

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from York County  
J. Michael Baxley, Circuit Court Judge

---

RECEIVED

DEC 5 2014

S.C. Supreme Court

STEVEN R. TIMMONS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000704

---

A P P E N D I X

---

BENJAMIN JOHN TRIPP  
Appellate Defender

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

## INDEX

|                                                                    |     |
|--------------------------------------------------------------------|-----|
| INDEX .....                                                        | i   |
| GUILTY PLEA HEARING TRANSCRIPT (JULY 9, 2012) .....                | 1   |
| APPLICATION FOR POST-CONVICTION RELIEF .....                       | 29  |
| RETURN .....                                                       | 35  |
| PRO SE MOTION TO REMOVE JUDGE .....                                | 41  |
| POST-CONVICTION RELIEF HEARING TRANSCRIPT (JANUARY 21, 2014) ..... | 43  |
| STATE'S EXHIBIT #1 (MEMORANDUM) .....                              | 103 |
| ORDER DENYING POST-CONVICTION RELIEF .....                         | 109 |
| INDICTMENTS .....                                                  | 118 |

State of South Carolina., )  
)  
)  
)  
)  
)  
)  
County of York. )  
\_\_\_\_\_ )

In the General Sessions  
Court of York  
  
Case No.: 2012-GS-46-02279

State of South Carolina., )  
)  
Plaintiff., )  
)  
-vs- )  
)  
Steven Ray Timmons., )  
)  
\_\_\_\_\_ Defendant. )

Transcript of Record

July 9, 2012

B E F O R E:

Honorable John C. Hayes, judge.

A P P E A R A N C E S:

Mr. E.B. Springs  
Assistant Solicitor  
Sixteenth Circuit Solicitor's Office  
1675-1A York Hwy.  
York, South Carolina 29745  
803-628-3020  
803-628-3025  
[eb.springs@yorkcountygov.com](mailto:eb.springs@yorkcountygov.com)  
For the Plaintiff

**ORIGINAL**

Mr. Michael Matthews  
Attorney at Law  
P.O. Box 36668  
Rock Hill, South Carolina 29732  
803-329-5999  
803-329-5994  
[matthews@rhattorney.com](mailto:matthews@rhattorney.com)  
For the Defendant

Wanda Nelson, CVR-M  
Official Court Reporter  
Sixteenth Judicial Circuit  
To Honorable John C. Hayes, III

I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No witnesses were called.

-3-

E-X-H-I-B-I-T-S

| <u>NO.</u> | <u>DESCRIPTION</u>                         | <u>ID.</u> | <u>EVD.</u> |
|------------|--------------------------------------------|------------|-------------|
| 1          |                                            |            |             |
| 2          |                                            |            |             |
| 3          |                                            |            |             |
| 4          | No Exhibits were received into the record. |            |             |
| 5          |                                            |            |             |
| 6          |                                            |            |             |
| 7          |                                            |            |             |
| 8          |                                            |            |             |
| 9          |                                            |            |             |
| 10         |                                            |            |             |
| 11         |                                            |            |             |
| 12         |                                            |            |             |
| 13         |                                            |            |             |
| 14         |                                            |            |             |
| 15         |                                            |            |             |
| 16         |                                            |            |             |
| 17         |                                            |            |             |
| 18         |                                            |            |             |
| 19         |                                            |            |             |
| 20         |                                            |            |             |
| 21         |                                            |            |             |
| 22         |                                            |            |             |
| 23         |                                            |            |             |
| 24         |                                            |            |             |
| 25         |                                            |            |             |

1 (COURT IN SESSION IN THE MATTER OF STATE V. STEVEN RAY  
2 TIMMONS ON MONDAY, JULY 9, 2012 AT 03:16 P.M..)

3 THE COURT: Thank you. Take your seats.

4 SOLICITOR SPRINGS: May it please the Court.

5 THE COURT: The Clerk will continue to work on  
6 paperwork but go ahead.

7 SOLICITOR SPRINGS: Standing before you is Steven Ray  
8 Timmons and he is concluding some paperwork with his  
9 retained attorney Mr. Michael Matthews.

10 Judge, we've got a number of charges here. We have a  
11 burglary third degree with an enhanced petty larceny, a ten  
12 year petty larceny we were getting ready to try. The  
13 victim in that case is Ms. Rebecca Oxford along with her  
14 cousin Mr. Quinn for moral support. We were expecting to  
15 start that trial and we've come to other arrangements.

16 You will see those two indictments, the burglary third  
17 and an enhanced petty larceny, they are True Billed. They  
18 are the only two True Billed indictments we're talking  
19 about here.

20 And then we have got another three petty larcenies,  
21 enhanced petty larcenies; they carry ten years each. And  
22 we've got five breaking and entering of a motor vehicle.  
23 And we have two more burglaries. What was originally a  
24 burglary first degree has been reduced to burglary second  
25 degree violent. There are two of those. There were other

-5-

1 charges that are being dismissed. There was another one,  
2 two, three, four, five more B&E autos that are being  
3 dismissed. And there is another one, two, three, four  
4 enhanced larcenies that are being dismissed. Frankly just  
5 to keep the paperwork down to a more manageable level.

6 Mr. Timmons is going to plead no contest to all of  
7 these charges. That's fine with the State. I hope it's  
8 all right with the Court. He's going to plead no contest  
9 and the State has struck a deal with Mr. Timmons, through  
10 Mr. Matthews, that he would receive time served on  
11 everything but two enhanced petty larcenies and he would  
12 receive two ten-years consecutive on two of the petty  
13 larcenies. The Court is ask just to please pick any two.

14 He does have quite a bit of restitution. Over Four  
15 Thousand Dollars, that's the Restitution Sheet to make  
16 restitution to people whose charges got dismissed as well  
17 as these. We would ask the court to fashion restitution on  
18 parole or some manner. That is where we are. I know  
19 that's a lot and I don't explain things very well.

20 THE COURT: I think you - I don't know if you  
21 explained it well; I understood what you explained to the  
22 extent - What - How long has he served?

23 SOLICITOR SPRINGS: He was arrested on April the 17th.  
24 The 16th of this year.

25 MR. MATTHEWS: I apologize, Your Honor. I have not

1       been calculating the time.

2               SOLICITOR SPRINGS: I will start doing that right now.

3               (PAUSE.)

4               SOLICITOR SPRINGS: We have eighty-five days.

5               THE COURT: How old are you, Mr. Timmons?

6               MR. TIMMONS: Twenty-two.

7               THE COURT: You represented by Mr. Matthews?

8               MR. TIMMONS: Yes, sir.

9               THE COURT: Is this your lawyer?

10              MR. TIMMONS: Yes, sir.

11              THE COURT: You satisfied with his services?

12              MR. TIMMONS: Yes, sir.

13              THE COURT: You're charged with a number of offenses  
14              and I'm going to go over them with you at this time.

15              You're charged with five breaking and entering - Five  
16              breaking and entering automobiles and they allege that at  
17              various times you did break into certain motor vehicles  
18              here in York County with the intent to steal the vehicle or  
19              something from the vehicle, something of value. It's  
20              alleged that these occurred on April 16th, 2012, as to a  
21              Dodge Caravan belonging to a Williamson. The next is that  
22              on April 16th, 2012, a vehicle, Enterprise FM Trust Leasing  
23              Company motor vehicle in possession of Glass Doctor, Mr.  
24              Williamson again. Both of these are on Highway 161.

25              The third breaking and entering occurred April 16th,

-7-

1 2012, again the vehicle was Michael Williamson's on Highway  
2 161. That was a Ram Quad truck model year 2000.

3 The next breaking and entering a motor vehicle  
4 occurred on April 16th, 2012, a vehicle belonged to a Mr.  
5 Hawkins. This occurred at the same address. All of these  
6 so are [REDACTED]. The vehicle is a 2001 Chevy  
7 S10 truck.

8 The last breaking into a motor vehicle occurred on  
9 that same date April 16th, 2012, that same address on  
10 Highway 161. The vehicle belonging to Jennifer Hawkins, a  
11 2001 Nissan Altima. Each of those carry up to five years  
12 in jail and they are felonies. Do you understand those  
13 five charges and the potential penalty associated with  
14 them?

15 MR. TIMMONS: Yes, sir.

16 THE COURT: Now these charges have not been before the  
17 Grand Jury of York County and you have the right to have  
18 these five indictments reviewed by the Grand Jury of York  
19 County. The Grand Jury will hear the State's evidence and  
20 from that will determine whether the State's evidence was  
21 strong enough for your case to be further processed or  
22 dismissed.

23 Do you understand that?

24 MR. TIMMONS: Yes, sir.

25 THE COURT: Do you wish to have any or all of those

1 five indictments reviewed by the Grand Jury or give up that  
2 right?

3 MR. TIMMONS: Give up that right.

4 THE COURT: You're charged with looks like four petty  
5 larcenies. These each carry up to ten years in jail  
6 because they are third property offenses. These charges  
7 allege that on April 16th, 2012, from Mr. Williamson and or  
8 Glass Doctor, you took a Tom Tom GPS, glass sample kit,  
9 clip board, binoculars, other personal property with the  
10 intent to deprive Mr. Williamson or Glass Doctor of those  
11 items.

12 Do you understand that?

13 MR. TIMMONS: Yes, sir.

14 THE COURT: The second petty larceny alleges that on  
15 April 16th, 2012, you took from Carl Hawkins and Jennifer  
16 Hawkins certain goods; a pocketbook, a wallet, credit  
17 cards; black, O'Neil baseball cap; that you stole these  
18 with the intent to deprive the owner permanently of that  
19 property.

20 Do you understand that charge?

21 MR. TIMMONS: Yes, sir.

22 THE COURT: The next petty larceny alleges that on  
23 that date, again, April 16th, 2012, you took from Thelma  
24 Harrison a wheelbarrow, coffee maker, a suitcase with  
25 personal papers, microwave over, s projector, with intent

-9-

1 to deprive Ms. Harrison of that property.

2 Do you understand that charge?

3 MR. TIMMONS: Yes, sir.

4 THE COURT: The last petty larceny alleges that on or  
5 about January 14th, a different date, 2012, or between that  
6 date and March 8th, 2012, that you took from Rebecca Oxford  
7 various furniture items including a sofa, love seat, tables  
8 from a vacant house at [REDACTED] Highway 161 by Ms. Oxford  
9 and that you did that with the intent to deprive her of  
10 that property.

11 Do you understand that charge and the potential  
12 penalty?

13 MR. TIMMONS: Yes, sir.

14 THE COURT: Now those indictments have not just like  
15 the breaking and entering a automobile, have not been  
16 before the Grand Jury of York County. Do you wish to have  
17 any or all of those indictments reviewed by the Grand Jury  
18 or give up that right?

19 MR. TIMMONS: Give up that right.

20 THE COURT: As to those indictments just like as to  
21 the breaking and entering an automobile he has indicated by  
22 his initials and signature that he is waiving presentment.

23 You are charged with burglary in the second degree  
24 violent; two separate indictments. These also have not  
25 been before the Grand Jury. Do you wish to have either or

1 both of these reviewed by the Grand Jury or give up that  
2 right?

3 MR. TIMMONS: I give up that right.

4 THE COURT: And you're also charged with a burglary  
5 third degree that has not been before the Grand Jury.

6 SOLICITOR SPRINGS: It has.

7 MR. MATTHEWS: It has. That was the one we were going  
8 to trial on.

9 THE COURT: I'm sorry. Okay. Well I was just looking  
10 up for the signed signature.

11 MR. MATTHEWS: Your Honor, the two burglaries have not  
12 been directly.

13 THE COURT: The two burglaries second have not been  
14 before the Grand Jury of York County. Do you wish to have  
15 either or both of them reviewed by the Grand Jury or give  
16 up that right?

17 MR. TIMMONS: Give up that right.

18 THE COURT: Mr. Timmons has indicated by his signature  
19 and initial he is waiving presentment on those two  
20 indictments also. The burglary third charge has been True  
21 Billed. Let me go back to burglary second violent.

22 It's alleged that those occurred - You're charging him  
23 with burglary first and both of these the State is allowing  
24 you to plead to the lesser included burglary second degree  
25 violent. It's alleged that in the first indictment that on

-11-

1 or about April 16th, 2012, you entered a shed or part of a  
2 dwelling house of Jeffrey Gibson at 2650 South Highway 161  
3 here in York County, South Carolina without consent and  
4 with the intent to commit the crime of larceny and that you  
5 committed it in the night time.

6 Do you understand that charge?

7 MR. TIMMONS: Yes, sir.

8 THE COURT: The second burglary says - alleges that on  
9 April 16th, 2012, you entered the dwelling of Thelma  
10 Harrison at [REDACTED] without consent with the  
11 intent to commit a larceny therein and that that occurred  
12 in the night time.

13 Do you understand that charge?

14 MR. TIMMONS: Yes, sir.

15 THE COURT: Burglary second violent carries no more  
16 than fifteen years in jail; it is a felony. It is a  
17 serious offense. A serious offense is the type of offense  
18 which if in your life time you receive three serious or a  
19 combination of three serious and most serious offenses, you  
20 would be subject to being incarcerated for life without  
21 parole; that is a true life sentence.

22 It is a violent offense. A violent offense is the  
23 type of offense that if you serve time on that offense,  
24 there would be certain programs that are available to non-  
25 violent offenders which violent offenders would not be able

1 to participate in.

2 Do you understand that?

3 MR. TIMMONS: Yes, sir.

4 THE COURT: How do you plead to two counts of burglary  
5 second degree violent?

6 MR. TIMMONS: Guilty.

7 THE COURT: To both?

8 MR. TIMMONS: Yes, sir.

9 THE COURT: You need to speak up.

10 MR. MATTHEWS: Speak up so she can hear you.

11 THE COURT: You're also charged with burglary in the  
12 third degree. It carries up to five years in jail. It's  
13 alleged that that occurred on January 14th, 2012, when you  
14 entered an unoccupied dwelling belonging to Rebecca Oxford  
15 on South - [REDACTED] without consent with the  
16 intent to commit larceny therein.

17 DO you understand that charge?

18 MR. TIMMONS: Yes, sir.

19 THE COURT: And the penalty?

20 MR. TIMMONS: Yes, sir.

21 THE COURT: How do you plead to this charge?

22 MR. TIMMONS: No contest.

23 THE COURT: You need to speak up. No Contest?

24 You need to speak up.

25 Do you understand that - I want you to understand that

-13-

1 for purposes of the record and the purposes of sentencing  
2 the court treats a No Contest plea the same as it treats a  
3 plea of guilt. Do you understand that?

4 MR. TIMMONS: Yes, sir.

5 THE COURT: As to all these charges - and I believe  
6 there are twelve - it is my understanding you are entering  
7 pleas of No Contest; is that correct?

8 MR. TIMMONS: Yes, sir.

9 THE COURT: To all twelve?

10 MR. TIMMONS: Yes, sir.

11 THE COURT: Other than the recommendations that was  
12 stated to me a moment ago by the solicitor, has anyone made  
13 any other promise or threats to cause you today to enter  
14 your plea of guilt to these charges?

15 MR. TIMMONS: No, sir.

16 THE COURT: Are you today under the influence of  
17 anything that would cause you to be intoxicated?

18 MR. TIMMONS: No, sir.

19 THE COURT: Mr. Timmons, are you today entering your  
20 plea to these set of charges freely and voluntarily?

21 MR. TIMMONS: Yes, sir.

22 THE COURT: Mr. Timmons, as to these charges you have  
23 the right to a trial by jury. You are presumed innocent of  
24 these charges until such time as the State is able to  
25 prove, if it can, your guilt beyond a reasonable doubt. As

1 to these charges you have the right to remain silent, the  
2 right to confront witnesses against you, and you have the  
3 right to have your witnesses' made to come to court to  
4 testify for you. Do you understand you have these rights?

5 MR. TIMMONS: Yes, sir.

6 THE COURT: Do you have any question about those  
7 rights?

8 MR. TIMMONS: No, sir.

9 THE COURT: I advise you that by entering pleas of No  
10 Contest to these charges that as to these charges you're  
11 giving up all those rights and you're giving up any defense  
12 that you might have.

13 Do you understand that?

14 MR. SIMMONS: Yes, sir.

15 THE COURT: Knowing all those things I ask how do you  
16 plead to two counts of burglary in the second degree  
17 violent?

