

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

RECEIVED

JAN 04 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

V.

IVORY BLACKSHIRE,

APPELLANT.

Appellate Case No. 2015-000725

PETITION FOR AN ORDER TO RECONSTRUCT
THE RECORD OF APPELLANT'S
TRIAL TRANSCRIPT, OR, IN THE ALTERNATIVE,
AN ORDER SETTING ASIDE HIS CONVICTIONS
AND ORDERING A NEW TRIAL

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, undersigned counsel requests an order requiring the parties to reconstruct Appellant's trial transcript. In the alternative, Appellant requests an order setting aside his convictions and ordering a new trial.

In accordance with Rule 240(c), SCACR, Counsel submits the following documents to support his motion: amended notice of appeal and certificate of service (Exhibit #1); request for trial transcript dated April 29, 2015 (Exhibit #2); redacted email from court reporter dated

September 21, 2015 (Exhibit #3); redacted indictment #2014-GS-02-553 (Exhibit #4); verdict form (Exhibit #5); redacted sentence sheet (Exhibit #6); receipt for exhibits (Exhibit #7); copy of envelope from Clerk of Court regarding Jackson v. Denno, 378 U.S. 368 (1964) hearing exhibits (Exhibit #8); defendant's pretrial motions (Exhibit #9); and defendant's requested voir dire (Exhibit #10).

Appellant was tried before the Honorable Doyet A. Early, III, and a jury on March 23, 2015 through March 2015. Exhibit #1. Appellant was represented by Michael Chessner and the state was represented by Ashley Hammack of the Aiken County Solicitor's Office. Exhibit #1. On April 16, 2015, Appellant filed a notice of appeal. Exhibit #1. Upon receipt of appointment to represent Appellant, this office requested the trial transcript on April 29, 2015 from the court reporter, Bethanie K. Creppon. Exhibit #2. After several follow-up requests, on September 21, 2015, our office received an email from the court reporter indicating she would be "unable to produce this transcript." According to the court reporter, her "car was broken into on June 3rd and all of [her] equipment, including [her] backup external hard drive, was stolen." Thus, the court reporter had "nothing from September 2014 through June 2015." Exhibit #3.

The case was assigned to undersigned counsel on October 15, 2015. On that date, undersigned counsel advised Appellant of her assignment, the unavailability of the transcript, and the next steps, including the necessity of gathering information in order to request reconstruction, or, in the alternative, a new trial. Thereafter, undersigned counsel sought records from the Aiken County Clerk of Court and trial counsel. Having received and reviewed those records, undersigned counsel now files this motion.

Appellant was indicted on April 10, 2014 by the Aiken County grand jury for homicide by child abuse (2014-GS-02-553). Exhibit #4. On March 25, 2015, the jury found Appellant

guilty as charged. Exhibit #5. On March 26, 2015, Judge Early sentenced Appellant to thirty years' imprisonment. Exhibit #6. According to the Aiken County Clerk of Court's receipt for exhibits, thirty-two photographs were entered as state's exhibits. Exhibit #7. Additionally, several documents and digital media were admitted regarding statements allegedly made as state's exhibits. Exhibit #7. Furthermore, two photographs, a CD, and a transcript were made court's exhibits, indicating the likelihood of objections being interposed as to those. Exhibit #7. There were no exhibits admitted by the defense. Exhibit #7. Pursuant to undersigned's inquiries with the Aiken County Clerk of Court, it appears all exhibits remain available.

Undersigned received an envelope from the Aiken County Clerk of Court containing exhibits from the Jackson v. Denno hearing. Exhibit #8. Thus, it appears there was a hearing challenging Appellant's alleged statements to police. Further, the Aiken County Clerk of Court provided a clocked copy of a document entitled "Defendant's Pretrial motions," indicating Appellant would challenge the admissibility of statements purportedly made by him to law enforcement, challenge the admissibility of photographs, request redaction of statements, challenge the admissibility of an alleged prior injury of the deceased, and request the compensation of anticipated medical experts. Exhibit #9. Additionally, undersigned is aware that trial counsel prepared requested voir dire in the case. Exhibit #10. Presently, it is unknown whether these questions were posed by the judge during the voir dire process or whether any jury selection/qualification issues existed.

