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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No.2013-001415

RECEIVED

JUL 14 2014

SC Court of Appeals

The State

Respondent,

v.

Fritz Allen Timmons

Appellant.

MOTION TO STRIKE AND DISREGARD RESPONDENTS SUPPLEMENT RECORD
AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF RESPONDENT

The Respondents Supplemental Record should be stricken and disregarded due to violating the following;

- (A) Court Order of April 18, 2014 for containing matter that already exist in the Record On Appeal. Pages 7, 11-38, 41,42,44, 64-66, 72-75, and 77-78. The Respondent has also failed to serve a designation of matter that violates the above said Order.
- (B) Rule 209(b), SCACR (A party shall not include any matter ... which is not relevant to the appeal), pages 45 - 51, 63, 67, 68, 69, 82. The following pages are not referenced to by the Respondent, Pages 11-38, 41-62, 68-73, 83-84.

(C) Rule 210(c), SCACR (shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents)

(D) Rule 212(b), SCACR (With the written consent of all attorneys of record)

(E) Rule 403, SCRE (Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.). Pages 52 through 62

Due to the Court Order of July 7, 2014 to enforce Rule 208(b)(4), SCACR upon the Appellant's Initial Brief although the Appellant's Final Brief has already been served on September 9, 2013. The Respondent's Initial Brief also does not comply with Rule 208(b)(4), SCACR, Therefore this court **must also** enforce this Rule upon the Respondent although the Respondent has violated Court Order of April 18, 2014 stating **"Should Respondent fail to comply with this order, this appeal will proceed without a Respondent's brief."**

Therefore this Court should order the amendment of the Respondent's Initial Brief to comply with 208(b)(4), SCACR and Strike and Disregard the Respondent's Supplemental of Record.

July 14, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Fritz Allen Timmons, Appellant.

Appellate Case No. 2013-001415

ORDER

Respondent has filed a motion to strike portions of Appellant's initial brief and designation of matter and to require Appellant to file an amended initial brief including references.¹ Respondent's motion to strike portions of Appellant's initial brief is denied. However, Respondent's motion to require Appellant to file an amended initial brief including references pursuant to Rule 208(b)(4), SCACR, is granted. Appellant will file an amended initial brief complying with Rule 208(b)(4) within fifteen days of this order. Further, Respondent's motion to strike portions of Appellant's designation of matter is denied. However, after reviewing Appellant's filed record on appeal, it appears Appellant has either included matter in the record not designated or included matter in the record in a different form than it was presented to the trial court. Accordingly, the filed record on appeal is stricken and Appellant will serve an amended record on appeal including only matter properly designated by the parties in the form it was presented to the trial court within thirty days after service of the last brief. *See* Rule 210(a), SCACR ("Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on each party who has served a brief."); Rule 210(c), SCACR (noting the record on appeal shall not include matter which was not presented to

¹ Appellant has also filed a "motion to review the order of April 18, 2014," which this Court construes as a petition for rehearing. Because this Court does not entertain petitions for rehearing on motions that do not have the effect of dismissing or finally deciding an appeal, this Court declines to act on the petition for rehearing.

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Fritz Allen Timmons, Appellant.

Appellate Case No. 2013-001415

ORDER

Respondent has filed what this Court construes as a motion to file its initial brief and designation of matter out of time. After careful consideration, Respondent's motion is granted. *See* Rule 263(b), SCACR (noting the time limits other than serving the notice of appeal may be extended by the appellate court). Respondent will file its initial brief and designation of matter within thirty days of this order. This Court will neither grant Respondent a further extension or leave to file its initial brief and designation of matter to be included in the record on appeal out of time. Should Respondent designate matter to be included in the record on appeal that is not in the currently filed record on appeal, Respondent shall file a supplemental record on appeal including such matter. If Appellant desires, he may file an initial reply brief within fifteen days of service of Respondent's initial brief. Further, Respondent will file its final brief within sixty days of this order. If Appellant desires to file a reply brief, his final reply brief will be due within fifteen days of being served with Respondent's final brief. Should Respondent fail to comply with this order, this appeal will proceed without a Respondent's brief.


FOR THE COURT

Columbia, South Carolina

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
The Honorable J. Michael Baxley, Presiding Judge

Appellate Case No: 2013-001415

THE STATE,

Respondent,

vs.

FRITZ ALLEN TIMMONS,

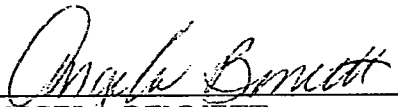
Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Initial Brief of Respondent and Supplemental Record on Appeal on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to appellant, 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 19th day of May, 2014.



ANGELA BENNETT
Administrative Assistant

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(803) 734-3727

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
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PROOF OF SERVICE

I certify that I have served the MOTION TO STRIKE AND DISREGARD RESPONDENTS SUPPLEMENT RECORD AND REQUIRE FILEING OF AMENDED INITIAL BRIEF OF RESPONDENT by depositing a copy of it in the United States Mail, postage prepaid, on July 14, 2014, addressed to the attorney of record, .Adam M. Foard, 120 N. Pearl St. Pageland SC 29728, and also William B. Rogers, Solicitor, Fourth Judicial Circuit, P.O. Box 616, Bennettsville, SC, 29512, and Salley W. Elliott P. O. Box 11549 Columbia, SC 29211

July 14, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

July 14, 2014

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

RE: The State v. Fritz A. Timmons Appellate Case No. 2013-001415

Dear Jenny Abbott Kitchings

Enclosed is the original and six copies of the MOTION TO STRIKE AND DISREGARD RESPONDENTS SUPPLEMENT RECORD AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF RESPONDENT along with proof of service of the Motion.

Sincerely,



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

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SC Court of Appeals