18 MR. SIMMONS: No Contest.

19 THE COURT: To both?

20 MR. SIMMONS: Yes, sir.

21 THE COURT: How do you plead to burglary in the third  
22 degree?

23 MR. TIMMONS: No Contest.

24 THE COURT: How do you plead to five counts of  
25 breaking and entering an automobile?

-15-

1 MR. TIMMONS: No Contest.

2 THE COURT: To all five?

3 MR. TIMMONS: Yes, sir.

4 THE COURT: How do you plead to three - four petty  
5 larcenies?

6 MR. TIMMONS: No Contest.

7 MR. TIMMONS: To all four?

8 MR. TIMMONS: Yes, sir.

9 THE COURT: All right, I'm going to ask you to listen  
10 while I'm given the facts by the solicitor.

11 SOLICITOR SPRINGS: May it please the court.

12 Your Honor, I'm going to start with what - the case we  
13 were prepared to try this afternoon. In that case Ms.  
14 Rebecca Oxford owns a rental mobile home at [REDACTED]  
15 [REDACTED]. About a hundred and fifty yards from that  
16 rental mobile home is her eighty-nine year old mother's  
17 brick house. Ms. Oxford was in the vacant - furnished but  
18 vacant rental property of hers on January 14th, everything  
19 was fine and intact and when she left it that day she  
20 locked the door with the one key that she keeps possession  
21 of.

22 Later on and getting into the first part of March of  
23 this year she had strong suspicions or reason to believe  
24 that Mr. Timmons here may have burglarized her elderly  
25 mother's house and she went down to talk to him. He lived

1 in another rental mobile home a very short distance from  
2 her vacant mobile home. When she got down there she saw in  
3 his house and saw her furniture on her vacant or what she  
4 thought was locked home. She went down, she checked the  
5 home and sure enough the door had been broken in and her  
6 furniture was now in Steven Timmon's house. That would be  
7 the basis for that burglary of the vacant, unoccupied house  
8 and the theft of furniture.

9 Then, Your Honor, go around Sunday night, April 15th,  
10 during hours of darkness going into the early morning hours  
11 of April 16th of this year Mr. Timmons basically went on a  
12 spree breaking into cars and homes. During the night time  
13 hours of darkness April 15th getting into early morning  
14 hours of April 16th of this year he broke into a house  
15 owned by Thelma Harrison at [REDACTED].

16 That was Ms. Harris - what she calls her York County  
17 house had been her parents house, she lives in Texas and  
18 when she comes and takes extended visits here with her  
19 cousins in York County that's her York County house and he  
20 broke into it and stole a good bit of property out of it.  
21 He did that in the night time and of course that's a  
22 dwelling.

23 Same early morning, same night, he broke into a shed  
24 in the curtilage house of Jeffrey Gibson at [REDACTED]  
25 [REDACTED]. Mr. Gibson found the hasp, the lock broken,

-17-

1 but nothing taken out of it. The same night or early  
2 morning he broke into the work truck of Mr. Michael  
3 Williamson who works for Glass Doctor, the people that go  
4 out and replace windshields on cars. Broke into -  
5 literally broke into that truck and stole things out of  
6 that truck, that vehicle. He also broke into Mr.  
7 Williamson's own vehicle, a Dodge truck, and he broke into  
8 a Dodge Caravan that the Williamson family had there.  
9 Broke into three vehicles there at the Williamson property  
10 and stole things.

11 During that same night, early morning, he broke into  
12 Jennifer Hawkins Nissan Altima vehicle and stole things.  
13 And broke into Mr. Carl Hawkins truck, a Chevrolet truck,  
14 there at the same residence. All these things happened in  
15 really the same general area of South Highway 161 which of  
16 course is in York County.

17 Mr. Timmons was caught that morning. He was seen by  
18 somebody over the state line in Gaston County, breaking  
19 into a house in Gaston County, and a citizen who saw this  
20 chased him in his vehicle; called the police and the police  
21 pulled him over and they started finding stolen property  
22 and it all - had all came out at that point.

23 He does have two convictions in his past for property  
24 offenses; two receiving stolen goods here in York County.

25 Ms. Oxford may want to say...

1 THE COURT: Let me - I'll get to you in just one  
2 minute.

3 All right, Mr. Timmons; you've heard the Solicitor  
4 recite the facts. Do you agree with those facts as to all  
5 these incidences? Let me ask it like this as you're  
6 pleading No Contest.

7 Do you agree that if you went to trial, the State  
8 would be able to present that particular evidence to the  
9 jury at a trial? Do you agree with that?

10 MR. MATTHEWS: You have to answer out loud.

11 MR. TIMMONS: Yes, sir.

12 THE COURT: Did you get that?

13 (COURT REPORTER RESPONDED AFFIRMATIVE.)

14 THE COURT: I accept your pleas. I find they are  
15 freely voluntarily and knowingly and intelligently entered.  
16 Entered with the advice of a competent counsel with whom  
17 you are satisfied. I find the facts support your pleas and  
18 you've signed pleas of guilt to these twelve charges.

19 MR. MATTHEWS: Your Honor, I hadn't marked No Contest  
20 although --

21 THE COURT: I got it.

22 MR. MATTHEWS: All right. Thank you, Your Honor.

23 THE COURT: Thank you for pointing that out. I think  
24 I've got it now.

25 All right, I've accepted your pleas.

-19-

1 I'll be glad now to hear from Ms. Oxford.

2 SOLICITOR SPRINGS: Do you want to say anything to  
3 Judge Hayes?

4 A. Your Honor, in January Mr. Timmons had his father come  
5 to my mother who was eighty-nine and ask about renting a  
6 mobile home. All these years mother has rented and rented  
7 to his father for probably twenty years. I don't know  
8 exactly how long. We've never had any problems but as soon  
9 as this young man came, we've had nothing but problems in  
10 that community all the way.

11 Mother has missed stuff. Someone broke in my mother's  
12 home at night and got - went to her bedroom, got her  
13 pocketbook from beside her bed, and we had every reason to  
14 believe this was Mr. Timmons. That is one of the things  
15 that has created so much problems for everybody in the  
16 area. But he has just created turmoil in our whole  
17 neighborhood.

18 This mobile home of Ms. Harris - Excuse me, not mobile  
19 home, the home of Ms. Harris's has been her summer home for  
20 many many years, no one has ever bothered anything. But  
21 this young man has been a total disappointment. I talked  
22 my mother into letting him rent and it is a mistake that I  
23 am deeply sorry for.

24 She has been broken into twice. Once they got her  
25 pain medication. This was February the 4th. The second

1 time was March the 7th when they went in her house and  
2 stole her purse with a considerable amount of money. I am  
3 an only child and I can't explain to the court or to anyone  
4 what it does when you see your mother eighty-nine that  
5 can't go to sleep until he would cut his lights out at  
6 night. I had to buy her new doors, I had to put in a new  
7 burglar alarm system, I had to put up cameras and she is  
8 terrified. I have watched her deteriorate since March.  
9 And I hate Mr. Timmons is in the shape he's in but he  
10 definitely needs some help. Thank you, sir.

11 THE COURT: A couple of times you said they. Do you  
12 think there was a co-defendant?

13 MS. OXFORD: I'm sorry.

14 THE COURT: You used the term they took. Just Mr.  
15 Timmons or do you think there was a co-defendant? Do you  
16 think there was another person involved?

17 MS. OXFORD: Yes, sir. I think his - Well he  
18 represented his wife but I understand it was just his  
19 girlfriend. But I was led to believe that she knew exactly  
20 what was going on. This - You wouldn't believe this young  
21 man. I mean all these years no problems. My mother tries  
22 to help him. She's eighty-nine and everything all up and  
23 down the street, all this turmoil, he's caused for all the  
24 neighbors.

25 THE COURT: Thank you.

-21-

1 MS. OXFORD: Thank you.

2 THE COURT: Solicitor, anything else?

3 SOLICITOR SPRINGS: Nothing further, Your Honor.

4 THE COURT: Mr. Matthews.

5 MR. MATTHEWS: Yes, Your Honor.

6 First of all I'm retained to represent him. His  
7 family retained me to represent him. At the very beginning  
8 of this case, and I'm kind of having to explain how we get  
9 to this point because I'm in an unusual position in this  
10 case. Originally whenever my client hired me, or his  
11 family hired me, we had one or two charges and then as time  
12 went on it kept growing and kept growing and kept growing  
13 as to these charges that were put on him, I get a phone  
14 call from his family once every two or three days saying  
15 new charges have been put on him.

16 We were planning on going to trial today on a burglary  
17 third and petty larceny which would expose him to a  
18 potential fifteen years. Originally whenever I talked to  
19 the solicitor's office, this was one of those cases that  
20 they were telling me that no offers were going to be put on  
21 the table at all in this case which put me in a position of  
22 trying all his cases. And what really concerned me in this  
23 line of cases because we were talking about several trials  
24 potentially with two burglary first degrees sitting out  
25 there with mandatory minimum of fifteen to life on each one

1 of them.

2 And as I was working up the case and talking to my  
3 client and talking about what his defenses were and talking  
4 to - about who his witnesses would be and such of that  
5 nature, I get informed as well that there are other charges  
6 going to the Grand Jury as a potential of possession of  
7 stolen items. Because in the presentation the items were  
8 found either in his car or in his house or in his back yard  
9 and items there and, you know, I told my client even if  
10 they can't prove you were the one who actually stole the  
11 items out there we still have these possession of stolen  
12 goods out there which were, he had these other two property  
13 convictions out there, so we were obviously getting boxed  
14 in on what we could and could not do.

15 Also the concern was if the jury came back and found  
16 him guilty, and we did have a defense to present which my  
17 client obviously is waiving with going forward on No  
18 Contest on whether or not he had possession or not going to  
19 the trailer, which Ms. Oxford obviously was going to  
20 testify she did not give him permission, was the issue of  
21 if he got found guilty on this burglary third, the  
22 solicitor and I talked about one burglary first, the jury  
23 may come back and add a burglary second degree non violent.

24 That left the third one out there, still if they found  
25 him guilty of the third one it wouldn't matter when - if

-23-

1 they'd proved when it happened because under the  
2 aggravation clause under the burglary first statute if he  
3 had been convicted of two or more prior burglaries then  
4 that's automatically a burglary first and we're right back  
5 into the violent, no parole, scenarios.

6 After talking to my client several times I contacted -  
7 and talking to his family - I contacted the solicitor on I  
8 believe late Thursday, early Friday, of last week. Still  
9 the position at that time no offers were out there and  
10 preparing for trial. And I had a long discussion with Mr.  
11 Springs and that's where we came up with where he told me  
12 here's what I'm wanting. I'm wanting twenty years I don't  
13 care how you structure it this is what I'm wanting and we  
14 can make it parolable. Talked to his family, talked to my  
15 client and talked to him a long time this weekend and  
16 talked to him a long time today, this morning, and right  
17 before trial, go through all the different scenarios for  
18 him to understand that point.

19 And my client ask me some pointed questions, very  
20 intelligent questions, and finally made the decision to do  
21 this plea with everything negotiated, everything to be time  
22 served with the exception of the two consecutive petty  
23 larcenies. Unusually, Your Honor, in that coming up before  
24 Your Honor to ask Your Honor to give a client two  
25 consecutive sentences for ten years but it came down to the

1 issue of what I though the State could prove; what my  
2 experience in this county has been as to what they can  
3 prove, and what juries tend to look at. Also to be candid  
4 with the court what I've seen with this court with the  
5 different judges coming through the system as to what they  
6 tend to sentence them, cases like this where you have the  
7 potential of multiple burglaries and historically what kind  
8 of happened with a couple of cases that us defense  
9 attorneys kind of been paying attention to with burglaries  
10 which we've seen some life sentences come through this  
11 court on burglaries before.

12 And my client made a decision based on the fact of  
13 there is a great probability that the state could prove  
14 their cases or at least get the possessions; the  
15 possibility of him getting more than the time on this  
16 particular sentence and the possible parole eligibility  
17 issues and such that were out there.

18 Your Honor, I honestly told my client I thought that  
19 it was a potential that if Mr. Springs stuck to what he  
20 said he was going to do if we did multiple trials it was a  
21 possibility of consecutive sentencing possibilities here.

22 Your Honor, they also told him there was the  
23 possibility of concurrent but there was a danger of  
24 consecutives and a danger of those two burglary first  
25 degrees.

-25-

1           So in discussing that we came to the decision to plead  
2           him but to be honest, Your Honor, as we're signing  
3           paperwork in there because there was another possible  
4           negotiations that we did but we talked about pluses and  
5           minuses of that option and my client decided to go forward  
6           with it. His family was adamant to send back to him what  
7           they thought he should do. I did relay those messages to  
8           him; gave him my opinion on it. Obviously everything to  
9           the discretion of the Department of Corrections but, Your  
10          Honor, we've come to this conclusion that even though its  
11          not one that I would ask him do you want to accept this.  
12          It was more of an issue of lesser of several evils that  
13          were possibly out there.

14          Your Honor, we still have Gastonia to deal with, not  
15          me personally, but he's gonna have to deal with Gastonia.  
16          They have a hold on him, here I believe a retainer was  
17          placed on him so he's gonna have to deal with whatever  
18          scenarios they have in Gastonia. But, Your Honor, I would  
19          ask that you go along with the negotiated plea of the two  
20          consecutive petty larcenies and the rest of the charge be  
21          time served.

22          I have explained to him the two burglary first degrees  
23          violent, go ahead and put that on the record, Your Honor.  
24          I have explained to him both of those charges are within  
25          the statute Title XVII for being serious offenses. Mr.

1       Springs was adamant, he wanted to have two strikes on him  
2       for future references. Also, that they are violent  
3       offenses but the most important thing, with the time served  
4       part of it the most important thing is that there are two  
5       strikes. That if he gets convicted possibly of a third  
6       serious offense or even a less serious offense in his  
7       lifetime and with him being twenty-two, we had a long  
8       conversation about that, that he could face life without  
9       the possibility of parole.

10       I've also told him he would be facing if another  
11       burglary comes down the pike that would be automatically a  
12       burglary first, which I believe a burglary first falls into  
13       a most serious category, that it does carry fifteen to life  
14       but with the two strikes the fifteen years wouldn't be an  
15       option for him.

16       So I've explained that all to him and ask you to  
17       accept the negotiated plea at this time.

18       MR. SPRINGS: May it pleas...

19       THE COURT: Yes, sir.

20       SOLICITOR SPRINGS: Your Honor, Mr. Matthews mentioned  
21       parole eligibility. In the fourteen years I've been here I  
22       can't define the mind the South Carolina Department of  
23       Corrections. No one knows what may happen as far as his  
24       parole eligibility so I hope Mr. Timmons is going into this  
25       knowing that that is totally in the hands of SCDC and there

-27-

1 is no telling what they may or may not do and there is no  
2 telling how he will behave down there. I hope he's doing  
3 that knowing the parole eligibility is a vast uncertainty.

4 MR. MATTHEWS: Your Honor, to make it clear for the  
5 record, I appreciate Mr. Springs trying to make the record  
6 clear for my client. I advised my client on what SCDC has  
7 informed me of but always, always, always, I have informed  
8 him, and his family, subject to the discretion of the South  
9 Carolina Department of Corrections.

10 THE COURT: Mr. Timmons, anything you want to say?

11 MR. TIMMONS: No, sir.

12 THE COURT: All right, on 2012-2279 and 2012-2017 and  
13 2279 the sentence is ten years. You're to make restitution  
14 of Four Thousand, Four Hundred and Thirty-three Dollars and  
15 Twenty-five cents per as set forth on the restitution  
16 sheet. I've given you credit for eighty-five days.

17 On 2017, again that's 2012, the sentence is ten years;  
18 that's consecutive to 2279 and of course you don't get any  
19 credit on that one because you got credit on the first one.