Counsel is working to ascertain the number and names of the witnesses who testified at trial, but whose testimony is not available due to the lack of a transcript.

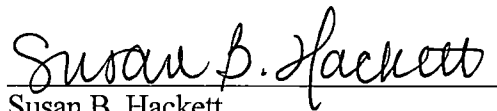
When a trial transcript has been lost or destroyed, the Court may remand to have the record reconstructed. Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002); China v. Parrott,

251 S.C. 329, 162 S.E.2d 276 (1968); Koon v. State, 358 S.C. 359, 367, 595 S.E.2d 456, 460 (2004); Dolive v. J.E.E. Developers, Inc., 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App. 1992); State v. Ladson, 373 S.C. 320, 325, 644 S.E.2d 271, 273-274 (Ct. App. 2007). The entirety of Appellant's trial transcript has been lost and is no longer available through no fault of Appellant based on the theft of the court reporter's machinery. Therefore, meaningful review of the record below is not possible with the current transcript. Appellant seeks reconstruction of the record to permit meaningful appellate review of his trial.

In the alternative, Appellant requests this Court set aside his convictions and sentences and remand for a new trial because the transcript fails to permit meaningful review. In Deaton v. Leath, 279 S.C. 82, 84, 302 S.E.2d 335, 336 (1983), the defendant's convictions were set aside and a new trial had where the court reporter's equipment malfunctioned and there was no transcript of the trial court proceedings in the case from which to base an appeal. Citing Deaton, this Court denied a request for reconstruction in State v. Serrette, 375 S.C. 650, 652-653, 654 S.E.2d 554, 555 (Ct. App. 2007) where the reason for the lack of transcript was due to the defendant's absence for a ten-year period, which this Court explained was "not a situation where the court reporter's equipment malfunctioned at trial leading to a loss of the trial transcript." Appellant was not at fault for the absence of the entirety of his transcript. As a result, Appellant requests this Court order a new trial in his case.

WHEREFORE, the undersigned counsel requests an order for the reconstruction of Appellant's trial transcript in order to perfect Appellant's direct appeal in the case. In the alternative, Appellant requests this Court set aside his convictions and remand for a new trial. While this petition is pending, Appellant asks this Court to hold the timelines for filing his initial brief and designations in abeyance.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan B. Hackett". The signature is written in black ink and is positioned above a horizontal line.

Susan B. Hackett
Appellate Defender

Attorney for Appellant

This 4th day of January, 2016.

Exhibit 1

**AMENDED NOTICE OF APPEAL
THE STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals**

**APPEAL FROM AIKEN COUNTY
Court of General Sessions
Doyet A. Early, III, Circuit Court Judge**

Case No: 2014-GS-02-553


State of South Carolina, Respondent
Vs.
Ivory Blackshire, Appellant

NOTICE OF APPEAL

Ivory Blackshire was tried by a jury in Aiken County March 24th and 25th of 2015. Blackshire was found guilty by a jury on March 25th and sentence was imposed on March 26th, 2015. Blackshire hereby gives notice of the appeal of his conviction and sentence. The Court Reporter was Bethanie K. Creppon, PO Box 85411, Lexington, SC, 29073.

Other Counsel of Record:
Aiken County Solicitor's Office
Ashley Hammack, Assistant Solicitor
109 Park Avenue, SE
PO Drawer 3368
Aiken, SC 29802-3368
(803) 642-1557
Attorney for State/Respondent

April 16, 2015


Michael Chesser
PO BOX 1018
AIKEN, SC 29802
803-646-1166
chesserlaw@gmail.com
Attorney for the Defendant (trial)

THE STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of General Sessions
Doyet A. Early, III, Circuit Court Judge

