

**SCCID**

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

October 14, 2015

**RECEIVED**

OCT 14 2015

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: State v. Travis Abe Polite, Appellate Case No. 2015-000182  
REQUEST CASE BE HELD IN ABEYANCE

Dear Ms. Kitchings:

The initial brief of appellant and designation of matter in the above case is due to be served and filed on October 20, 2015. Counsel was out of the office on maternity leave from July 30, 2015 through October 8, 2015 and the SCCID office was closed on October 8 and 9, 2015. Upon returning to the office, counsel prepared and filed the petition for writ of certiorari to the Court of Appeals in the case of Martin Floyd v. State with the Supreme Court on October 12, 2015. Counsel then resumed work on Mr. Polite's case and discovered that a portion of the testimony from the Jackson v. Denno hearing is missing from the transcript. See Trial Tr. pp. 70-71, attached.

We have requested the missing portion transcript today and would request that the time limits be held in abeyance pending receipt of it. A copy of our request to the court reporter is attached hereto. Counsel will continue working on this case to ensure that the brief and designation are promptly filed following receipt of the missing portion of the transcript.

By copy of this letter, I am informing Donald J. Zelenka, Esquire, of the Attorney General's Office, of this request.

Please contact me if you have any questions or need additional information.

Sincerely,

Laura R. Baer  
Appellate Defender

Enclosures

cc: Donald J. Zelenka, Esq.  
Travis Polite (w/out encl.)



# SCCID

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SC Court of Appeals

Ms. Karen Anderson  
Circuit Court Reporter  
3592 Somerset Hills Court  
Mount Pleasant, SC 29466

Re: State v. Travis Abe Polite  
General Sessions Case Info:  
Beaufort County  
January 20-22, 2015  
Case No. 2012-GS-07-02233 and -02234  
Presiding Judge: Brooks P. Goldsmith  
Appellate Case No. 2015-000182

Dear Ms. Anderson:

Upon review of the transcript in the above-referenced case, it appears that a portion of the testimony from the Jackson v. Denno hearing is missing from the transcript. See Trial Tr. pp. 70-71, attached. Please review the recording from Mr. Polite's trial to see if the missing portion of the testimony is available, in which I case I would ask you to provide a new transcript of the trial with the missing testimony included. If the missing testimony is not available due to an equipment malfunction, please write to me indicating such so that I can file the necessary motion to reconstruct that portion of the trial.

Please contact me if you have any questions or need additional information. I appreciate your prompt assistance in this matter.

Sincerely,

Laura R. Baer  
Appellate Defender

Enclosure

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STATE OF SOUTH CAROLINA	)	
	)	Court of General Sessions
COUNTY OF BEAUFORT	)	Case No. 2012-GS-07-02233
	)	and Case No. 2012-GS-07-02234
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STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	Transcript of Record
	)	
TRAVIS ABE POLITE,	)	
	)	
Defendant.	)	Date: January 20 - 22, 2015
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B E F O R E:

THE HONORABLE BROOKS P. GOLDSMITH

A P P E A R A N C E:

SEAN THORNTON and HUNTER SWANSON  
Assistant Solicitors for the State of South Carolina

GENE G. HOOD and LAUREN CARROWAY  
Attorneys for the Defendant

Karen V. Andersen, RMR, CRR, CSR  
Circuit Court Reporter

1 Q. And at any time, was he threatened to try to get him  
2 to provide a statement?

3 A. No.

4 Q. No question as to that he was in custody?

5 A. Correct.

6 MR. THORNTON: Your Honor, for the purpose of this  
7 hearing, the State will concede that he was in custody when  
8 he was questioned by law enforcement.

9 That's all I have for this witness. I have -- and,  
10 I'm sorry, as to the second statement, who was with you on  
11 the second statement, if anybody?

12 THE WITNESS: Investigator Rice was present. I  
13 believe Investigator Rice was the one that read the Miranda  
14 form to him.

15 BY MR. THORNTON:

16 Q. Investigator Rice was the one that actually signed  
17 it?

18 A. Yes.

19 MR. THORNTON: If I haven't done this, I'm going to  
20 ask State's Exhibit 2 be moved into evidence for the purpose  
21 of this hearing.

22 MR. HOOD: I have one matter.

23 CROSS-EXAMINATION

24 BY MR. HOOD:

25 Q. I believe that the second time when Mr. Polite

1 called you and you guys came over to the jail to talk to him  
2 about this matter, that the reason that he had called you was  
3 because his wife was being threatened by Mr. Tucker  
4 apparently; is that correct?

5 A. I don't recall that. I recall he had concern for  
6 his family. And he had requested that we provide some form  
7 of protection for him.

8 Q. Protection for his family; is that correct?

9 A. Yes.

10 THE COURT: So motion is granted.

11 MR. THORNTON: Thank you, Your Honor.

12 And the only other thing I would ask is, and we may  
13 have already touched on this, I apologize, but this one was  
14 audio only, not video.

15 THE WITNESS: That's correct.

16 MR. THORNTON: Thank you. I have no further  
17 questions, Judge. The State would call Andrew Rice to the  
18 stand.

19 (State's Exhibit 2, Miranda Warning, is moved into  
20 evidence.)

21 ANDREW RICE,

22 having been duly sworn, testifies as follows:

23 THE CLERK: State your name and spell it for the  
24 record.

25 THE WITNESS: Andrew Rice, A-n-d-r-e-w, R-i-c-e.