20 On all the others, all the other ten charges, the  
21 sentence of the court is time served. Thank you.

22 SOLICITOR SPRINGS: Thank you.

23 (END OF TRANSCRIPT OF RECORD.)  
24  
25

CERTIFICATE OF REPORTER

State of South Carolina )

)

County of York )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 9th day of July, 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson  
Wanda Nelson, CVR  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 8-22 / 2013

2013 CP 4601731

FORM 5

STATE OF SOUTH CAROLINA )

County of York )

Steven Ray Timmons # 351564 )  
Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
POST-CONVICTION RELIEF

CERTIFIED TRUE COPY  
2013 JUN -5 PM 4:54  
DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC  
2013 JUN -3 PM 3:12

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Moss Justice Center  
York, S.C. 29745
2. Name and location of Court which imposed sentence York Co. General  
Sessions 1675 York Highway York-SC 29745
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) 2012 GS 4602279

(b) 2012GS4602279  
 (c) \_\_\_\_\_

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 7-9-12 10 years } consecutive  
 (b) 7-9-12 10 years } Non-Violent  
 (c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

(a) after a plea of guilty \_\_\_\_\_  
 (b) after a plea of not guilty \_\_\_\_\_  
 (c) after a plea of nolo contendere yes

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO, Never knew, and wasn't told about an appeal.

8. If you answered yes to (7), list:

(a) the name of each Court to which you appealed:

i. \_\_\_\_\_  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. \_\_\_\_\_  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. \_\_\_\_\_  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

9. If you answered no to (7), state your reasons for not so appealing:

(a) Never was told about a appeal

(SEE motions)

- (b) Attorney never advised me about  
 (c) an appeal or a 10 day dead line.

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Never given Rule (5)  
 (b) Never given Brady Rule (Law)  
 (c) Never given Preliminary Hearing

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Didn't Receive Rule (5) till <sup>MAY</sup> ~~APRIL~~ 2nd 2013  
 (b) Still never Received preliminary  
 (c) Solicitor was well aware of Brady Law

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? ☒  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? ☒  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? ☒  
 (d) any other petitions, motions or applications in this or any other Court? yes

13. If you answered yes to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. Conflict of Interest  
 ii. ineffective Counsel  
 iii. Motion to remove Solicitor  
 iv. Motion to remove Judge

(b) the name and location of the Court in which each was filed:

- i. Clerk of Court  
 ii. P.O. Box 649 - York - SC 29745  
 iii. \_\_\_\_\_

- iv. \_\_\_\_\_
- (c) the disposition thereof:
- i. no disposition as of May 5<sup>th</sup> 2013
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

- (b) the proceedings in which each ground was raised:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) \_\_\_\_\_  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes  
 (b) your trial, if any? N/A  
 (c) your sentencing? yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Michael Matthews  
PO Box 36668 Rock Hill S.C. 29732

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. plea  
Sentencing

ii. \_\_\_\_\_

iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

5yrs 55 5yrs probation  
5yrs <sup>33</sup> 5yrs probation / Concurrent

20. Are you now under sentence from any other court that you have not challenged?

no

Revised 3/2003

STATE OF SOUTH CAROLINA )

County of York )

VERIFICATION

I, Steven Ray Jammons, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Steven Ray Jammons  
#357564

SWORN to and subscribed before me this 15<sup>th</sup>  
 day of May, 2013.

Luchena Bryant (L.S.)  
 Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Steven Ray Timmons, #351564,

2013-CP-46-1731

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief (PCR) filed June 3, 2013, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. The Applicant was indicted at the June 2012 term of the York County Grand Jury for Burglary, 3<sup>rd</sup> degree (2012-GS-46-2016) and Petit Larceny (2012-GS-46-2017). He was charged with three (3) counts of Petit Larceny, five (5) counts of breaking into a motor vehicle and one (1) count of Burglary, 1<sup>st</sup> degree. Mike Matthews, Esquire, represented him. On July 9, 2012, the Applicant pled guilty to Petit larceny and Burglary, 3<sup>rd</sup> degree as indicted before the Honorable John C. Hayes, III. He also waived presentment to the grand jury of all other charges and pled guilty<sup>1</sup>. The Applicant was sentenced, pursuant to a negotiated sentence, to ten (10) years for one count of Petit larceny, 3<sup>rd</sup> or subsequent offense and ten (10) years, consecutive, for another count of Petit Larceny.

<sup>1</sup> Among these charges, the Applicant pled to Burglary, 2<sup>nd</sup> degree as a lesser included offense of Burglary, 1<sup>st</sup> degree.

Judge Hayes sentenced Applicant to a sentence of time served for all other charges. Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the York County Clerk of Court regarding the subject conviction(s) and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Never given Rule (5)"
  - a. "Didn't receive Rule (5) till(sic) May 2, 2013"
2. "Never given Brady Rule (Law)"
  - a. "Solicitor was well aware of Brady law:
3. "Never given Preliminary Hearing"
  - a. "Still never received preliminary"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

## III.

Respondent construes these allegations as ineffective assistance of plea counsel. Respondent submits plea counsel rendered effective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon

as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

## IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

## V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

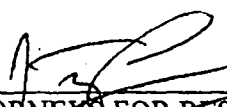
Respectfully submitted,

ALAN WILSON  
Attorney General

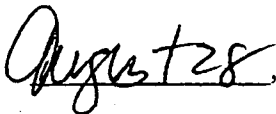
JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Assistant Attorney General

By:   
~~ATTORNEYS FOR RESPONDENT~~

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

 2013.

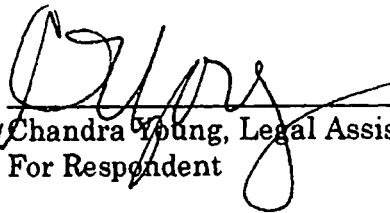
|                            |   |                              |
|----------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA    | ) |                              |
|                            | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF YORK             | ) |                              |
|                            | ) |                              |
|                            | ) | 2013-CP-46-1731              |
|                            | ) |                              |
| STEVEN R. TIMMONS, #351564 | ) |                              |
|                            | ) |                              |
| Applicant,                 | ) |                              |
|                            | ) |                              |
| vs                         | ) | AFFIDAVIT OF SERVICE BY MAIL |
|                            | ) |                              |
| STATE OF SOUTH CAROLINA,   | ) |                              |
|                            | ) |                              |
| Respondent.                | ) |                              |
|                            | ) |                              |

---

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Leah B. Moody, Esquire  
Post Office Box 101  
Rock Hill, SC 29731

DATED this 28<sup>th</sup> day of August, 2013.

  
Chandra Young, Legal Assistant  
For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Steven R. Timmons #351564

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2013-CP-46-1731

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney:  
Leah B. Moody, Bar No.  
Address:  
Post Office Box 101 Rock Hill, SC 29731

phone: fax:  
e-mail: other:

Defendant's Attorney:  
J. Rutledge Johnson, Bar No. 78871  
Address:  
PO Box 11549 Columbia, SC 29211-1549  
phone: 803-734-3737 fax: 803-734-4113  
e-mail: other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

## SECTION I: Hearing Information

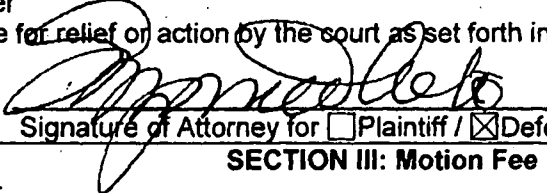
Nature of Motion:

Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO

## SECTION II: Motion/Order Type

- ☒ Written motion attached  
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
 Signature of Attorney for ☐ Plaintiff / ☒ Defendant

August 28, 2013

Date submitted

## SECTION III: Motion Fee

- ☐ PAID - AMOUNT:  
☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support  
 (check reason) ☐ Domestic Abuse or Abuse and Neglect  
☐ Indigent Status ☐ State Agency v. Indigent Party  
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief  
☐ Motion for Stay in Bankruptcy  
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)  
☐ Proposed order submitted at request of the court; or,  
 reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

## JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the  
attached order.  
☐ Other:

JUDGE

CODE: \_\_\_\_\_ Date:

## CLERK'S VERIFICATION

Collected by: \_\_\_\_\_

Date Filed:

☐ MOTION FEE COLLECTED:

IN the Honorable Court of the 16<sup>th</sup> Judicial Circuit of 41

2013CP46-1731

the County of York, South Carolina

2013 JUN 11 PM 3:43

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

State  
v

Steven Timmons

Case # 12-1731-1731  
Variant #3 J158443

J158418

FILED-RECEIVED  
2013 JUN -5 AM 9:58  
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

## MOTION to Remove Judge

I Steven timmons Do Hereby Motion  
this Honorable Court to Remove Judge Hayes  
of York, County South Carolina From my P.C.R.  
Hearing For the Following reasons:

IF the presiding Judge For A PCR Hearing was  
the Judge presiding over the guilty Plea, Trial,  
or probation revocation the Applicant is challenging;  
upon motion by either party, The Judge must  
rescue Himself. Floyd vs. State, 303 S.C. 298, 400 S.E  
2d 145 (1991)

Signed: Steven Timmons

this written on MAY 5<sup>th</sup> 2013

Printed: .....

# Certificate of receipt

I Steven Timmons am requesting this receipt for Motion to remove Judge for PCR purposes be stamped Filed with File date And original Copies returned, I Further request that my lawyer Michael Matthews and the Solicitor on my case E. B. Spring be given a copy

this written on May 5<sup>th</sup> 2013

WARRANTS #

5158443

5158418

Signed Steven Timmons

Printed Steven Timmons

1 STATE OF SOUTH CAROLINA

2 -----x

3 STEVEN R. TIMMONS,

4 Petitioner,

5 Case No.

6 -against- 2013-CP-46-1731

7 STATE,

8 RESPONDENT.

9 -----x

10 January 21, 2014

11 York, S.C.

12

13 B E F O R E:

14 HONORABLE J. MICHAEL BAXLEY

15

16 A P P E A R A N C E S:

17 LEAH MOODY, Esquire

18 Attorney for the Petitioner

19

20 JAMES RUTLEDGE JOHNSON, Esquire

21 Assistant Attorney General

22

23 Aileen Butler

24 Official Court Reporter

25

|    | <u>I N D E X</u>  |               |              |                                 |
|----|-------------------|---------------|--------------|---------------------------------|
|    | <u>WITNESS</u>    | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> <u>RE CROSS</u> |
| 1  |                   |               |              |                                 |
| 2  |                   |               |              |                                 |
| 3  | Steven R. Timmons |               |              |                                 |
| 4  | Ms. Moody         | 6             |              |                                 |
| 5  | Mr. Johnson       |               | 22           |                                 |
| 6  | Samantha Timmons  |               |              |                                 |
| 7  | Ms. Moody         | 26            |              |                                 |
| 8  | Samuel Timmons    |               |              |                                 |
| 9  | Ms. Moody         | 30            |              |                                 |
| 10 | Michael Matthews  |               |              |                                 |
| 11 | Mr. Johnson       | 35            |              |                                 |
| 12 | Ms. Moody         |               | 51           |                                 |
| 13 |                   |               |              |                                 |
| 14 | Court's ruling    | 57            |              |                                 |
| 15 |                   |               |              |                                 |
| 16 |                   |               |              |                                 |
| 17 |                   |               |              |                                 |
| 18 |                   |               |              |                                 |
| 19 |                   |               |              |                                 |
| 20 |                   |               |              |                                 |
| 21 |                   |               |              |                                 |
| 22 |                   |               |              |                                 |
| 23 |                   |               |              |                                 |
| 24 |                   |               |              |                                 |
| 25 |                   |               |              |                                 |

|    |                        |                    |             |             |
|----|------------------------|--------------------|-------------|-------------|
| 1  | <u>E X H I B I T S</u> |                    |             |             |
| 2  |                        |                    |             |             |
| 3  | <u>NO.</u>             | <u>DESCRIPTION</u> | <u>I.D.</u> | <u>EVD.</u> |
| 4  | State's 1              | 6-page memo        |             | 50          |
| 5  |                        |                    |             |             |
| 6  |                        |                    |             |             |
| 7  |                        |                    |             |             |
| 8  |                        |                    |             |             |
| 9  |                        |                    |             |             |
| 10 |                        |                    |             |             |
| 11 |                        |                    |             |             |
| 12 |                        |                    |             |             |
| 13 |                        |                    |             |             |
| 14 |                        |                    |             |             |
| 15 |                        |                    |             |             |
| 16 |                        |                    |             |             |
| 17 |                        |                    |             |             |
| 18 |                        |                    |             |             |
| 19 |                        |                    |             |             |
| 20 |                        |                    |             |             |
| 21 |                        |                    |             |             |
| 22 |                        |                    |             |             |
| 23 |                        |                    |             |             |
| 24 |                        |                    |             |             |
| 25 |                        |                    |             |             |

1 THE COURT: All right, sir, are you Mr. Steven R.  
2 Timmons.

3 MR. TIMMONS: Yes, sir.

4 THE COURT: How are you Mr. Timmons?

5 MR. TIMMONS: Good.

6 THE COURT: I'm Judge Baxley, and we are hear  
7 obviously as you know because you filed a PCR claim and  
8 your case has now been called for trial. What we are  
9 going to do we will let the attorney general give you  
10 the history of your case and then we will meet with your  
11 client's and let your lawyer tell us whether or not you  
12 agree that history is correct and then we will be ready  
13 to proceed. We will start calling your witnesses and go  
14 from there. All right, sir.

15 Mr. Johnson, give us the history of this matter,  
16 please.

17 MR. JOHNSON: May it please the Court, Your Honor.  
18 The case of Steven R. Timmons versus State of South  
19 Carolina. Case number 2013-CP-46-1731 Mr. Timmons was  
20 indicted at the June 2012 term of the York County Grand  
21 Jury for burglary, third degree, and petit larceny. He  
22 was charged with three counts of petit larceny, five  
23 counts of breaking into a motor vehicle and one count of  
24 burglary first degree.

25 On July the 19, 2012, he plead no contest to the

1        petit larceny and burglary, third degree, as indicted  
2        before the Honorable John C. Hayes III. He also waived  
3        presentment to the Grand Jury of all the other charges  
4        and plead guilty and the burglary first degree he plead  
5        to burglary 2nd degree as lesser included.

6                Pursuant to a negotiated sentence he was sentenced  
7        to ten years for one count on the petit larceny third or  
8        subsequent offense and he was also consecutively  
9        sentenced to ten years for the other count of petit  
10       larceny third or subsequent defense. He was further  
11       sentenced concurrently for time served on all other  
12       charges.

13               He filed no appeal, however he filed a timely PCR  
14       application on June 3, 2013. The State filed its return  
15       on August 28, 2013 and he is represented here today by  
16       Miss Leah Moody.

17               THE COURT: All right, now Miss Moody is that  
18       history is that correct in your understanding of the  
19       history?

20               MS. MOODY: Yes, sir, Your Honor.

21               THE COURT: Very good. Are you ready to proceed?

22               MS. MOODY: Yes, sir, Your Honor.

23               THE COURT: Call your first witness.

24               MS. MOODY: At this time I would call Mr. Timmons  
25       to the stand.

1 THE COURT: All right Mr. Timmons, please come  
2 forward to the clerk and accept the oath of a witness.

3 STEVEN R. TIMMONS, called as a witness, having  
4 been duly sworn by The Clerk, was examined and  
5 testified as follows:

6 THE COURT: Please proceed.

7 DIRECT EXAMINATION

8 BY MS. MOODY:

9 Q Mr. Timmons, I will need to you speak into that mic.  
10 Would you please state your full name for the record.

11 A Steven Ray Timmons.

12 Q And where are you currently residing?

13 A Perry Correctional Facility.

14 Q And why are you at the Perry Correctional Facility?

15 A Because I had been sentenced to 20 years.

16 Q And were you sentenced on the charges as read out by  
17 the Attorney General?

18 A Yes, ma'am.

19 Q And on those charges who was your lawyer at that time?

20 A Michael Matthews.

21 Q And did he represent you on all the charges?

22 A Yes, ma'am.

23 Q And when you first hired Mr. Matthews how many charges  
24 did you have at that time?

25 A I am not exactly sure.

1 Q Were you charged on two charges?

2 A When I initially got arrested I was arrested for  
3 driving under suspension, 2nd degree burglary and petit larceny,  
4 I think.

5 Q And during that time when you got initially arrested  
6 were you able to sit down and talk to Mr. Matthews about your  
7 charge?

8 A Not at that time.

9 Q Okay. When did you get an opportunity to speak with  
10 Mr. Matthews?

11 A I think it is a little after my parents retained him.  
12 They had to go over payments and all that stuff. So I mean, it  
13 was after I got plenty of charges on me though.

14 Q So after you got the other charges that the Attorney  
15 General spoke of that's when you had opportunity to discuss your  
16 full situation?