Case No: 2014-GS-02-553

State of South Carolina,..... Respondent
v.
Ivory Blackshire,.....Appellant

CERTIFICATE OF SERVICE

I, Michael Chesser, do hereby certify that I have this day served the Appellant's Amended Notice of Intent to Appeal upon the South Carolina Court of Appeals, and also with the Clerk of Court of Aiken County, by placing same in the United States Mail properly addressed and with correct postage affixed thereto:

South Carolina Court of Appeals
Attn: Notice of Appeal (GS)
PO BOX 11629
COLUMBIA, SC 29211

Office of the Attorney General
Attn: Notice of Appeal (GS)
PO Box 11549
COLUMBIA, SC 29211-1549

South Carolina Commission
Of Indigent Defense
Attn: Division of Appellate Defense
Notice of Appeal (GS)
PO Box 11589
COLUMBIA, SC 29211-1589

Ashley Hammack, Assistant Solicitor
109 Park Avenue, SE
PO Drawer 3368
Aiken, SC 29802-3368

The Honorable Liz Godard
Clerk of Court for Aiken County
Attn: Notice of Intent to Appeal
PO Box 583
Aiken, SC 29802-583

April 16, 2015



Michael Chesser
Attorney for the Defendant (trial)
PO BOX 1018
AIKEN, SC 29802
chesserlaw@gmail.com
803-646-1166

Exhibit 2



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

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

April 29, 2015

Ms. Bethanie K. Creppon
Circuit Court Reporter
P.O. Box 85411
Lexington, SC 29073

Dear Ms. Creppon:

Please provide us with the following transcript:

The State v. Ivory Blackshire, Appellate Case No. Case #: 14-GS-02-553
2015-000725

County: Aiken

Date of Trial: March 23-26, 2015 (Pretrial and Trial)

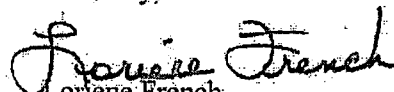
Presiding Judge: Doyet A. Early, III

Pursuant to the SC Court Reporter's Manual, please number the lines on the paper from 1-25, and include any and all recorded motions, pre and post-trial. Consecutive numbering of pages must be used throughout all volumes regardless of the number of volumes involved. Additionally, please transcribe the jury selection, and the State and defense counsel's opening and closing arguments, and include the jury strike sheet. Please be sure to include Headers and a complete index including a listing of exhibits.

If you are aware of any co-defendants or if the Attorney General's Office has already requested a transcript, please let us know.

To ensure prompt payment, please sign and complete the enclosed CID FORM 3500 and include the original criminal case number (Indictment number) where the space is provided.

Sincerely,


Loriane French
Legal Services Coordinator

cc: S.C. Court of Appeals
Attorney General's Office

Exhibit 3

Loriene P. French

From: Loriene P. French
Sent: Monday, September 21, 2015 11:21 AM
To: 'Creppon, Bethanie'
Subject: RE: Ivory Blackshire

Okay, thank you!

Loriene

-----Original Message-----

From: Creppon, Bethanie [mailto: [REDACTED]]
Sent: Monday, September 21, 2015 11:07 AM
To: Loriene P. French
Subject: RE: Ivory Blackshire

?Loriene,

I will be unable to produce this transcript. I advised the attorneys and Court Administration of this and thought you-all were made aware also. My car was broken into on June 3rd and all of my equipment, including my backup external hard drive, was stolen. I have nothing from September 2014 through June 2015. I am very sorry for any inconvenience this horrible situation has caused.

Bethanie K. Creppon
Circuit Court Reporter to
The Honorable Doyet A. Early, III
PO Box 85411
Lexington, SC 29073
(803) 399-8167

From: Loriene P. French < [REDACTED] >
Sent: Monday, September 21, 2015 10:49 AM
To: Creppon, Bethanie
Subject: FW: Ivory Blackshire

Ms. Creppon,

Can you please let me know the status of this transcript? I have it was due June 29, 2015, and I have not received any extensions from Court Administration. Thanks!

Loriene French

From: Loriene P. French
Sent: Wednesday, April 29, 2015 11:28 AM
To: 'Creppon, Bethanie'
Subject: Ivory Blackshire

Ms. Creppon,

I have attached a request for the pretrial and trial hearing transcript for the above matter. I will mail the original request to you today. Thanks!

