Department of Social Services hearing held to determine if Ashley Hepburn killed my daughter and to determine if she should be placed on the central registry. I also attended every day of the eight day trial that resulted in the conviction of Ashley Hepburn for homicide by child abuse and of Brandon Lewis for aiding and abetting homicide by child abuse.

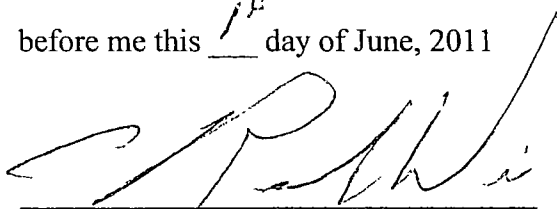
3. At the hearing and trial I have listened carefully to all the witnesses and had the opportunity to observe the witnesses as they testified. The jury deliberated in this case for over eight hours over two days. During the time the jury deliberated I had the opportunity to speak at length with Brandon Lewis concerning this matter. Prior to that I had not had the opportunity to speak to Brandon. After the jury verdict was announced and prior to sentencing I did advise the trial court that based upon what I had heard and observed during the trial I did not care if Brandon Lewis walked out of the courthouse that day. I do not believe that he deserved to be incarcerated.

4. I give this affidavit in support of the motion of Brandon Lewis for an appeal bond in this matter. Brandon Lewis is certainly not a danger to me and I do not believe that he is a danger to anyone else. I believe that he should have the opportunity to remain free while this court decides the issues raised during the trial.

5. I have voluntarily given this affidavit as after the sentencing I advised counsel for Brandon that I would like to see Brandon free during his appeal. This affidavit is given and based solely upon my having attended the trial and having the opportunity to listen to the testimony and observe the witnesses.


SWORN to and subscribed

before me this 1<sup>st</sup> day of June, 2011



Notary Public for South Carolina

My commission expires: 12/07/2009

  
DANIEL HEPBURN