17 A Yes, ma'am.

18 Q Now, the charges that you were arrested on are  
19 different dates, correct?

20 A Yes, ma'am.

21 Q And at what time did you decide to accept the plea  
22 offer from the State?

23 A When did I decide to accept the plea offer?

24 Q Yes.

25 A The day of my trial, July 9th.

1 Q July 9th. Okay, before that had you indicated to Mr.  
2 Matthews any possible things that could help you in defending  
3 yourself?

4 A Well, we talked about pleading out, but he always told  
5 my parents that the detective was stacking charges on me because  
6 within a five-mile radius that he they cleared their books so  
7 they were clearing their book thing. So he told me that we go a  
8 preliminary hearing and ninety percent of them will probably get  
9 dropped. So we discussed about trying to get drug court in the  
10 matter of pleading out something like that.

11 Q So, I am going to go back to the preliminary hearing.  
12 Did you get to go for a preliminary hearing?

13 A No, I never seen a preliminary hearing.

14 Q Did you waive your preliminary hearing?

15 A No, ma'am. I asked for a preliminary hearing many  
16 times.

17 Q All right. And so you didn't have a preliminary  
18 hearing, but you all were exploring drug court?

19 A Drug court -- he told my parents that -- I will be  
20 honest. Come out and said it was a shit case. Excuse my  
21 language. But he told my parents if I got any time, being it  
22 was my first serious matter of time, that zero to three years.  
23 The most five years. But he was pushing for drug court because  
24 I had a problem. That's what we were pushing for.

25 Q Let me ask you this, did you go through the process for

1 interviewing for drug court?

2 A He sent the e-mail to the solicitor and that's when the  
3 solicitor e-mailed him back stating I was 2012 project.

4 Q Who was the solicitor at that time?

5 A EB Springs.

6 Q And how do you know he received a respond from the  
7 solicitor in that regard?

8 A Because he brought the printed e-mail and showed it to  
9 me through the glass.

10 Q And so at that point you understood you could not get  
11 the drug court?

12 A Pretty much.

13 Q Let me ask you one other thing. You referred to Mr.  
14 Matthews as speaking with your parents. Were you there with Mr.  
15 Matthews at the time that he spoke with your parents?

16 A No, I was incarcerated.

17 Q When did you get to speak with Mr. Matthews about the  
18 alternative of drug court possibly plea?

19 A I mean, he come and spoke to me it was around when I  
20 kept calling wanting a motion of discovery, but when he come  
21 spoke to me he told me that my stuff was a video e-mail or  
22 something that he hasn't got copies of. And when he come and  
23 spoke to me about the drug court he come to me and he said -- I  
24 asked him first. I said was you able to get a plea? He said  
25 no, things have changed since your first trial. We are going to

1 have to -- the solicitor is taking you to trial. Your first  
2 trial you are going to get sentenced a little harsh and your  
3 second trial a little easier. I told him right then, I was like  
4 what do you mean, so he ain't going to give me no plea and  
5 that's when he showed me the e-mail where the solicitor stated  
6 that he picks one case a year to make a project and I happen to  
7 be his 2012 project. So I asked him how is that fair and his  
8 comment back to me was he did it when he was a solicitor.

9 Q Okay. Will let me ask you this, when you talked to him  
10 about the results of possibly getting drug court and you got the  
11 e-mail had you indicated that you did not want to plead to any  
12 of the charges or did you say you wanted to go the trial? How  
13 did you get to the point that you were going to trial?

14 A At the time when he told me about what the solicitor  
15 said he was going to sentence me harsh and all that, see I've  
16 never been in trouble so I was scared at the moment. At the  
17 time, no, I didn't want to go to trial.

18 Q So you wanted to plea?

19 A Yeah, I wanted to plea out because I didn't -- my baby  
20 momma she was five months pregnant and I got a son out there. I  
21 didn't want to get some time, you know. I mean, it's just a lot  
22 of pressure. It really was.

23 Q I understand that. I am trying to make sure I am clear  
24 with you wanted to plead to the charges?

25 A Yeah, I wanted to ask because I couldn't get drug court

1 I told him to see what kind of offer they could get, but know  
2 plea deal was on the table pretty much.

3 Q And so on July 9th when you said you were going to  
4 trial you ended up pleading?

5 A Yes, ma'am.

6 Q And you ended up pleading to two petit larcenies for  
7 the ten years apiece to be consecutive?

8 A Yes.

9 Q And so in essence you got the 20 years?

10 A Yes.

11 Q On that day what, if anything, did you discuss about  
12 the charge that you were going to be taken to court on by way of  
13 trial?

14 A What do you mean?

15 Q Okay, you were going to go to trial on July 9th, right?

16 A Right.

17 Q So they weren't going to try all of the charges at one  
18 time. They were going to try one set of charges, correct?

19 A Correct.

20 Q And what were the charges on that day?

21 A Burglary third degree and petit larceny against me.

22 Q Okay. And what information, if any, did you provide  
23 for your lawyer with regard to that trial?

24 A Well, I had I wanted him to go out and take photos of  
25 the place that showed there was no damage to the door to prove

1 that I didn't burglarize it and I wanted to get statements from  
2 my sister to show that I didn't burglarize it. That I had  
3 permission and everything, but none of that was done. And I  
4 meant, at that point I never had a motion of discovery. I  
5 didn't know anything that they had against me. Now that I do  
6 got a motion of discovery -- I got it right here, and still  
7 there's really nothing in it that can help me defend my case.  
8 I meant, this is my motion of discovery right here.

9 Q When you say motion of discovery --

10 A For this case.

11 Q For that one particular case?

12 A Yeah.

13 Q You are talking about whether he filed a Rule 5 motion  
14 for discovery?

15 A Uh-huh.

16 Q You did not receive any other documents from the  
17 solicitor?

18 A I didn't receive nothing.

19 Q Okay.

20 A Just the warrants, that's all I received.

21 Q Well, how had you -- you said you wanted Mr. Matthews  
22 to get all these documents. What -- tell the Court about your  
23 sister's situation and what she was going to lend to your case  
24 by way of defense?

25 A At the time of July the 9th she was incarcerated for

1 unrelated charges and it was in North Carolina and by her being  
2 there she was going to prove that I had permission to get the  
3 furniture because she got new furniture herself. I'm the one  
4 who put her new furniture in the place. I didn't burglarize the  
5 place and I wanted her there to prove that because I felt like I  
6 needed her there and she was incarcerated at the time and she  
7 couldn't be there. I wanted him to go get a statement or  
8 anything but he told me he could not go to North Carolina  
9 because he is not a North Carolina lawyer. But I was pretty  
10 much left no choice.

11 Q Were there any other witnesses that he could have  
12 contacted?

13 A My baby momma she was one of the witnesses and my  
14 father was a witness. But my baby momma she has been charged a  
15 related crime with me and he has already told me if we lost that  
16 day that will put charges on her. She was five months pregnant.  
17 I didn't want to put her at any risk at all. I mean that is  
18 pretty much it.

19 Q So, what happened with your father testifying?

20 A I don't know. I mean I was told that he was going to  
21 be impeached because he had a background record, but I don't  
22 really know.

23 Q And so that was one set of charges you were going to  
24 have to go forward on that very day, July 9th?

25 A Correct.

1 Q There were no other charges that they were going to go  
2 forward on that day in terms of a trial?

3 A No.

4 Q Okay. And so at some point during that day you decided  
5 you wanted to plea, correct?

6 A I mean it ain't part of like deciding. I mean I was  
7 pretty much left -- put in a room and he pretty much come and  
8 tell me like look you got to do something. I didn't want to  
9 plea. I didn't want to plea out but I was left with three  
10 options. One plea deal of 20 years. Another plea deal that was  
11 not nearly as good pretty. Pretty much said we had to have ten  
12 or less to get even better deal, and third option was to go to  
13 trial today which I knew I wasn't prepared for.

14 I feel like my due rights was violated. I didn't get  
15 no motion of discovery, no preliminary hearing, and I didn't  
16 know anything they had against me. I didn't want to plead out  
17 that day, bit I was backed in the corner and I was pretty much  
18 forced too.

19 Q Okay. So, when you talked about the options that you  
20 you had, you said you obviously plead to the first option which  
21 was the two petit larcenies for 20 years, correct?

22 A Correct.

23 Q And as part of that all the other charges would be for  
24 time received or dismal and you could plead to no contest?

25 A Correct, but when I was told about the second option I

1 was under the impression that I had to have ten years violent  
2 and then go in front of the judge and plead out to eight more  
3 charges.

4 Q Okay. So, the second option you are talking about and  
5 I will read it out to you and you tell me if this is what you  
6 recall it being. Plead to ten years on the burglary third  
7 degree and petit larceny. The other charges will be presented  
8 as agreed upon for a straight up plea in front of Judge Hayes.  
9 Is that what you are talking about? You are going to plead to  
10 the burglary third for ten years?

11 A Yes, ma'am.

12 Q Okay. And then the other charges that actually got  
13 dismissed or what have you, you would have to plead to those  
14 straight up?

15 A Yes, ma'am.

16 Q And you decided against that option?

17 A At the time yes.

18 Q And why did you decide against that option?

19 A Because I asked him what do you think. He said EB  
20 Springs will probably ask for consecutive sentences and I said  
21 well, how do you think that is going to go and he says, well, he  
22 has us going in front of Judge Hayes because he gets his way  
23 with Hayes and I see that happening getting consecutive  
24 sentences. I said, well, what do you think? I mean, how much  
25 would I have to get to get better than the 20 years. He told me

1 18 years or less. And chances of getting ten years added on it  
2 was very good. Like pretty much told me it wasn't a better  
3 deal.

4 Q Okay. And so then there was a third option that you  
5 had.

6 A That was to go to trial.

7 Q Okay, and that was no deal. You would begin the trial  
8 right away and then you would be facing the other charges once  
9 they were presented to the Grand Jury and you would have to call  
10 your witnesses and go on each trial?

11 A Correct.

12 Q And you decided against that?

13 A The third option was I go to trial that day and the  
14 witnesses that I had there were the witnesses that I could have.  
15 And my main witness, Samantha, apparently I couldn't move for a  
16 continuance.

17 Q When you say Samantha --

18 A Timmons.

19 Q And that's your sister?

20 A Yes, ma'am.

21 Q And she was in North Carolina?

22 A Yes, ma'am.

23 Q And you were going to say something about a  
24 continuance?

25 A When I asked him to move for a continuance he told me

1 it is more likely get denied because I had pending charges in  
2 North Carolina, and I mean, -- I didn't get a really fair trial  
3 I think.

4 Q And so I guess you are saying that -- and we talked  
5 about this. How are you prejudiced by having to pick one of the  
6 three options on that day on July 9th?

7 A Well, how I feel I was prejudiced was every criminal  
8 has a meaningful right to a fair trial and I never seen a piece  
9 of evidence that was held against me. I never got preliminary  
10 hearing. I mean, all my due rights are violated on that part  
11 and have my witnesses that I wanted there. Everybody should  
12 have the right to have their own witnesses there and I didn't  
13 get to have that.

14 When I asked him to go take photos I will say he did  
15 attempt to go take photos of the door of the mobile home to show  
16 that I didn't burglarize it, but when he sent someone out there  
17 to take photos of my place they took photos of the wrong  
18 address, and so whether he went back out there and took the  
19 right photos I don't know because I was never showed nothing. I  
20 mean, I feel like if all that would have been done right and I  
21 went to trial that day I would have one of these ten years off  
22 and I would just have ten years on my belt instead of having two  
23 consecutive ten years.

24 Q So, you are saying as to the charges that related with  
25 your sister where you were helping your sister out, you feel

1 based on having her testimony, the pictures associated with the  
2 location that was burglarized that you would have gotten a not  
3 guilty verdict?

4 A The statements and Courtney Barrelison (phonetics.)  
5 She was witness also. Samantha, Courtney Barrelison and none of  
6 them they didn't get to come on my behalf.

7 Q Now, where was Courtney located?

8 A She lived in Clover with us but I don't know where she  
9 was at the time of the trial.

10 Q Okay. Did you provide your attorney with an address?

11 A No, but I mean in this case Detective Lowless  
12 (phonetics) she interviewed all these people so I figured all  
13 that stuff would be in the motion of discovery, like all the  
14 information and all that. I didn't have her information because  
15 she was living with us at the time and she was the one who her  
16 and baby momma help move the furniture.

17 Q So now you decide, or you felt like you were pushed in  
18 a corner on that day and you entered a plea to both charges for  
19 the ten years consecutive on each and then you have some charges  
20 dismissed and then you get time served on some other charges.  
21 When you went through your plea did you understand what -- did  
22 you understand what you were going to be faced with as far as  
23 the sentence?

24 A Yes, ma'am.

25 Q Okay. And when you spoke with your attorney before you

1 came out and signed the sheet, the sentencing sheet, did you ask  
2 him any questions or did you discuss your case any further?

3 A No, ma'am. I will be honest with you, I mean I was in  
4 a real daze that day. July 9th it was my son's birthday and I  
5 mean, there was a lot of pressure on me. I you wasn't clear  
6 minded at all when I took that plea. I wasn't in my right mind  
7 at all. I mean it bothered me period that July 9th was my boy's  
8 birthday. I didn't want to go to trial that day. I wasn't  
9 prepared for it, but at the same time I was pretty much put in a  
10 predicament where I was forced to go to trial that day which I  
11 knew I wasn't prepared for. So when he put me in that room I  
12 felt like I had to take take plea when I know he wasn't prepared  
13 for that trial at all that day.

14 Q What relief are you asking from the Court here today?

15 A The relief I am asking for is to overturn that one  
16 ten-year and give me an opportunity to prove that I am not  
17 guilty for it.

18 Q So, when you say the one, you are talking about that  
19 one case that was for that day, July 9th, that is the case you  
20 were going to go to trial. You want the Court to overturn that  
21 conviction only?

22 A That's the main one I want overturned, yes, ma'am  
23 because I am not guilty of that.

24 Q Do you realize that the Court if they grant you relief  
25 you will not -- you don't get to pick and choose all your

1 charges?

2 A That's fine I will take my chances. I mean I really  
3 think that it would be better outcomes with it overturned  
4 because if I go to trial and I beat that one I think there will  
5 be better outcomes instead of two ten-year consecutive  
6 sentences, for one that I was pushed into taking.

7 Q Okay. Let me understand this. As to the other charges  
8 that you plead to, another petit larceny and then you had time  
9 received on some other charges, you are saying you don't want to  
10 deal with those. Are you saying you were guilty of those? I  
11 mean, you plead no contest what are you saying as it relates to  
12 those charges?

13 A I am saying I want my case overturn.

14 Q All of the charges?

15 A Correct.

16 Q Okay. Now, is there any other -- you alleged that you  
17 felt like your lawyer was ineffective because you didn't get a  
18 preliminary hearing, correct, and you then you indicated that  
19 you were not prepared for your trial and he didn't get your  
20 witness?

21 A Correct.

22 Q Is there anything else that you are alleging against  
23 your lawyer?

24 A As far as the witnesses, the preliminary hearing and I  
25 never once seen a piece of evidence against me, and as far as

1 like when I asked him to go out and investigate he never did.

2 Also I want that down.

3 If he did it is not in my motion of discovery because I got  
4 everything on that case right here.

5 Q What do you mean if he did you didn't get it?

6 A I mean, like if there is any investigation that he  
7 done, I mean, when he sent me my motion of discovery he told me  
8 that he couldn't send me no photos but when I am digging the  
9 motion of discovery I got like about that thick of papers,  
10 pictures (indicating) of the other case, but on this case had no  
11 photos or nothing here. Just shows their claim that they are  
12 claiming in their summary. I have no photos, nothing or  
13 anything that he done on on my behalf.

14 Q Okay. So, as to the charge that was going to be the  
15 trial that day on July 9th you received no photos or anything,  
16 but on the other charges that were not going to be brought  
17 before the Court you received all that stuff?

18 A I received it May 2nd, 2013 in this envelope right  
19 here. That's when I received everything.

20 Q 2013?

21 A 2013, May the 2nd.

22 Q Is there anything else you like to relate to the Court  
23 regarding your relief or how you were prejudiced?

24 A No.

25 MS. MOODY: Thank you. Please answer any

1 questions the State may have.