Loriene French

Div of Appellate Defense

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received

this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

# Exhibit 4

WITNESSES

Aiken County Sheriff

Kim Sievers

Law Enforcement Case #: 13-050747

DOCKET NO. 2014GS0200553

**The State of South Carolina**

County of Aiken

AAH

**COURT OF GENERAL SESSIONS**

ARREST WARRANT NUMBER

APRIL TERM 2014

2013A0210200856

FILED April 10 2014  
Liz Hodard  
U.C.C.P. & G.S.  
Sharon Higgins SS  
Deputy Clerk

THE STATE

vs.

IVORY JAMES BLACKSHIRE

ACTION OF GRAND JURY

true bill

Foreperson of Grand Jury

Date: April 10, 2014

Robert Wade

VERDICT

CDR #: 2356

Indictment for

HOMICIDE BY CHILD ABUSE

§ 16-03-0085(A)(1)

Foreperson of Petit Jury

Date:

**J. STROM THURMOND, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )  
 )

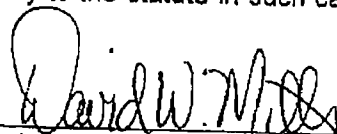
INDICTMENT FOR  
HOMICIDE BY CHILD ABUSE

§ 16-03-0085(A)(1)

At a Court of General Sessions, convened on April 14, 2014, the Grand Jurors of Aiken County present upon their oath:

That IVORY JAMES BLACKSHIRE did in Aiken County on or between August 27, 2013 and August 29, 2013, commit the crime of Homicide By Child Abuse in violation of South Carolina Code Section 16-3-85, in that the defendant did cause the death of **Minor** a child two (2) years of age, while committing child abuse or neglect as defined by South Carolina Code Sections 16-3-85(B)(1) and 16-3-85(B)(2), and the death of said child occurred under circumstances manifesting an extreme indifference to human life, in that Ivory James Blackshire was responsible for the welfare of said child and the defendant did inflict or fail to protect the child from physical injury. All in violation of South Carolina Code of Laws (1975), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



J. STROM THURMOND, SOLICITOR

# Exhibit 5

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
THE STATE OF SOUTH CAROLINA

Plaintiff

vs.

IVORY JAMES BLACKSHIRE

Defendant

) IN THE COURT OF GENERAL SESSIONS  
) FOR THE SECOND JUDICIAL CIRCUIT  
) Indictment Number: 2014-GS-02-00553

**VERDICT FORM**

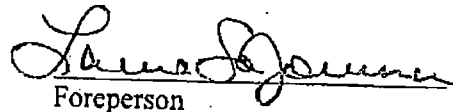
As to the offense of **Homicide By Child Abuse**, we the Jury find the Defendant

\_\_\_\_\_ Not Guilty

\_\_\_\_\_ Guilty

**WE UNANIMOUSLY AGREE.**

March 25, 2015

  
Foreperson

# Exhibit 6

STATE OF SOUTH CAROLINA

COUNTY OF Aiken VS. STATE

Ivory James Blackshire

AKA:

Race: Black Sex: M Age: 29

DOB: SS#:

Address:

City, State, Zip: Aiken, SC 29801

DL#: SID#: SC02118717

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Murder / Homicide by child abuse

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS0200553

A/W#: 2013A0210200856

Date of Offense: 8/29/2013

S.C. Code §: 16-03-0085(A)(1)

CDR Code #: 2356

SENTENCE SHEET

20 years - life

CONVICTED OF or PLEADS

in violation of § 16-03-0085(A)(1) of the S.C. Code of Laws, bearing CDR Code # 2356
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted. Lesser Included Offense. Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation. Negotiated Sentence. Recommendation by the State.

