

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

FILED GENERAL SESSIONS
8TH JUDICIAL CIRCUIT
GREENWOOD, SC
2013 AUG 22 AM 9 05

APPEAL FROM GREENWOOD COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

General Sessions Case Nos. 11-GS-24-1328

The State, Respondent

v.

MATTHEW ANTWAIN JACKSON, Appellant.

Handwritten initials

NOTICE OF APPEAL

MATTHEW ANTWAIN JACKSON appeals his conviction and sentence in this case. The Honorable Frank R. Addy, Jr. imposed sentence on August 8, 2013, following a guilty verdict after a jury trial conducted in Greenwood County. Defendant filed a Motion for New Trial on August 16, 2013, which was denied by Order of Judge Addy on August 19, 2013. This appeal is taken from the conviction and sentence and denial of Defendant's motion for new trial.

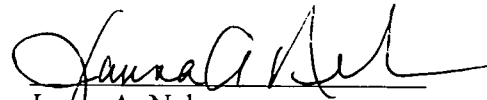
Pursuant to S.C.R.App.P. 203(d)(1)(B)(iv), the issues raised during the trial which are reviewable on appeal are, at a minimum, the following:

1. Whether the court erred in admitting Exhibit 22 over objection of Defendant;
2. Whether the court erred in refusing to give instructions on the lesser included offenses of Assault and Battery in the Second Degree and Cruelty to Children;
3. Whether the court erred in denying Defendant's motion to require the State to open fully on the law and the facts and use any final argument strictly as rebuttal, resulting in Defendant not having the opportunity to address arguments made by the State in its closing argument; and
4. Whether the court erred in denying Defendant's motion for new trial based on the cumulative error doctrine.

A copy of Appellant's Motion for New Trial is attached to show that the above issues were raised in the court below.

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SC Court of Appeals

August 22, 2013



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Other Counsel of Record:

Elizabeth P. White, Esquire
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The State, Respondent

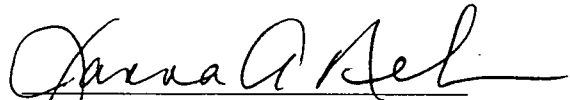
v.

MATTHEW ANTWAIN JACKSON, Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the State of South Carolina, by hand delivering a copy, on date reflected below, to:

Elizabeth P. White, Esquire
Assistant Solicitor, Greenwood County
Suite 203, Park Plaza
Greenwood, South Carolina 29646



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August 22, 2013

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respond to several issues raised by the State in its closing argument. The things the Defendant was denied the opportunity to address are as follows:

(a) The State argued that the jury could render a verdict based on a "gut feeling." This is obviously telling the jury they could reach a verdict based simply on emotion and is not anywhere closed to the true standard of a finding of guilty beyond a reasonable doubt based on the evidence presented;

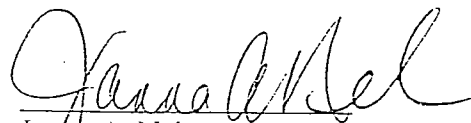
(b) The prosecutor commented that by her count, Mr. Jackson had told five or six different stories about what happened. In fact, the evidence showed that Mr. Jackson has only given one version of what happened prior to the trial, which was that the child had fallen off the couch;

(c) The state used an infant CPR doll to demonstrate the child's fall as described by Defendant in his testimony. Defendant did not have an opportunity to inform the jury of any height or weight difference that existed between the infant CPR doll and the 23-month old child victim. The doll used was obviously much smaller and lighter than the 23-month old child who was the alleged victim in this case. Defendant should have had an opportunity to explain to the jury that the State's demonstration was unreliable.

4. The Court should grant a new trial based on the cumulative error doctrine which requires a new trial when a combination of errors prevents a party from receiving a fair trial. E.g., State v. Blurton, 342 S.C. 500, 537 S.E.2d 291 (Ct. App. 2000) reversed on other grounds 352 S.C. 203, 573 S.E.2d 803 (2002).

For the foregoing reasons, this Court should grant Defendant's motion for new trial.

IT IS SO MOVED.



Janna A. Nelson
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August 16, 2013
Greenwood, South Carolina

CERTIFICATE OF SERVICE

The undersigned certifies that she has served this Motion for New Trial by hand on both opposing counsel and The Honorable Frank R. Addy, Jr., at 528 Monument St., Suite 210, Greenwood, SC, on August 16, 2013.

A handwritten signature in cursive script, appearing to read "Janna A. Nelson", written over a horizontal line.

Janna A. Nelson
Attorney for Defendant Matthew Antwain Jackson

OFFICE OF THE PUBLIC DEFENDER
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March 5, 2013

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: State v. Matthew Antwain Jackson
Indictment Number: 11-GS-24-1328

Dear Ms. Kitchings:

Enclosed please find seven (7) copies of a Notice of Appeal in the above-referenced case. The original has been filed in the General Sessions Court for Greenwood County.

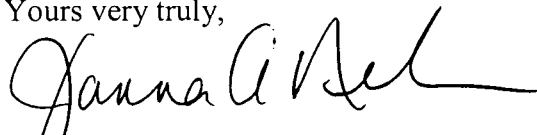
Please file the Notice of Appeal and return a copy to me in the enclosed, stamped envelope.

By copy of this letter to the Office of Appellate Defense, I am advising that office that this appeal has been filed.

Thank you for your attention to this matter.

With kindest regards, I am

Yours very truly,



Janna A. Nelson

Enclosures

cc: Office of Appellate Defense

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