2 THE COURT: Cross examination.

3 MR. JOHNSON: Just briefly, Your Honor.

4 CROSS EXAMINATION

5 BY MR. JOHNSON:

6 Q Mr. Timmons, at your guilty plea the Court explained  
7 the charge and the penalties you were facing and you said that  
8 you understood those, correct?

9 A Yes, sir.

10 Q And that you waived presentment on the other five  
11 charges?

12 A Yes, sir.

13 Q And understood those penalties as well, correct?

14 A Yes, sir.

15 Q And one of those penalties of burglary first degree  
16 which carries 15 to life, isn't that correct?

17 A Yes, sir.

18 Q And so you do understand that if you are successful  
19 here today and you go back and face those original charges the  
20 minimum you could get -- the Court cannot suspend it, is 15  
21 years on that one charge?

22 A Yes, sir.

23 Q And the maximum is a live sentence?

24 A Yes, sir.

25 Q And you plead guilty to the burglary 2nd degree and no

1 contest to the burglary third degree?

2 A I plead no contest to all.

3 Q Okay. And you understood that no contest is treated as  
4 guilty plea, correct?

5 A Yes.

6 Q Nobody promised or threatened you to get you to plead  
7 guilty?

8 A I was for the promised or threatened just otherwise  
9 that I didn't really have no option. There was only three  
10 options on the table.

11 Q And that is take the two consecutives, option number  
12 two is get a ten and then go before Judge Hayes on all the other  
13 charges and option number three is go to trial, correct?

14 A Correct.

15 Q Ann choose the first option, correct?

16 A Right.

17 Q And you did so freely and voluntarily, correct?

18 A No, my plea was involuntary.

19 Q But you actually told the judge that day that it was  
20 freely and voluntarily, correct?

21 A I told the judge -- I mean he told me what I could and  
22 couldn't say to the judge.

23 Q But you told the judge under oath that you were  
24 pleading freely and voluntarily, is that not correct?

25 A Correct.

1 Q But now you are saying that it wasn't freely and  
2 voluntarily?

3 A It wasn't at the time. I wasn't clear minded and  
4 before we went to courtroom he said now do you understand the  
5 judge is going to ask you some questions and I said okay, and  
6 then when he told me the questions what he is going to ask he  
7 told me what to say and everything because if I insinuating  
8 something different then the judge would insist me on going to  
9 trial that day which I knew I wasn't prepared for.

10 Q So today in this hearing you are saying that you did  
11 not plead freely and voluntarily, is that what I am  
12 understanding?

13 A Yes, sir.

14 Q So you lied to the judge under oath at your guilt plea?

15 A Yes, sir, I lied to the judge. I wasn't forced.

16 Q And the judge explained to you your constitutional  
17 right to a jury trial at your guilty plea?

18 A Yes, sir.

19 Q And you said you understood those, correct?

20 A Yes, sir.

21 Q And you agreed with the facts that would be presented  
22 at the trial as presented by the solicitor at your guilty plea,  
23 correct?

24 A Yes, sir.

25 Q Or your plea of no contest. And at this plea you

1 stated that you were satisfied with your attorney, isn't that  
2 right?

3 A Yes, I did state that.

4 Q But you are not satisfied with him, correct?

5 A Correct.

6 Q So you lied again?

7 A Yes, sir.

8 MR. JOHNSON: No further questions Your Honor.

9 THE COURT: Is there redirect on those issues?

10 MISS. MOODY: No, sir.

11 THE COURT: All right sir. Then you may step  
12 down. Please watch your step as you walk back to the  
13 table there.

14 Are there further witnesses now for applicant?

15 MS. MOODY: Beg the Court's indulgence.

16 THE COURT: Okay.

17 MISS MOODY: Your Honor, at this time I would call  
18 Samantha Timmons.

19 THE COURT: All right ma'am please come forward  
20 and take the oath of a witness.

21 SAMANTHA TIMMONS, called as a witness, having been  
22 duly sworn by the clerk, was examined and testified as  
23 follows:

24 DIRECT EXAMINATION

25 BY MISS MOODY:

1 Q Miss Timmons, could you please state your full name for  
2 the record?

3 A Samantha Lynn Timmons.

4 Q Where do you currently reside?

5 A At [REDACTED], Grover, North Carolina.

6 Q And how long have you been a resident of Grover, North  
7 Carolina?

8 A Ever since I got out of jail in Cleveland County, which  
9 was -- late August.

10 Q Of 2013?

11 A 2012, I believe.

12 Q 2012?

13 A Yeah, I believe so.

14 Q All right. And you're the sister of Steven Timmons?

15 A Yes, ma'am.

16 Q Okay, and you are aware that your brother wanted you to  
17 testify on his behalf?

18 A Yes, ma'am.

19 Q Okay, and at the time that he was going to court how  
20 did you learn that he wanted you to testify on his behalf?

21 A I had called, made a phone call home and they had told  
22 me that an officer had come out to subpoena me in court but I  
23 was incarcerated at the time, so there was nothing I could do.

24 Q Okay. So do you know where that subpoena came from?

25 A I'm not really for sure.

1 Q So you were incarcerated at the time, but during the  
2 time that this burglary that took place was the burglary at the  
3 house that you were living in or that you would be living in?

4 A The house that the furniture was in?

5 Q Yes, ma'am?

6 A I had planned on moving into it and I had already had  
7 the place promised to me. It was just there was a lot of work  
8 that needed it be done on the inside and I wasn't financially  
9 stable enough to actually make the payments on it at the time.

10 Q So, was there work being performed at that time or are  
11 you saying it needed work?

12 A It needed work.

13 Q And the furniture that came from that or that was taken  
14 from that location indication, whose furniture was that?

15 A It belonged to the rent lady.

16 Q And what if anything did she say about or -- excuse me.  
17 What, if anything, did you understand regarding that furniture?

18 A She had told Steven that it was fine for him to get the  
19 furniture.

20 MR. JOHNSON: Objection, Your Honor, hearsay, to  
21 anything the landlord would have said.

22 THE COURT: Sustained.

23 MISS MOODY: You can't say what she said.

24 Q What did you understand could happen with the  
25 furniture?

1           A     I understood that the furniture was allowed to be took  
2 out of the home, but the antique tub that was in the back yard  
3 was to be left alone.

4           Q     And the furniture that was going to be removed from  
5 that home -- I guess my question basically is, was the furniture  
6 just left to be moved and the landlord did not want that  
7 furniture?

8           A     She still wanted the furniture and if it wouldn't have  
9 went in to his place it was going to be put into a building.

10          Q     In whose place?

11          A     In Stevens Timmons's place.

12          Q     So, in terms of testifying for your brother would you  
13 have been able to testify that he had a right to this furniture?

14          A     Yes.

15          Q     And you didn't get to testify because you were  
16 incarcerated?

17          A     Yes.

18          Q     Did anybody contact you to get you to send any kind of  
19 written statement?

20          A     No.

21          Q     Did you try to contact anyone other than your family  
22 regarding this case?

23          A     I didn't know anything about the case, who to contact  
24 or anything like that.

25          Q     Okay, and that's because nobody contacted you?

1 A Yes.

2 Q Prior to you being incarcerated where had you been,  
3 were you in South Carolina or were you in North Carolina?

4 A I was living with my dad at the time of everything and  
5 then I had just moved in with my husband in North Carolina  
6 trying to work things out with him.

7 Q Okay. But you were going to rent this place and at  
8 some point you were living in South Carolina?

9 A Yes.

10 Q Okay.

11 MISS MOODY: I beg the Court's indulgence.

12 THE COURT: Very good.

13 Q Miss Timmons, did you have a lease for that location?

14 A No, ma'am.

15 Q Okay. So the address was [REDACTED]?

16 A Yes, ma'am.

17 Q York, South Carolina?

18 A Yes, ma'am.

19 Q But did you -- you had access to the location?

20 A Yes.

21 Q And you were -- you said you didn't have the money to  
22 renovate or do the work on the property. You did no work on the  
23 property or had you did some work on the property?

24 A No, I did not do no work to the property.

25 Q Okay.

1 THE COURT: Anything further?

2 MISS MOODY: No, sir Your Honor.

3 THE COURT: Is there cross examination?

4 MR. JOHNSON: None from the State, Your Honor.

5 THE COURT: Very good, then ma'am, please watch  
6 your step you may step down. Please call further  
7 witnesses if you have any further witnesses.

8 MISS MOODY: At this time would I like to call  
9 Samuel Timmons.

10 THE COURT: Please come forward and take the oath  
11 of a witness.

12 SAMUEL TIMMONS, called as a witness, having been  
13 duly sworn by the clerk, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 BY MISS MOODY:

17 Q Mr. Timmons, can you please state your full name for  
18 the record.

19 A Samuel Leroy Timmons.

20 Q And Mr. Timmons where do you reside?

21 A Right now I reside at [REDACTED].

22 Q And you are the father of Steven Timmons?

23 A Yes, ma'am.

24 Q And you are aware of his case?

25 A Yes, ma'am.

1 Q And you actually assisted in getting him representation  
2 for his charges?

3 A Yes, ma'am.

4 Q And at the time there were -- at the time that he got  
5 ready to plead to the charges on July 9th were you present at  
6 the courtroom or in the courtroom?

7 A Yes, ma'am.

8 Q Did you have opportunity to speak with Mr. Matthews  
9 regarding his case?

10 A Yes, ma'am.

11 Q And with regard to the location and what your daughter  
12 was going to bring, what if any information did you provide to  
13 his attorney regarding Steven's ability to go on that property?

14 A I was going provide information to him but he said it  
15 might not be such a good idea because he will end up serving so  
16 much time and all for the charges he had. For him to turn  
17 around and take several amount of charges and bulk them in to  
18 one and plead guilty on them for a lesser plea, instead of  
19 getting total, or so many sentences at one time.

20 Q So you are saying, you understood that if Steven plead  
21 to all of the charges based on the -- well, not all the charges,  
22 but plead to some of the charges and had some of the charges  
23 dismissed that was in his best interest?

24 A Yes, ma'am, that's what the attorney told me.

25 Q Okay. And with regard to the information that you

1 would have provided on that day, at the trial, what information  
2 could you have provided by way of defense for your son?

3 A I could have explain to the Court what the actual  
4 situation really happened.

5 Q And what was the actually situation?

6 A At that time my daughter was planning on renting the  
7 trailer behind me. I still live at [REDACTED], and I was  
8 trying to get her moved in there. Steven, my son Steven, he  
9 lived in the trailer above me. All three trailers are on the  
10 same section on the piece of land, and the building my daughter  
11 is talking about it's a little bitty building there that I lived  
12 there for well over 15, 16 years and I done all types of work  
13 there. I've always done work for Miss Ray. That's who I rented  
14 from. We never did have a contract for a lease or anything like  
15 that. She never did require that living there. That's why my  
16 daughter didn't have to have one there. And I talked to Miss  
17 Ray about my son moving in there. He moved in there.  
18 Everything was going great. And with the furniture situation I  
19 talked to Miss Ray about my daughter moving in to the one behind  
20 me and she said, you know --

21 Q You can't say --

22 A Yes, ma'am.

23 Q -- what she said.

24 What was your understanding related to the furniture?

25 A Well, on the furniture situation, the furniture there,

1 the black chair and the black love seat I think it was. It was  
2 in the trailer. I was turning around throwing stuff in that  
3 trailer, you know, not major or nothing, but you know, Miss  
4 Oxford and wanted me to turn around and clean the refrigerator  
5 out and wipe it out and stuff, and the door at that time was  
6 unlocked and I turned around and talked to Miss Ray about my  
7 daughter moving in the trailer behind me. Same trailer we're  
8 talking about. So I called her over there and let her looked  
9 at.

10 Q Your daughter?

11 A Yes, ma'am.

12 Q So we decided on what we were going to do. How we  
13 would get this accomplished with her moving in and she is  
14 talking about getting this job. She was going to get  
15 financially stable in order to move in there and she had some  
16 friends give her some furniture.

17 I work all the time so I couldn't tell you when this  
18 happened, when that happened, but I came home and the furniture  
19 that my daughter had they put it on the front porch and my son  
20 he asked me if he could turn around and get the the furniture  
21 that was over there and moved it over there to the other  
22 trailer. I didn't see a reason at all why he couldn't or  
23 shouldn't because you know, I took furniture out of one trailer  
24 and moved it into another trailer, back and forth the whole time  
25 I've been there. Furniture gets old. I put it in this building

1 there and it stays there for so long and then I tell Miss Ray  
2 the furniture is not worth keeping because there is a whole  
3 there. It was a small whole at that time. It then turned  
4 around and deteriorated and now it is gigantic whole there and  
5 normally when we take furniture out of one building -- I mean  
6 out of the trailers, we always discard it in the building.

7 Q So, with regard to this furniture you would provide  
8 testimony as to how your son came to have that furniture?

9 A Right.

10 Q And on the day of July the 9th when he decided to plea  
11 did you have opportunity to talk to your son about whether or  
12 not he should plea or not plea?

13 A Steven's attorney turned around and told us it would be  
14 better for him to take the plea deal that he had in instead of  
15 taking it to trial because if he were to make any kind of  
16 mistake or error with this trial he would receive a whole lot  
17 more time then what he was actually was looking at at the time.  
18 So I was discouraged. I didn't know what to do and I talked to  
19 my ex-wife about it and we were trying to make a decision on  
20 what to do. Instead of you'll never see our son again, we had  
21 a chance to see him come back home.

22 Q Okay.

23 A So we decided to take this deal that Steven's attorney  
24 had decided for us.

25 Q Steven decided to take it?

1 A Yes. Yes, ma'am.

2 Q All right.

3 MISS MOODY: No further questions. Thank you.

4 MR. JOHNSON: NO questions for this witness.

5 THE COURT: Sir, you may step down. Thank you.

6 Any further witnesses?

7 MS. MOODY: No, sir.

8 THE COURT: All right, applicant rests. Are there  
9 witnesses for the State?

10 MR. JOHNSON: Yes, I call Mike Matthews to the  
11 stand, Your Honor.

12 THE COURT: Please come forward and take the oath  
13 of a witness.

14 MICHAEL MATTHEWS, called as a witness, having been  
15 duly sworn by the clerk, was examined and testified as  
16 follows:

17 DIRECT EXAMINATION

18 BY MR. JOHNSON:

19 Q Good afternoon Mr. Matthews.

20 A Good afternoon.

21 Q Will you please tell the Court a little bit about how  
22 you became involved in this cause?

23 A Early on in the case Mr. Timmons's mother had come with  
24 Mr. Timmons's stepfather to my office. Asked me to assist them  
25 in representing Steven. I had represented him previously in

1 other matters and they come to me asking me to assist with this  
2 case.

3 Q And they retained you in this case?

4 A Yes.

5 Q And how long have you been practicing criminal law?

6 A I practiced with solicitor's office from 1992 to 1996.  
7 In 1996 I left and opened up my own practice and have been  
8 practicing ever since.

9 Q And when is the first time you met with Mr. Timmons for  
10 the first set of charges?

11 A Well, it was one of those things where I got retained  
12 on a set of charges and I can't tell you exactly which set other  
13 than the very first sets that he got arrested for and then every  
14 time we turned around it was almost like every three days I got  
15 word from either the prosecutor or from my client's parents that  
16 new charges were coming and it was ongoing thing for almost four  
17 weeks there when we were getting new charges coming on. But  
18 shortly after they had hired me I went to go see him and started  
19 talking to him about the initial charges that he received and  
20 then we started receiving more charges and then more charges.  
21 And every time I go back to the jail I would go see him about  
22 the new charges that he was getting.

23 Q And the initial charge are those the charges that Mr.  
24 Timmons have been speaking of?

25 A I believe so.

1 Q About the trailer and the furniture?

2 A I believe so.

3 Q And then what were the other charges concerning?

4 A Well, the situation was is that supposedly somebody in  
5 Gastonia had come up on their house or something like that and  
6 saw a white male leaving and then there was an identification of  
7 him and he went across state line, York County. Came up on him.  
8 Stopped him. Arrested him at that point and then the snowball  
9 started picking up at that point in time with all the charges.

10 Q And Mr. Springs came to you with all these charges?

11 A Mr. Springs made it a point to call me up every time he  
12 got new charges on him.

13 Q And then what, if anything, would you do in relation to  
14 these charges to advise Mr. Timmons?

15 A Well, you know I kept talking to him about the issue.  
16 That these charges keep piling up and he would tell me different  
17 aspects of the cases and why he wasn't guilty of certain things  
18 and such. Just the typical conversations.