ATTEST: Ashley A. Hammack 80176 SC Bar# Defendant
Ashley Agnew SC Bar# Attorney for Defendant
12/12 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (DUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), TOTAL \$133.90

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court Deputy Clerk: Sharon Skipper
Court Reporter: Bethany Crupper
SCCA/217 (03/2011)

Presiding Judge: [Signature]
Judge Code: 0136
Sentence Date: March 26, 2015

# Exhibit 7

RECEIPT FOR EXHIBITS

Fill

Case No: 2014 GS-02-00553  
-02-

Judge: EARLY

Plaintiff: State of SC

State/Plf. Atty. Ashley Hammack  
Sam Grimes

vs  
Defendant: Ivory Blackshire

Def's Atty. Michael Chesser

Trial Date: 3-23-15 - 3-25-15

Received of Bethanie Creppon, Court Reporter for the above case, these exhibits:

| STATE/PLF |                               |       | DEFENDANT |             |       | COURT |                    |       |
|-----------|-------------------------------|-------|-----------|-------------|-------|-------|--------------------|-------|
| #         | Description                   | coc # | #         | Description | coc # | #     | Description        | coc # |
| 1         | Photo-eye                     |       |           |             | ✓ 1   | 1     | Photo-autopsy      |       |
| 2         | Photo-body                    |       |           |             | ✓ 2   | 2     | Photo-autopsy      |       |
| 3         | Photo-back                    |       |           |             | ✓ 3   | 3     | Transcription of   |       |
| 4         | Photo-eye/face                |       |           |             |       |       | Video and audio    |       |
| 5         | Photo-head/neck               |       |           |             |       |       | interviews of      |       |
| 6         | Photo-head/neck               |       |           |             |       |       | Defendant          |       |
| 7         | Photo-upper body              |       |           |             | ✓ 4   | 4     | CD-Video Interview |       |
| 8         | Photo-bruise jaw              |       |           |             |       |       |                    |       |
| 9         | Photo-bruise neck             |       |           |             |       |       |                    |       |
| 10        | Photo-bruise arm              |       |           |             |       |       |                    |       |
| 11        | Photo-bruise arm              |       |           |             |       |       |                    |       |
| 12        | Photo-bruise leg              |       |           |             |       |       |                    |       |
| 13        | Photo-upper body              |       |           |             |       |       |                    |       |
| 14        | Photo-face                    |       |           |             |       |       |                    |       |
| 15        | Photo-top of head             |       |           |             |       |       |                    |       |
| 16        | 8-29-13 Miranda               |       |           |             |       |       |                    |       |
| 17        | 8-29-13 Voluntary Stmt.       |       |           |             |       |       |                    |       |
| 18        | Photo-autopsy scalp           |       |           |             |       |       |                    |       |
| 19        | Photo-autopsy scalp           |       |           |             |       |       |                    |       |
| 20        |                               |       |           |             |       |       |                    |       |
| 21        | nothing entered is not # used |       |           |             |       |       |                    |       |
| 22        |                               |       |           |             |       |       |                    |       |
| 23        | Photo-Ext. Home               |       |           |             |       |       |                    |       |
| 24        | Photo-Int. Home               |       |           |             |       |       |                    |       |
| 25        | Photo-Int. Home               |       |           |             |       |       |                    |       |
| 26        | Photo-Int. Home               |       |           |             |       |       |                    |       |
| 27        | Miranda Rights                |       |           |             |       |       |                    |       |
| 28        | CD-Audio Interview            |       |           |             |       |       |                    |       |

This 25 day of March 2015.

Page 1 of 2

By: Sherry Langley  
Aiken County Clerk of Court  
exhibit form 1  
10/01/07 csw

copy court reporter 3-25-15  
Date

Phoney

**RECEIPT FOR EXHIBITS**

Case No. 2014 GS-02-00553  
-02-

Judge: EARLY

Plaintiff: State of SC

State/Plf. Atty. Ashley Hammack  
Sam Grimes

vs  
 Defendant: Ivory Blackshire

Def's Atty. Michael Chesser

Trial Date: 3-23-15 - 3-25-15

Received of Bethanie Creppon, Court Reporter for the above case, these exhibits:

