

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

MAY 05 2014

Appeal from Chesterfield County  
Honorable J. Michael Baxley, Circuit Court Judge

**SC Court of Appeals**

Appellate Case No. 2013-001415

FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

**RETURN TO MOTION/PETITION FOR REVIEW OF ORDER OF APRIL 18, 2014**

Respondent, by and through undersigned counsel, making Return to Appellant's Motion/Petition for Review of Order of April 18, 2014, would respectfully show to this Court as follows:

1. The Criminal Appeals Section of the Attorney General's Office received copies of two Notices to Appellate Defense from this Court indicating that Appellant filed Notice of Appeal in State v. Fritz A. Timmons arising from the Court of Common Pleas and from orders of the Honorable J. Michael Baxley. The Notices were served on what appeared to the undersigned to be private counsel addresses. Based upon the confusion created by the caption and the fact that there were apparently two appeals arising from the Court of Common Pleas and orders issued by Judge Baxley respecting Appellant, the undersigned mistakenly considered the appeal

to be a one arising from a private civil action and was one the Attorney General's Office would not handle.

2. However, it was later determined one of the appeals arose from a circuit court appeal of a criminal conviction in magistrate's court. The Respondent thereafter moved this Court to be allowed to file a Brief of Respondent out of time and to file any Supplemental Record that might be necessary for this Court's review in connection with the appeal.

3. Appellant made Return opposing Respondent's motion.

4. On behalf of the Court, the Honorable Paul E. Short, Jr., granted Respondent's motion to file an Initial Brief of Respondent and Designation of Matter within thirty(30) days of the Order which was filed April 18, 2014. The Order also provided deadlines for submitting a Supplemental Record on Appeal, final briefs and a reply brief.

5. Appellant now moves this Court to review and reverse the order permitting Respondent to file and serve an Initial Brief of Respondent, Designation of Matter and any Supplement Record that might be necessary. He contends the appeal will be unreasonably delayed and that it favors Respondent. He also alleges that the undersigned somehow operates under a conflict of interest because "charges" might be filed against unidentified Chesterfield County authorities. The undersigned personally has no information or knowledge of what Appellant contends is a conflict or of "charges" against Chesterfield County authorities, particularly in light of the fact Appellant has been convicted of the charge(s) brought against him and that are the subject of this appeal. He also attaches a letter about the other appeal arising from the Department of Employment and WorkForce (DEW) that caused the confusion leading to the mistaken belief that the underlying subject matter of the appeal was a civil claim involving Appellant's employment. It is not clear how the letter concerning the DEW appeal is relevant. The

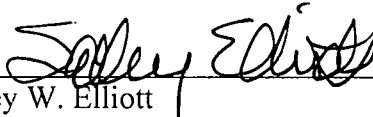
undersigned has no involvement in the appeal involving DEW and it is the submission of the DEW appeal documents that led to the confusion about this criminal appeal. Appellant continues to blend the appeals. Appellant also attaches this Court's letter in response to the undersigned's mistaken belief that the appeal involved an employment matter with DEW. The letter indicates the undersigned will no longer receive copies of correspondence about the case. The letter, of course, was premised upon the mistaken belief that this was an appeal from a DEW decision.

6. Respondent submits, first, that reconsideration of an order that does not dismiss or end the appeal is not available to Appellant. This is not a situation in which a party is requesting the Court to "rehear an appeal or other proceeding." See Rule 219, SCACR. Moreover, to the extent Appellant asks for *en banc* review, the order in question is not a determination of the appeal and does not present an issue respecting uniformity of the Court's decisions or an issue of exceptional importance related to the Court. Second, Appellant will not be prejudiced and the appeal will not be further delayed. The Order in question made clear that no extensions will be granted and Respondent will not seek an extension. The Initial Brief of Respondent, Designation of Matter and any Supplemental Record on Appeal will be filed and served within the time allotted. Respondent is also willing to file and serve its Final Brief of Respondent at the same time as the Initial Brief of Respondent is filed and served if the Court so desires in order to expedite the submissions. Third, for the reasons set forth in the motion Respondent submitted asking this Court to permit it to file a Brief of Respondent, the motion was properly granted.

Respectfully submitted,

ALAN WILSON  
Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

BY:   
Salley W. Elliott  
SC Bar No. 1871

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ATTORNEYS FOR RESPONDENT

May 5, 2014

STATE OF SOUTH CAROLINA  
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**PROOF OF SERVICE**

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I, Angela Bennett, certify that I have served the Return to Motion/Petition for Review of Order of April 18, 2014 on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to Fritz Allen Timmons, P.O. Box 367, Hartsville, South Carolina 29551.

I further certify that all parties required by Rule to be served have been served.

This 5<sup>th</sup> day of May, 2014.

  
ANGELA BENNETT  
Administrative Assistant

Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



ALAN WILSON  
ATTORNEY GENERAL

May 5, 2014

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

Re: The State v. Fritz Allen Timmons  
Appellate Case No: 2013-001415

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the **Return to Motion/Petition for Review of Order of April 18, 2014** along with proof of service in the above-referenced case.

Sincerely,

Salley W. Elliott  
Senior Assistant Deputy Attorney General  
S.C. Bar No: 1871

SWE/ab  
Enclosures

cc: Fritz A. Timmons, pro se  
Ms. Trisha Allen

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**SC Court of Appeals**