19 In the meantime I was constantly asking for more and more  
20 discovery from the solicitor so that I could get a big picture,  
21 even though technically I was only hired on a few charges. I  
22 agreed with the family just take on the whole case. Just  
23 getting more and more discovery as we went along with the cases.

24 Q And did you discuss that discovery with Mr. Timmons?

25 A Did he get -- yes, I did talk with him about discovery.

1 Did I make copies for him and send it through the mail at the  
2 jail, not necessarily. There is a couple reasons for that. One  
3 is a lot of the information I was receiving was on DVD or  
4 CD's. They have a policy both at the local jail and at the  
5 South Carolina Department of Corrections for inmates not to have  
6 DVD's. Secondly, we went through the discovery. We went  
7 through the photographs. We went through the photographs of the  
8 door that they alleged they kicked in. Went through most of the  
9 photographs that I received actually are about the trial. We  
10 did get black and white photographs about what they found in his  
11 car and what they found at the place where he and Brittany were  
12 staying at. Where him and his girlfriend were staying at.  
13 Those types things. But the color pictures that I received were  
14 about the trailers and the break-in at that location that was  
15 coming up for trial.

16 Q And did you discuss the charges with him?

17 A Oh, yes.

18 Q As they came in one by one?

19 A Yeah, especially whenever we hit the big ones. There  
20 were -- I understand you all put on the record there was one  
21 count of burglary first degree. There is actually two counts of  
22 burglary first degree involved. That's when things got really  
23 serious at that point. Not that they weren't serious beforehand  
24 because the petit larcenies were enhanced to the ten year  
25 felonies, but when we started hitting the burglary first degrees

1 that's when it got bad real quick.

2 Q And why were the petit larcenies enhanced?

3 A Because of past criminal history.

4 Q So he had a past criminal history?

5 A Yeah.

6 Q And burglary first degree carries what type of  
7 sentence?

8 Q Burglary first degree carries a mandatory minimum of 15  
9 years to life. It's a violent offense, as well as most serious  
10 offense and it's 85 percent. My general rule of thumb is tell  
11 the client don't count on 85 percent, but count on 100 percent.

12 Q And in your opinion did he understand your discussions  
13 with him concerning these charges?

14 A Yes, he would ask me questions. Some times the  
15 questions were somewhat repetitive. I will grant you that.  
16 Sometimes he would ask me the same questions a few times each  
17 time I talked with him. But I made sure I went through and  
18 explained them to him because of the seriousness of those two  
19 burglaries. That's what was driving the whole thing. That was  
20 really concerning me as his attorney were the two burglaries  
21 first degrees.

22 Q And did prepare the first charges for trial?

23 A Oh, yeah, because he's right. EB sent an e-mail. I  
24 did ask for the drug court and in my e-mail I actually referred  
25 the previous times he verbally rejected my request, but I asked

1 for it again and asked him to give me a plea offer and about I  
2 think a month before trial -- I may be wrong on the date. The  
3 e-mail was sent to me and because -- because there was continued  
4 conversations, can we not work a plea, can we not work a plea,  
5 can we not work a plea, and you know it was a month before  
6 trial. June 7th I received an e-mail from EB Springs and he was  
7 pretty direct. That's EB's way. He's pretty direct as a  
8 prosecutor. He doesn't hold back. And he says, Mike, I get  
9 someone like Steven Timmons about once a year. Someone who is  
10 such a prolific threat to the security of the community that I  
11 basically stop everything and focus on him until I have gotten  
12 him off the streets for a good long time. Steven Timmons is my  
13 2012 project. That's where Mr. Timmons gets the 2012 project  
14 from.

15 He says he wouldn't accept a plea offer because I am going  
16 to keep coming after him until I have him sentenced for at least  
17 20 years. He could potentially get out in five years. I want  
18 the community to have that much peace for his breaking into  
19 houses and vehicles.

20 The first trial, July 9th terms can only get him 15 years if  
21 he get the max and that would require consecutive sentencing  
22 through at least one more trial after the first one. So he is  
23 telling me right there if we go trial if he gets convicted, you  
24 know, he is not satisfied with what the maximum sentence was.  
25 He would was going to set him up for another trial.

1 Q And all these charges that he accrued happened -- some  
2 of them happened on different dates?

3 A Oh, yeah. There were several. The potential for  
4 multiple trials was there.

5 Q So it was in his discretion to bring those  
6 individually, correct?

7 A The solicitor?

8 Q Yes.

9 A Yes, he does have that discretion.

10 Q And if he gets one of the burglary first degrees and  
11 then tries another one that is mandatory life without parole, am  
12 I not correct?

13 A If he --

14 Q If he gets convicted, if the solicitor takes a case,  
15 one of the burglaries first degrees and that is a major strike  
16 and he then tries the other burglary first degree is he not  
17 looking at a mandatory life without parole?

18 A Yeah, because the burglary first degrees are most  
19 serious offenses, if you get two most serious offenses in your  
20 life time you are notified of life without the possibility of  
21 parole. Mr. Springs is one of those prosecutors that would not  
22 hesitate to do that.

23 Q So that was a real threat in this case?

24 A That was a real threat.

25 Q And you advised Mr. Timmons about that?

1       A     I talked to him about the possibility of life without  
2 the possibility of parole in this situation. As to the  
3 consecutive trials, what I told Mr. Timmons was not that I had  
4 special projects when I was prosecutor, was that I did at one  
5 point in time, a you few times during my career as prosecutor,  
6 whenever someone would not take an offer I would try one case,  
7 try another case and try to get the judge to give us consecutive  
8 sentences on it, which is a tool that prosecutors have, and I  
9 had no hesitancy that EB Springs would go forward and ask the  
10 judge for consecutive sentences or give him notification of a  
11 LWOP.

12       Q     Just to skip back, focusing on that first set of  
13 charges and what Samantha Timmons and Sam Timmons testified to,  
14 you were prepared for that case to go to trial?

15       A     That's correct.

16       Q     What investigation did you do in that case?

17       A     Well, he had told me about Samantha. I mean, from the  
18 very beginning the reason why -- in my notes I had put down I  
19 thought I had a good chance of beating the burglary third and  
20 the petit larceny, when I was initially investing the case. My  
21 client had told me about the idea that his sister was moving in.  
22 That presentation was given to me pretty early on in the  
23 presentation. He was moving in and that Sam Timmons and  
24 Brittany Witlock, who was the co-defendant in other cases, could  
25 testify to that, moving in. Well, could not locate Samantha.

1 Now the State subpoenaed Sam Timmons and I believe the subpoena  
2 that Miss Samantha Timmons was referring to is also from the  
3 State because I didn't subpoena her, because I learned she was  
4 in jail in North Carolina. Okay. My impression was that Judge  
5 Hayes -- there was a risk Judge Hayes was not going to grant a  
6 continuance because of that witness and the reason being is to  
7 grant a continuance you have to establish that the witness is a  
8 material witness and I had two other witnesses that at the  
9 initial investigation was going to testify to what she was going  
10 to testify too. Which was she was planning to move in there,  
11 into the place, and there was permission to move. Well, I  
12 already had Brittany Witlock who was going to testify to that  
13 and supposedly Sam Timmons was going to testify to that. So  
14 that is the reason why there was a discussion about Samantha and  
15 she was already in jail for what I was informed to be a criminal  
16 domestic violence charge at that time. So that's where Samantha  
17 comes in to play.

18 Q Did you ever visit the alleged crime scene? Did you  
19 take any pictures, any photographs?

20 A No, I didn't take photographs. The photographs I had  
21 were from the investigators by the police officers. They took  
22 photographs of the different locations. They took photographs  
23 of the door. I showed them the door. He actually was saying  
24 look you can't see where the door has been broken in. So that's  
25 where those photographs came in to play.

1       They took photographs showing the sign of the different  
2 numbers of the trailer and stuff like that. Those pictures came  
3 from the police.

4       Q     Did you find it necessary to send out another private  
5 investigator to take any more pictures?

6       A     Based on my conversations with Steven there wasn't any  
7 reason to go out because he confirmed those were the pictures.

8       Q     Now shift forward to when the case was called for  
9 trial. You said that you originally represented him on these  
10 first charges and then he picked these other charges up as you  
11 went along?

12      A     Right.

13      Q     Is that the time where you talked to Mr. Springs about  
14 combining all these charges into one plea?

15      A     In the June 7th, my e-mail where he responded on June  
16 7th I had asked him about drug court, but the last sentence I  
17 had is, up to that point there really wasn't any offers. And I  
18 basically said I don't care what it is EB, just give me an  
19 offer. Because as a defense attorney you can't -- in my opinion  
20 -- it is just my opinion for what it is worth -- you can't just  
21 look at the set of charges you are going to trial when you have  
22 a client who has multiple charges.. It is sort of like when you  
23 have a client who is charged with three counts of distribution  
24 of crack cocaine or whatever. You can't just look at the one  
25 trial. You got to look at what else is out there on the other

1 two trials and your doing two things at the same time. One you  
2 are getting ready for trial but also looking for a way to  
3 minimize his damages as much as possibly and he was running a  
4 big risk. So that's the reason why. And I prepared a memo on  
5 the day after the plea to kind of -- because I figured this was  
6 such -- there was such a going back and forth with this case I  
7 wanted to make sure I wrote everything down. There was a  
8 discussion with my client about winning the battle and losing  
9 the war. He could win the battle with the trial but lose the  
10 war with everything else.

11 The ten years that was offered, that EB was offering was  
12 based on the enhanced petit larceny, not on the burglary third  
13 because that only get five. But EB was insistent that he wanted  
14 20 years. He was fine with it be parolable, but he was  
15 absolutely insistent upon that. He called -- we called each  
16 other mainly to talk about evidence to be put in and not put in,  
17 what we could agree to and what not. But then we starting  
18 talking and I said, come on man, we got all these charges out  
19 here, you know, give me a plea offer. And on the Friday before  
20 trial he did something that he doesn't normally do. Usually  
21 when EB is in trial mode forget getting any offers from him.  
22 But EB broke his normal trend and he said, okay, fine. Here is  
23 what I am wanting, here is how we are going to do it. And I  
24 asked him, please send it to me in written format so I can show  
25 it to Steven. Later on that day I had a conversation with his

1 momma and his stepdad about well, we finally got an offer. I  
2 will go talk to your son. I'm still preparing for trial because  
3 I'm not assuming anything, but I'm going to go talk to your son  
4 about the offer. Now again, in my notes I said I didn't tell  
5 them what the offer was because I figured they were going to  
6 talk to him before I was on a visitation or a phone call. I  
7 needed to be the one to explain it to him. I needed to be the  
8 one to put it in context because -- because even if my memo I  
9 said if you look at this plea scenario without putting it in  
10 context it looks crazy unless you consider the whole thing. So  
11 I wanted to talk to him. I so I went down that Sunday. Was  
12 preparing Saturday. I had been preparing up to that point.  
13 Prepared Friday, Saturday, went down Sunday and met with him.  
14 Went through the whole thing with him and it was a complicated  
15 conversation so I took my time with him making sure that he  
16 understood all the concerns.

17 Now at this point -- at this point I still thought I had  
18 Brittany and I still thought I had Sam Timmons as a witness in  
19 my back pocket. Brittany's attorney was telling her she didn't  
20 want her to testify. Brittany was going against her attorney's  
21 wishes and was willing to testify. Sam couldn't be located at  
22 that point, but then he was under subpoena by the State and we  
23 were trying to track him down for subpoena and he was there  
24 Monday. So on Sunday I am still preparing for trial. Still  
25 thought I had a decent case but we had an offer to encompass

1 everything and I went to talk to him about that and we did that.

2 The morning of trial before I leave my office I get a phone  
3 call from the jail from Steven saying I think I want to go for  
4 trial. We talked for a short period of time and then I met with  
5 him when I got up here and then went through the different  
6 scenarios with him again. And he is right, there were only  
7 three options on the table. The second option didn't get put on  
8 the table until Monday morning. First option was the one where  
9 he went in and he wanted all these other charges, the stack of  
10 charges for time served and the reason why EB wanted the two  
11 burglaries, second violent is because he wanted two strikes, but  
12 for time served and he says you can plead to two other charges  
13 consecutive, parolable. I don't care which one you want. I  
14 don't care how you structure it, but I want two ten-year  
15 consecutive sentences. That was option number 1.

16 Option number two, was to plead to the burglary third and  
17 petit larceny for ten years and then take all the charges and  
18 when I say in my memo when I wrote down as previously agreed  
19 upon, it means reduce the burglary first down to second, but one  
20 of them violent and then go up in front of the judge on the  
21 mercy of the Court. The risk of that one is of getting more  
22 time then what was offered in option number 1, because the  
23 burglary second carries 15 apiece. Some of the other petit's  
24 enhanced carries tens and you know and some of the smaller  
25 carried five. So the only way the numbers worked I wrote in my

1 memo 15 years or less, but there was a real risk based on his  
2 criminal history, based on pending charges in North Carolina,  
3 and based on what he was originally charged with there was a  
4 risk that he would get more time. And remember the  
5 classifications of the burglary second, violent, it could affect  
6 things as well. And of course the third option which every  
7 client has which is go to trial at that point and all beats are  
8 off. Goes to trial on these, win loose or draw. It gets set up  
9 for the next one, win loose or draw and so on, and so forth  
10 after that

11 Q And Mr. Timmons's decision was what?

12 A His decision after discussion back and forth because I  
13 would go out, come back in and I actually asked Judge Hayes to  
14 give me time, more time to talk to him in that there was a  
15 possibility of a plea and Judge Hayes gave it to me.

16 He decided to take option number 1 which is the actual plea  
17 that he took.

18 Q And that was his decision?

19 A Yes.

20 Q Did you ever force or threaten him to make that  
21 decision?

22 A The best way I can answer that is this; during our  
23 discussions at one point, I get this question a lot -- at one  
24 point he asks me what do you think I should do. My response to  
25 him was at this step in the process I can't tell him what to do.

1 This is your decision. I can't tell you what to do. I can tell  
2 you what your options are. I can make a recommendation, but you  
3 have to make the decision.

4 Q Did you feel that this plea offer was in his best  
5 interest?

6 A Putting in the context of all the charges, yes. If it  
7 was just solely this one set of charges for trial I probably  
8 would have gone ahead and run the risk going to trial. But with  
9 the whole scenario with all the charges they had with the two  
10 burglary, first degrees with all the B&E autos, with all the  
11 petit larcenies, with all of it, yes, sir. It was as I put in  
12 my notes it was the lesser of the evils that were there.

13 MR. JOHNSON: May I approach Your Honor?

14 THE COURT: You may.

15 Q Mr. Matthews, can you identify that document for me?

16 A Yes, this is a memo that I did to the file on July 10th  
17 the day after the plea. Its about a six-page memo that I did,  
18 titled final disposition that gave a rendition of the events  
19 that basically started during my prep for trial up to the plea  
20 and shortly thereafter.

21 Q Is that fair and accurate copy of that document that  
22 you would have produced?

23 Q This is the document that I produced. This is the  
24 original I made a copy for myself. This is the one that I  
25 printed off the computer based on my remembrance of what

1 happened.

2 MR. JOHNSON: At this time I introduce that as  
3 State's number one

4 THE COURT: Any objection?

5 MS. MOODY: No, sir, Your Honor.

6 THE COURT: State'S one then. Let's take a moment  
7 and mark that.

8 (State's Exhibit one, 6 -- page memo, received in  
9 evidence as of this date.)

10 THE COURT: State's one in evidence without  
11 objection.

12 MR. JOHNSON: No further questions at this time.

13 THE COURT: Before we have cross just a couple of  
14 questions. Are you licensed in North Carolina?

15 MR. MATTHEWS: No, I am not.

16 THE COURT: And what were the charges in North  
17 Carolina, do you know?

18 MR. MATTHEWS: Based on what I done the research  
19 on it was similar to these type charges. They were  
20 based on allegations that there was a break-in in North  
21 Carolina. That's when the gentlemen said he saw a white  
22 mail in a car run and there were similar charges up  
23 there. I am not licensed up there. As a matter of fact  
24 when he said I wasn't licensed in North Carolina it was  
25 because I couldn't represent him on the charges in North

1 Carolina.

2 THE COURT: Of course. And to your knowledge is  
3 there detainer in North Carolina still to this day?

4 MR. MATTHEWS: I have no knowledge. There wasn't  
5 at that time.

6 THE COURT: And were there other charges in other  
7 counties other than York in South Carolina to your  
8 knowledge?

9 MR. MATTHEWS: Not that I am aware of.

10 THE COURT: Very good. Cross examination.

11 MS. MOODY: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MS. MOODY:

14 Q Mr. Matthews, looking back at your memo, can you turn  
15 to page four. It's the page with options.

16 A Yes.

17 Q Okay. As to the options that were presented on July  
18 9th -- well, let me take it back. As to the options they were  
19 presented on July 9th or they were presented before July 9th?