| STATE/PLF     |                               |       | DEFENDANT |                                         |       | COURT         |             |       |
|---------------|-------------------------------|-------|-----------|-----------------------------------------|-------|---------------|-------------|-------|
| #             | Description                   | coc # | #         | Description                             | coc # | #             | Description | coc # |
| <del>29</del> | <del>CD-Video Interview</del> |       |           | <del>Removed as state exhibit #29</del> |       | <del>29</del> |             |       |
| <del>30</del> | <del>Photo-Eye Image</del>    |       |           | <del>placed in as court #4</del>        |       |               |             |       |
| <del>31</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>32</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>33</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>34</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>35</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>36</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>37</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>38</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>39</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>40</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>41</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>42</del> | <del>Photo-Eye Image</del>    |       |           |                                         |       |               |             |       |
| <del>43</del> | <del>Photo-Eye Image</del>    |       |           | <u>CD-Video Interview</u>               |       |               |             |       |

This 25 day of March 2015

Page 2 of 2

By: Drew Langley  
 Aiken County Clerk of Court  
 exhibit form 1  
 10/01/07 csw

copy court reporter 3-25-15  
 Date

# Exhibit 8

Blackshire 2014-GS-02-00553

Jackson v. Deno Hearing

3-23-15

Exhibits

# Exhibit 9

COUNTY OF AIKEN

THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

SECOND JUDICIAL CIRCUIT

State of South Carolina,

**DEFENDANT'S PRETRIAL  
MOTIONS**

vs.

Indictment 2013A0210200856  
Homicide by Child Abuse

Ivory Blackshire,

Defendant

Defendant, by and through his undersigned attorney, hereby moves the honorable Court as follows:

1. For a hearing pursuant to *Jackson v. Denno*, 378 U.S. 368 (1964), to determine the admissibility of purported statements of the Defendant based on considerations of voluntariness and compliance with the strictures of *Miranda v. Arizona*, 384 U.S. 436 (1966).
2. For an order to prohibit autopsy, coroner, hospital or other photos whose prejudicial effect substantially outweigh their probative value, pursuant to Rule 403 of the SC Rule of Evidence.
3. To prohibit introduction of certain statements and questions of investigators in the two video interviews of the Defendant, that is, to require appropriate redaction of these videos. Upon receipt of the final videos which the State intends to introduce, Defendant will specify exactly the objectionable portions of the videos. In these statements and questions, the investigators characterize the evidence, offer medical opinions and conclusions, and in effect provide a closing argument for the State. There is no basis under the Rule of Evidence for admitting such self-serving statements by State agents. This objection would not prohibit the introduction of any admissions by the Defendant by means other than the videos, that is, this is an objection to the statements and questions (containing prejudicial assumptions and

FILED 19<sup>th</sup> March 20 15

*Luis Hodard*  
C.C.P. & G.S.


Constance Jackson cl.

2014-GS-02-00553

conclusions) of the investigators, which should not come in in any event. This motion is based on the rule against hearsay (Rule 801 et seq), the rule against the introduction of opinion evidence by non-experts (Rule 702), the rule against opinion as to the credibility of the Defendant (Rule 608), and Rule 403 (balancing prejudicial effect against probative value).

4. To prohibit reference by the State to a prior injury to the clavicle of the victim/decedent, the origin or significance of said injury being unknown and hence of no probative value.
5. To reveal the compensation of any anticipated medical experts who shall testify for the State.
6. To permit such other and further motions by the defense as shall be appropriate and necessary

Aiken, South Carolina  
March 19, 2015

  
Michael Chesser  
Attorney for the Defendant  
PO Box 1018  
Aiken, SC 29802-1018  
[chesserlaw@gmail.com](mailto:chesserlaw@gmail.com)  
(803) 646-1166

2014-GS-02-00553

COUNTY OF AIKEN

THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA  
The State of South Carolina,

vs.

