

<http://www.jg-tc.com/articles/2009/09/17/news/doc4ab1a411a7ba2555167780.txt>

## Defense wants jail cell recordings nixed from trial

By **DAVE FOPAY**, Staff Writer  
[dfopay@jg-tc.com](mailto:dfopay@jg-tc.com)

CHARLESTON — Incriminating statements allegedly made by a man accused of causing the injuries that killed a 2-year-old boy were obtained illegally and shouldn't be used against him, his attorney says.

During a brief hearing Wednesday in the case against Jamie L. Thomasson, defense attorney Mark Wykoff filed a motion asking that recorded conversations between Thomasson and another jail inmate not be allowed as prosecution evidence.

The motion contended that the court-authorized recordings, which reportedly included Thomasson's saying he "did everybody a favor" by killing the boy, were essentially questioning by police and made without his attorneys present.

Thomasson, 29, of Springfield is charged with first-degree murder and aggravated battery of a child for allegedly injuring Holden Jones, the son of his girlfriend Amy Bennett, at Bennett's home on Union Street in Charleston on June 20.

Police testimony at an earlier hearing in the case indicated that the other inmate, Jonathan Gilmore, notified authorities about Thomasson's repeatedly referring to Holden by a vulgarity that meant he thought the boy wasn't tough enough.

Gilmore also claimed Thomasson said he "did everybody a favor" because Holden's death meant Bennett would no longer have to associate with Jason Jones, Holden's father, according to the testimony. It also indicated that Gilmore said Thomasson threatened to harm Bennett if she didn't support him and also threatened State's Attorney Steve Ferguson, who's prosecuting the case.

The motion Wykoff filed Wednesday said police and the prosecution got court authorization to secretly record conversations between Thomasson and Gilmore between June 30 and July 30. That was at least five days after Wykoff and co-defense counsel Monroe McWard were on record that they would represent Thomasson in the case, the motion said.

During Wednesday's hearing, Circuit Judge Teresa Righter gave Ferguson until Oct. 16 to file a written response, and the judge scheduled a hearing for Oct. 21 to take up the motion. She said she'll also review the status of the case, which isn't currently scheduled for trial.

According to the earlier testimony, an autopsy showed that Holden's collar bone was broken in a way indicating that his arm was grabbed and jerked violently, while brain contusions and other injuries indicated "severe shaking."

Thomasson first told police that Holden fell out of bed but later said he was "playing rough" with the boy, used a wrestling move and threw him onto an air mattress several times.

Thomasson said he tried to revive Holden a few times overnight, which included shaking him, but found him dead the next morning

Thomasson is jailed without bond, and a conviction for either offense with which he's charged would require prison time.

Ferguson also drafted the charges against Thomasson to include allegations that the acts were "exceptionally brutal or heinous," and that Thomasson was an adult who killed a child younger than 12.

Those are factors a jury would have to find if Thomasson were to receive a sentence beyond the normal maximum. For the murder charge, for instance, Thomasson could receive a life sentence or more than the usual 60-year maximum if he's convicted and a jury finds that the factors apply.

Contact Dave Fopay at [dfopay@jg-tc.com](mailto:dfopay@jg-tc.com) or 238-6858.