20 A Option one was presented to my client on Sunday.

21 Q Sunday before trial?

22 A Yes, it was given to me on Friday and I gave it to him  
23 on Sunday.

24 Q And then option two was presented on the day of  
25 the trial?

1           A     Based on my client asking to go back to the solicitor,  
2 I asked the solicitor to reconsider a couple things. Option  
3 number two came out. As soon it came out I knew it wasn't a  
4 good deal, but it was presented to him on Monday.

5           Q     So now as to the option two, can you explain a little  
6 bit to me about it, a plea to ten years on the burglary third  
7 degree and petit larceny, and I think you said Mr. Springs  
8 wanted two consecutive sentences of ten years, right?

9           A     That's correct.

10          Q     And on this one where it says the other charge would be  
11 presented as agreed upon in the Friday letter for straight up --  
12 for a straight up plea in front of Judge Hayes was that to  
13 happen like later on that week or that was just going to be  
14 after he got him indicted? How was that suppose to occur?

15          A     You mean the plea to get the ten years on this and have  
16 the plea on the other, it was going to happen at the same time.  
17 In other words it was a packaged deal --

18          Q     Okay. Okay.

19          A     To be presented to the judge at that moment.

20          Q     So that package would have been ten years itself  
21 consecutive?

22          A     No, it was ten years and then run all the other charges  
23 together as previously agreed, like the burglary first, would be  
24 burglary second, violent and put it at the mercy of the Court.

25          Q     Okay.

1           A     Option number 1, those charges were put in for time  
2 served. Option number two that wasn't necessarily the  
3 situation.

4           Q     So when you went over these options with Mr. Timmons  
5 after you went back and asked for a second option, what if  
6 anything did you all discuss with regarding the trial? Like the  
7 trial option?

8           A     Okay. In the trial, you know, he had mentioned to me  
9 about Samantha and I told him I had learned that she is in jail  
10 in North Carolina. Second thing was that, you know, I did tell  
11 him that Brittany was willing to go against her attorney's  
12 wishes and was willing to testify. The concern her attorney had  
13 was for her she was already charged -- not that she was going to  
14 be charged, but she was already charged as co-defendant in these  
15 other charges that EB was grouping together for time served.  
16 She wasn't a co-defendant in this case. And that the concern  
17 was that initially EB had asked her that he was willing to cut  
18 her a deal if she would testify against Steven. And so she  
19 rejected that and was willing to be my witness. So there was  
20 some risk for her involved there. Okay.

21           The second thing was that he had told me about his dad and  
22 that his dad -- he told me that his dad was going to testify  
23 about the consent. So I did a subpoena for Sam. Couldn't  
24 locate him. I believe I called his ex-wife to try and find out,  
25 but then find out he was under subpoena by the State and when I

1 got here Monday he was sitting in the lobby. As a matter of  
2 fact they came and told me this is Sam. So I talked to Sam a  
3 little bit, but the problem was what he indicated to me because  
4 I wanted to know about the concept part of it. Did he have  
5 consent because I think even without the consent I had a defense  
6 on the petit larcenies because I was arguing that the furniture  
7 was moved from one place that Mr. Ray owed to another trailer  
8 that she owned. So I was going to make an argument that it  
9 really wasn't stolen for purposes of depriving her of her  
10 ownership interest. So it came back to the burglary third. Did  
11 he have consent to go into the trailer? Miss Ray's testimony  
12 was going to be he did not. She did not give consent and Miss  
13 Oxford was going to testify she did not give consent. Obviously  
14 that is in direct opposition to what my client is saying. So  
15 when I spoke to Sam Timmons at that point he had indicated that  
16 Steven had come to him about getting the furniture out of the  
17 trailer and he indicated that he thought it was okay with him,  
18 but he needed to go to Miss Ray and ask her permission and I  
19 didn't have any information. My client indicated that he never  
20 went to Miss Ray to ask for permission and that Sam didn't know  
21 whether or not he asked for permission. Okay.

22 Q So when you saw Sam, talked to Sam that morning and you  
23 relaid that information to your client, Mr. Timmons here, what  
24 if anything came from that discussion? After you laid all that  
25 out what happened then? Did you proceed to sign him up for a

1 plea? What did you all decide to do then?

2 A Well, the to put it in context, I mean, I was talking  
3 to him about two different things at one time because he was  
4 trying to decide whether to go forward with a trial on this  
5 issue and run the risk on the others or do a -- without being  
6 disrespectful to the process -- do a package deal. There was  
7 discussions about both situations at the same time. There was  
8 no rushing to go sign him up. I don't think the plea happened  
9 until almost halfway through the day because Judge Hayes gave me  
10 that time to do that.

11 Q Okay. Now, as far as continuance was concerned with  
12 regard to his sister, what was -- was there any thought put into  
13 that to get a continuance granted on the trial?

14 A He asked me that. He asked me about continuing the  
15 case because of her testimony and we talked about that. My  
16 concern was is that I had two things going on at one time. I  
17 had this offer out there that was basically from the solicitor  
18 saying take it or let's go to trial and if we asked for the  
19 continuance on this case without taking the offer my experience  
20 with EB he would pull the offer off the table and we were done.  
21 And the other thing is too is I don't know if Judge Hayes would  
22 grant that motion because I had at the time of talking about  
23 Samantha, I thought I had two other witnesses that would  
24 corroborate what she was going to say anyway.

25 Q And so after that discussion he made a strategic

1 decision, I guess?

2 A Yes.

3 Q You went through and Mr. Timmons decided to plea?

4 A Yes.

5 Q At any point in time did he decide -- state to you that  
6 he did not want to go forward with with the plea?

7 A Before I left the office that morning after I talked to  
8 him on Sunday, the following Monday morning he called my office.

9 Q I mean when you had the day with Judge Hayes and you  
10 were I guess getting him signed up or going back and forth, did  
11 he indicate that he did not want to plea at that time?

12 A Well, I think you just answered your question. There  
13 was a lot of back and forth. There was going back and forth  
14 trying to make a decision. I don't know what to do; option one,  
15 option two, go to trial. I don't know what to do. And that's  
16 when he asked me what should I do.

17 So there was a lot of indecision at that time and there was  
18 discussions with his family at the time too, because they wanted  
19 to know what was going on.

20 THE COURT: Is anything further?

21 MISS MOODY: No, Your Honor.

22 THE COURT: Very good. Any redirect?

23 MR. JOHNSON: None, Your Honor.

24 THE COURT: Sir. You may step down. Thank you.

25 Anything further witnesses for the State?

1 MR. JOHNSON: None from the State, Your Honor.

2 THE COURT: All right. Just one moment please.

3 Just one moment while I review the evidence that we  
4 have.

5 All right, the Court has had an opportunity to  
6 have a close look of the evidence in this case. I heard  
7 testimony of course from four witnesses as well as  
8 reviewed the evidence that has been placed in the  
9 record, heard the arguments and discussions of counsel,  
10 and this is the Court's ruling; in order to be  
11 successful at PCR Mr. Timmons you got to prove two  
12 things. One, is that lawyer was inefficient. His  
13 representation of you failed below the standard we  
14 require lawyers representing clients in criminal courts  
15 in South Carolina. So number one, a substandard  
16 representation and number two, that you were prejudiced  
17 by that.

18 Now, you have to meet both prongs of proof by what  
19 we call the preponderance of the evidence and after the  
20 review I find that you have failed to meet either prong  
21 of evidence. I will deny your PCR for this reason and  
22 this is just simply stated in nutshell, sir, you had  
23 charges all over the place. You had charges in York  
24 County, you had charges in North Carolina, you had  
25 witnesses who were apparently going to appear on your

1           behalf who had charges as well which may have undermined  
2           their credibility no matter what they would have  
3           testified at trial. You found yourself confronted with  
4           a very difficult decision and at the time in the press  
5           of the moment you made the decision that was in your  
6           best interest which even today upon what I would say a  
7           calm reflection was still in your best interest. I  
8           think you have some buyer' remorse about it because you  
9           ended up in the Department of Corrections for a lengthy  
10          period but nevertheless it is a much better result then  
11          could have happened had the prosecutor prosecuted you  
12          separately or gone another course against you, you could  
13          have received a life without parole and thus the Court  
14          finds no reason to set aside this decision of yours to  
15          enter a plea which is voluntarily made. Finds no  
16          deficiency on the part of your counsel who was  
17          confronted with an ever growing series of stack of  
18          charges who did the best he could under difficult  
19          circumstances for you.

20                 For these reasons I am going to deny your PCR.  
21          Now, please understand you can appeal this decision.  
22          Here is how the process works. I will ask the attorney  
23          general to prepare an Order. I will ask you to do so  
24          within the next thirty days. If you would please  
25          forward it to me, then I will sign it -- well, I will

1 review and sign it and give it back to and serve it on  
2 your lawyer. You then have thirty days from the date  
3 that Final Order is served on your lawyer to appeal this  
4 decision. Not from today, but from that future date.  
5 Do you understand that Mr. Timmons?

6 MR. TIMMONS: Yes, sir.

7 THE COURT: All right, sir, that is the decision  
8 of the Court. I wish you well, sir. Good luck to you  
9 and I will return you now to the Department of  
10 corrections.

11 (END OF TRANSCRIPT).  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for York County, South Carolina, on the 21st day of January, 2014.

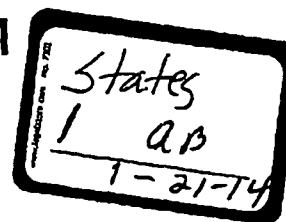
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 2, 2014

Aileen Butler

# MEMORANDUM

**CONFIDENTIAL**



**TO:** File

**FROM:** Michael

**DATE:** July 10, 2012

**RE:** Steven Timmons

Final Disposition

This is a statement of the events leading up through yesterday's plea and the rationale for the decision to go forward with the plea as stated.

The client entered a plea of "no contest" to twelve charges total. The remaining charges were to be dismissed including the direct indictments for Possession of Stolen Goods the solicitor was sending to the Grand Jury.

The agreement was for a negotiated plea of "time served" upon ten of the charges and 10 years consecutive on two non-violent, non-serious, petit larcenies that were enhanced because of the two convictions for Receiving Stolen Goods.

At first glance this plea seems crazy to do without understanding the situation the client was put in based upon the charges. Of the many charges the client had against him, he had a Burglary 3<sup>rd</sup> Degree and two counts for Burglary 1<sup>st</sup> degree.

The solicitor on the case was E.B. Springs. In the past, E.B. and I have been able to work our plea agreements on cases. However, on this particular case he had sent me an email indicating he was not going to offer any deal on this case and that he was going to try him until he was satisfied with the amount of time the Defendant received.

He had served me with notice to try the client on the Burglary 3<sup>rd</sup> degree and a Petit Larceny. This would expose the client to 15 years non-violent, parolable time.

In preparing the case, the matter came down to whether he was given permission or not. His girlfriend Brittany Whitlock was willing to testify as to the owner's daughter (ms oxford) giving permission and even opening the door for them. However, she was being charged in the other cases as an accessory. Her attorney was not sure based upon the information she gave me that if my client was found guilty that E.B. would not have come back and pressed charges against her for her involvement in this case. (E.B. wanted her to testify against my client in exchange for the charges being dismissed against her).

Also, Sam Timmons (client's father) was supposed to testify he had permission based upon my client's information. However, that is contrary to the incident report typed by Kelly Lovelace with the Sheriff's Department.

I spoke to Sam Timmons on the day of trial. We were not able to locate him prior to the hearing, but he was under subpoena by the State. He indicated that my client had come to him and asked him about the furniture. He stated that he told Steven that it was alright for him, but he needed to run it by Ms. Wray (owner of the property). The client does not indicate he ever talked to Ms. Wray about the property.

The client actually says that Ms. Oxford was the one who gave them permission and told him everything was fine to take but not the tub in the back.

The reasoning for taking the furniture was because his sister (Samantha) was moving into the trailer and she was bringing her own furniture.

My case was falling apart at the court house. The girlfriend's attorney was advising her client not to testify. The girlfriend however was going to testify anyway. However, that left me with two defendants testify against Ms. Wray and Ms. Oxford stating that they never gave them permission to go into the trailer.

It was going to be a possibility of my client being found guilty of burglary 3<sup>rd</sup> degree and not guilty of the petit larceny. (the argument on the petit larceny was because of the couch and loveseat was transported from one trailer to another trailer owned by the alleged victims.

On Friday before the trial, I contacted E.B. and had a long conversation with him and he finally said that he will allow my client to plead to a portion of the charges and the others be dismissed. I could structure the plea in any way I wanted to do to minimize his time and help him out on classification if possible. However, he had to plead to two charges for 10 year consecutive for a total of 20 years. The other charges he would plead to would be for "time served". He also stated that the pleas could be "no contest". I asked him to forward the information in writing which he did that day.

On Friday, I met with his mom and his step father. They understood I finally had an offer on the table and that I would be going to discuss the matter with her son on Sunday. I did not tell them the amount of time that the offer was made because I knew that she and her son would talk before I got to the jail. I wanted to be the one who told him of the offer and be able to explain it to him.

On Sunday, I went out to the jail to meet with the client and explained to him the offer that was made. I told him that the offer was consistent with the statements made by E.B. during the case. I told him how I could structure it to try to minimize the concerns I had about him pleading to two Burglary 2<sup>nd</sup> degree (violent) charges which is a reduction in the Burglary 1<sup>st</sup> degree charges. After a long discussion, he stated he did not know what to do and wanted to talk to his mother about it before making a decision. I told him I would talk to him in the morning.

On Monday morning, he contacted me at the office to let me know that he was thinking about going forward with the trial to see what happened. I talked him for the short period of time that the phone call from jail could last and stated I was coming to see him shortly and wanted to make sure he understood the ramifications that if he went to trial today that the plea offer would not be left on the "table".

I went to the jail and discussed the case with him and he talked about how he did not want to trial but did not want to sign off on a 20 year sentence. It became clear he was not understanding of the situation with his charges. This discussion was held before Sam Timmons came to court. Therefore, I told him that I thought I a shot to beat this case that was going for trial. But we talked about winning this battle and losing the war. I also stated that if the jury convicted him, the cards would begin to line up for the solicitor to hit him hard eventually. In the following way: the conviction of the Burglary 3<sup>rd</sup> degree would put one on his record. Then if a jury convicted him of a second Burglary (whether a 1<sup>st</sup> degree or a 2<sup>nd</sup> degree - which I believe a jury may do on this charge) then he would have a second burglary conviction. The third Burglary conviction would automatically put him in a sentencing of a Burglary 1<sup>st</sup> degree which carries 15 years to Life, is a violent offense, is a Most Serious Offense, and carries up to Life imprisonment. I told him that several individuals with a history of Burglaries have received Life terms in York County (this was confirmed by the Public Defender's Office). He also asked me if we could postpone the trial in order for his sister to come testify for him about her moving into the trailer. I told him I would make the motion if he wanted me to do so, but if I did the deal would most likely come off the table. Also there was no guarantee that the judge would grant the motion because the information she would present could be confirmed by Brittany and Sam. (Samantha was unavailable because she was in jail in NC for CDV against her husband).

He asked me to see if the Solicitor would consider a 10 year sentence. I let him know that the Solicitor had told me no negotiations but I would present the offer to EB and see what he says. The only other option I could possibly see was to plead straight up in front of the judge and try to get a better sentence. But that would only work if EB would agree to reduce the Burglary 1<sup>st</sup> degrees to two counts of Burglary 2<sup>nd</sup> degrees. He asked me to present that option if EB did not agree to the 10 years.