Ivory Blackshire,  
Defendant

SECOND JUDICAL CIRCUIT

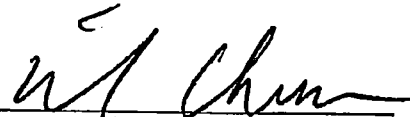
**CERTIFICATE OF SERVICE**

Indictment 2013A0210200856  
Homicide by Child Abuse

I, Michael Chesser, attorney for the Defendant, do hereby certify that I have served the foregoing Defendant's Pretrial Motions on the State of South Carolina by email on this the March 19, 2015, to the attorney(s) of record by email as follows:

ahammack@aikencountysc.gov

sgrimes@aikencountysc.gov



Michael Chesser  
Attorney for the Defendant  
PO Box 1018  
Aiken, SC 29802-1018  
chesserlaw@gmail.com  
(803) 646-1166

2014-GS-02-00652

FILED 19th march 2015

Liz Hodard  
C.C.P. & G.S.

Constance Jackson dj  
Deputy Clerk

# Exhibit 10

COUNTY OF AIKEN

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA  
State of South Carolina,

vs.

Ivory Blackshire,

Defendant


SECOND JUDICIAL CIRCUIT

**DEFENDANT'S REQUESTED  
VOIR DIRE**

Indictment 2014-GS-02-553  
Homicide by Child Abuse

1. Is any member of the jury panel related to or close friends with a deputy or other employee of the Aiken County Sheriff's Department?
2. Have you or a member of your family been employed or otherwise associated with the Solicitor's Office for the 2<sup>nd</sup> Circuit, that is, Aiken Barnwell and Bamberg Counties?
3. Has any member of the panel or a member of your family been the victim of a violent crime?
4. Have you belonged to or contributed money to an organization calling for the stricter enforcement of the laws, such as MADD or a similar organization?

March 23, 2015  
Aiken, South Carolina

  
Michael Chesser  
Attorney for the Defendant  
PO Box 1018  
Aiken, South Carolina 29802-1018  
[chesserlaw@gmail.com](mailto:chesserlaw@gmail.com)  
(803) 646-1166

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

**RECEIVED**

JAN 04 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT,

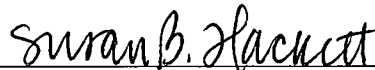
V.

IVORY BLACKSHIRE,

APPELLANT.

CERTIFICATE OF SERVICE

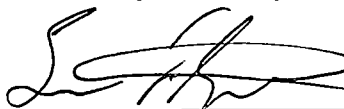
The undersigned attorney hereby certifies that a true copy of the petition for an order to reconstruct the record of appellant's trial transcript, or, in the alternative, an order setting aside his convictions and ordering a new trial in the above referenced case has been served upon opposing counsel, J. Benjamin Aplin, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Ivory Blackshire, #363457, at Kirkland Correctional Institution 4344 Broad River Road, Columbia, SC 29210, on this 4th day of January, 2016.



Susan B. Hackett  
Appellate Defender

Attorney for Appellant

SUBSCRIBED AND SWORN TO before me  
this 4th day of January, 2016.

 (L.S.)

Notary Public for South Carolina  
My Commission Expires: October 30, 2022.



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

ORIGINAL

Division of Appellate Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201-3332  
Post Office Box 11589  
Columbia, South Carolina 29211-1589  
Telephone: (803) 734-1330  
Facsimile: (803) 734-1397

Robert M. Dudek, Acting Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender  
Joseph L. Savitz, III, Senior Appellate Defender

January 4, 2016

RECEIVED

JAN 04 2016

SC Court of Appeals

The Honorable Jenny A. Kitchings  
Clerk of Court, S.C. Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

Re: State v. Ivory Blackshire, Appellate Case No. 2015-000725

Dear Ms. Kitchings,

Please find enclosed the original and six copies of appellant's petition for an order to reconstruct the record of appellant's trial transcript, or, in the alternative, an order setting aside his convictions and ordering a new trial in the above-captioned case.

Thank you for your assistance in this matter.

Sincerely,

*Susan B. Hackett*

Susan B. Hackett  
Appellate Defender

SBH/smf

Enclosure

cc: J. Benjamin Aplin, Esquire  
Ivory Blackshire