I went to meet with EB in regards to the counteroffer my client is wanting to make. EB rejected the offer of 10 years. However on the straight up, he said that he wanted 10 years on this present case up for trial and the other charges can go forward as presented in his letter on Friday straight up. I asked if the Burglary charges could be made "non-violent" because if we went to trial, the jury would not have an option of having a "violent" Burglary 2<sup>nd</sup> degree as a possible reduced charge from the Burglary 1<sup>st</sup> degrees. EB agreed with that assessment however for plea negotiation purposes he wanted the two violent Burglaries so that my client would have two strikes on his record.

So at the end of the discussion with EB I had three options before me to present to my client:

- Option 1:** Plead to two non-violent petit larcenies for 10 years consecutive for a total of 20 years and all of the other charges would be for time served or dismissal and he could plead "no contest".
- Option 2:** Plead to 10 years on the Burglary 3<sup>rd</sup> degree and Petit Larceny. The other charges will be presented as agreed upon in the Friday letter for a straight up plea in front of Judge Hayes.
- Option 3:** No deals and my client would begin the trial right then and there and face the other charges as the are ready to present to a jury of his peers and face whatever comes down the pipe as his sentencing. EB stated he would be looking for consecutive sentencing for each trial.

After I talked to EB I tried to speak to my client but he would not be brought up to the courtroom until closer to trial time. So I went to talk to the family when they got to the court house. That was when I found out about the discrepancy between Brittany and Sam Timmons.

Sam Timmons was worried that his son was considering not taking Option 1. The client had told me that his mother and his girlfriend had told him not to take the deal. His mother denied that she told him to not take the deal. She was just upset at the amount of time he would have to do. She did not understand the 20 years versus 5 years. The girlfriend denied telling him to not take the offer but stated she did tell him that if it was her she would not take the offer.

Jerry (client's step father) and Sam (client's father) were adamant that the client should take the deal. I let them know of the three options and explained the options in the following manner.

- Option 1:** This is a set deal that is negotiated. The court could say no to the negotiation but would allow us to step back from the bench and let another judge hear the case. The offer does include a conviction for two Burg 2<sup>nd</sup> degrees (violent) which would put two strikes on his record. This would mean that if he was convicted of one more Serious or Most Serious offense he would be subject to an LWOP sentence. As to the structure of the plea, 10 of the charges would be for time served and two of the charges would be for 10 years consecutive for a total of 20 years. By having him going to Columbia SC on two non-violent charges and making the violent charges time served, then hopefully the violent charges would not affect his classification and more importantly would not affect his parole eligibility - possible 25%).
- Option 2:** This deal was negotiated only as to the 10 years. The remaining charges would most probably be active sentences (including the violent burglaries). The possibilities are endless on this plea. The judge could run everything concurrent to the 10 years. The judge could have given him another sentence that was consecutive to the 10 years (5, 10, 15, or more). In any case the violent Burglaries would be affecting parole eligibility and classification. (Classified as

violent and 1/3 parole eligible by statute). Even though this option does allow for a lesser sentence the client would have to receive a sentence of 15 years or less to make this option worth his while and he would still have the classification problems.

**Option 3:** Go to trial and face the wrath of the court to the point of receiving a sentence that is "no parole" and could exceed the 20 years. If he was convicted of Burglary 1<sup>st</sup> degree the minimum sentence would be 15 years which means he would have to do 85% at a minimum which is 12.75 years. This minimum sentence is more than any possible scenarios that Options 1 or 2 presented.

The family thought my client should take Option 1 because they were afraid of what Judge Hayes would do when he was left with what to do with 10 of the 12 charges. His girlfriend was indecisive.

I was able to finally meet with my client. I explained each option to him with the pros and cons on each option. The client made a decision after a significant period of time to not go forward with the trial but was indecisive as to whether to take Option 1 or 2. I notified the solicitor and the court that I was obtaining the paperwork of the multiple charges for the purpose of signing him up for a plea versus the trial. The judge granted the time to sign him up.

When I went into discuss the case with him and prepare the paperwork. The client was continuing to be indecisive as to which one to take. Finally, he asked me what I thought as to which one to do. I told him it was his decision as to which one it would be. But I did tell him that obviously the trial would not be an option based upon the potential for never coming out of jail. As to Option 1, it stinks but it is a set plea and that the solicitor has given me the ability to have you plead to time served on the violent charges which may help in the parole eligibility determination by SCDC. As to Option 2, I thought the judge would give him consecutive sentencing even though concurrent sentencing is an option for the judge. He asked me how much consecutive time - I told him my experience suggests a 10 year consecutive sentence as a minimum - but that was only a guess.

He told me that he decided to take Option 1. I then went over the questioning with him that the judge would ask him. I told him that I was not going to have his family speak on his behalf because of the negotiated sentence. Also, I told him that Brittany would not be allowed to speak on his behalf because she was facing charges and her attorney did not want her saying anything that could be used against her at her trial.

I explained his rights to him (including the Grand Jury). I explained to him the difference between pleading guilty versus pleading no contest. I explained it was still a conviction. He told me that he wanted to plead no contest to everything. I told him that was fine, but that confirmed for me that he need to do Option 1. My opinion was that if we went with Option 2 and he pled no contest to all of the charges, then it would not go well with Judge Hayes on sentencing.

We went in front of the judge. As the solicitor was going forward on the reading of the indictments he had signed, the client had whispered to me whether it would be ok to do Option 2. I told him that I had told the solicitor that we went with Option 1 and the wishy - washy back and forth could be detrimental to him. He stated he understood and went forward on the Option 1.

The judge agreed to allow the negotiated plea to go forward and allow the time served sentences on 10 of the charges. His reaction to my client pleading no contest to everything confirmed for me that the decision not to go with Option 2 was appropriate. After the plea, both my client's step father and father both caught the reaction as well.

After the plea, I answered any questions the family had and I met with the client and answered any questions he may have. He thought that he had to wait until after he finished his sentence in SC before he faced the charges in NC. I told him that it was not true. That most states have a statutes similar to ours (Detainer Act) that forces another state to either prosecute or dismiss charges they have pending against him. I told him if he did not hear anything from Gaston County, NC about the charges they have not served on him there, that I would pull the paperwork a client did in another case and redact it for him. But I told him I could not file it for him since I was not a NC attorney. He either had to file it himself or have an attorney in NC file it for him.

**CAVEAT:** any time me, my client, or his family discussed parole eligibility; I always stated that his time in SCDC was subject to the rules, regulations and calculations of SCDC. That the information I was giving was proper for a client to consider when pleading, but was estimations only based upon experience, my conversations with SCDC and the statutes involved.

STATE OF SOUTH CAROLINA )

COUNTY OF YORK )

Steven Ray Timmons, #351564, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

C/A NO. 2013-CP-46-1731

**ORDER DENYING  
POST-CONVICTION RELIEF**FILED  
2014 MAR 13 PM 3:53  
CLERK OF COURT  
YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR"), filed June 3, 2013. Respondent made its Return on August 28, 2013. An evidentiary hearing into the matter was convened on January 21, 2014, at the Moss Justice Center in York, South Carolina. Leah B. Moody, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, appeared on behalf of the Respondent.

At the hearing, Applicant, his sister Samantha Timmons, and his father Sam Timmons testified on Applicant's behalf. Michael G. Matthews, Esquire, Applicant's plea counsel, also testified. The Court had before it a copy of the records of the York County Clerk of Court, records from the South Carolina Department of Corrections, and the guilty plea transcript.

#### PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the York County Clerk of Court. Applicant was indicted at the June 2012 term of the York County Grand Jury for Burglary, Third Degree (2012-GS-46-2016) and Petit Larceny (2012-GS-46-2017). He was also charged with three (3) counts of Petit Larceny, five (5) counts of Breaking Into a Motor Vehicle, and one (1) count of Burglary, First Degree. Michael G. Matthews, Esquire represented Applicant on all charges. On July 9, 2012,

Applicant pleaded no contest to Petit Larceny and Burglary, Third Degree as indicted before the Honorable John C. Hayes, III. He also waived presentment to the Grand Jury of all other charges and pleaded no contest<sup>1</sup> to these charges as well. The Applicant was sentenced, pursuant to a negotiated sentence, to ten (10) years for one count of Petit Larceny, third or subsequent offense, and ten (10) years, consecutive, for another count of Petit Larceny. Judge Hayes sentenced Applicant to a sentence of time served for all remaining charges. Applicant did not appeal his conviction and sentence.

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Never given Rule (5)"
  - a. "Didn't receive Rule (5) till [sic] May 2, 2013"
2. "Never given Brady Rule (Law)"
  - a. "Solicitor was well aware of Brady law"
3. "Never given Preliminary Hearing"
  - a. "Still never received preliminary"

At the hearing, Applicant proceeded on his claim of ineffective assistance of counsel.

#### SUMMARY OF TESTIMONY

Applicant testified he retained Michael G. Matthews, Esquire (hereinafter, "counsel") to represent him on two pending charges (Petit Larceny and Burglary, Third Degree). He stated he met with counsel after other charges were levied against him, and Applicant discussed these other charges with counsel, too. Applicant testified he decided to accept a plea offer from the State after speaking with counsel on the day he was scheduled for trial. Applicant claimed he never received a preliminary hearing, nor did he waive his right to one. Applicant testified he was the Assistant Solicitor's "2012 project," meaning the Assistant Solicitor wanted to ensure

<sup>1</sup> Among these charges, the Applicant pled to Burglary, Second Degree as a lesser included offense of Burglary, First Degree.

Applicant would serve a substantial prison sentence. Applicant also claimed he was afraid to proceed to trial because he had never been in trouble before.

Applicant testified counsel was ineffective for failing to take photographs of the mobile home he was accused of burglarizing. Applicant stated he wanted his sister, Samantha Timmons, to give a statement on his behalf at trial. He also stated he never received his discovery materials.

Applicant testified he was in the process of proceeding to trial, but decided to accept the plea offer because he felt "backed into a corner." He stated that counsel advised him of three options that were available to Applicant with regard to his pending charges: (1) accept a plea offer of two consecutive, ten-year sentences including all of the pending charges; (2) accept a plea of one ten-year sentence for Petit Larceny and then plead to all other charges for another sentence in the Court's discretion; or (3) proceed to trial. Applicant testified he chose the first option.

Applicant further testified he did not provide counsel with addresses of all of the witnesses he wanted to call on his behalf at a trial. Applicant stated he understood the charges pending and the sentences they carried. Applicant claims he was not "clear headed" during his plea and that he wanted his case overturned.

On cross-examination, Applicant admitted he understood all the charges and waived presentment of some of those charges to the Grand Jury in order to plead no contest. He stated he understood that pleading no contest was treated the same as pleading guilty for all intent and purposes. Applicant admitted no one promised him anything or threatened him to induce him to plead guilty. Applicant claimed he did not plead freely and voluntarily, and admitted that he lied to the plea judge when he stated that he was pleading freely and voluntarily. Applicant testified

he understood his constitutional right to a jury trial and that he waived that right. Applicant also testified he agreed with the facts that the State would have presented to the jury had he pursued a jury trial. Applicant testified he did not bring to his PCR hearing the photographs he claimed counsel should have procured on his behalf. Applicant further admitted that he lied to the plea judge that he was satisfied with counsel's representation.

Samantha Timmons, Applicant's sister, testified she was incarcerated in North Carolina at the time of Applicant's plea, but would have testified on Applicant's behalf that, although the furniture in the mobile home was owned by the landlord, Applicant had permission to use and move all of the furniture, except for the antique tub. Ms. Timmons also testified she was not contacted by counsel, nor did she know who to contact about her testimony. Ms. Timmons further testified, although Applicant did not have a lease for the mobile home, he had access to it.

 Sam Timmons, Applicant's father, testified he helped Applicant retain counsel and was present during Applicant's plea. Mr. Timmons stated counsel advised him that it was in Applicant's best interest to dispose of all of the charges through one plea agreement. He also testified that, if called as a witness at trial, he could have explained that Applicant had the landlord's permission to enter the mobile home. He admitted that Applicant did not have a contract or lease agreement for that mobile home. Mr. Timmons would have also testified concerning how Applicant acquired the furniture he was accused of stealing.

Counsel testified he was retained by Applicant's parents and has been practicing law for twenty years. Counsel stated he was only retained on the first set of charges (concerning the furniture in the mobile home), but every few days, the Solicitor would call him concerning other charges Applicant had recently acquired. The charges continued to pile up. Counsel testified that he met with Applicant and discussed the discovery, but did not give Applicant a copy of the

discovery as most of the material was copied on DVDs and CDs. Counsel testified he reviewed the pictures of the mobile home with Applicant.

Counsel testified Applicant's charges included two counts of Burglary, First Degree and that because of Applicant's prior record, the Petit Larceny charge was enhanced. Counsel stated Applicant understood the charges and the conversations they had together. Counsel also stated he prepared this case for trial and during his preparations, he received emails from the Solicitor containing plea offers, but also advising counsel that the Solicitor planned to try these cases separately until Applicant was sentenced to life without parole. Counsel testified it was in the Solicitor's discretion to try these cases individually and in succession.

gms  
Concerning the first set of charges, Counsel testified he interviewed witnesses, but could not find Samantha Timmons, as she was incarcerated in North Carolina. Counsel stated he interviewed two other material witnesses. He also stated the photographs he reviewed were obtained from law enforcement. Counsel further testified he thought of no reason to take more photographs of the mobile home because Applicant confirmed that the pictures already taken were those of the mobile home.

Concerning the plea, counsel testified that up until June 7, 2012, there were no offers from the State. He also stated that he was not focused solely on the first set of charges when there were other charges pending against Applicant. In essence, Counsel stated he saw no reason to "win the battle, but lose the war." Counsel spoke with the Solicitor about plea offers and wanted an offer in writing. Counsel testified he met with Applicant to make sure Applicant understood the options, and that he thought he had all of the necessary witnesses for trial. On the morning of trial, counsel testified Applicant still wanted to pursue a trial, but that counsel presented Applicant with the three options listed above. Counsel also testified he prepared a

memorandum of these options and the Applicant's present situation. Counsel stated Applicant chose option 1 and that it was Applicant's decision to plead guilty.

On cross-examination, counsel testified option one was presented to him on the Sunday before trial whereby Applicant would plead to Petit Larceny and Burglary, Third Degree for two consecutive ten-year sentences and then to all other charges for a time-served sentence. Counsel stated option 2 was presented to him on Monday before trial as a package deal, whereby Applicant would plead to one charge for a ten-year sentence and then all other charges for a sentence in the discretion of the Court.

 Counsel stated he did not need to subpoena other witnesses because the witnesses he would have called were also State's witnesses. Counsel testified it was Applicant's decision whether to pursue a trial and run the risk of facing all of the charges, or accept the State's plea offer.

Counsel stated Applicant asked him to move for a continuance because of his sister's absence, but counsel was concerned that the State would retract the offer or the trial judge would not grant the motion. Counsel also stated he did not need Ms. Timmons' testimony because he had two other witnesses that would have testified to the same information Ms. Timmons could have provided.

Counsel lastly testified that there was a lot of back and forth discussion between Applicant and counsel about accepting the plea offer, but that it was ultimately Applicant's decision to plead no contest.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Court has had the opportunity to review the record in its entirety and has heard the testimony of the various witnesses at the PCR hearing. The Court has further had the

opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (2003).

### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

*9/1* The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the

Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S. Ct. 366 (1985).

gab 8  
This Court finds counsel provided effective assistance of counsel in this case, and that Applicant's claims are without merit. Counsel advised Applicant of all of the charges and the sentences the charges carried. Counsel also negotiated with the State in Applicant's best interests. The Court finds Applicant was charged with multiple and different crimes and had a difficult decision to make: accept the plea offer and receive a certain and definite sentence or proceed to trial and face unknown consequences. The Court finds Applicant made the decision on his own accord with the help of learned counsel. Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from any individual. Furthermore, the Court finds that it was ultimately the Applicant's decision to plead guilty, and that the decision Applicant made was in his best interests. The Court finds Applicant's testimony regarding counsel's ineffectiveness is not credible, while also finding counsel's testimony is credible.

The Court finds the Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance. This Court finds Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby. Accordingly, this allegation of ineffective assistance of counsel is denied.

### CONCLUSION

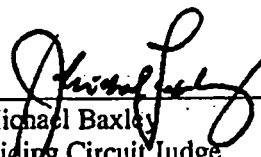
Based on all the foregoing, the Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this Application for Post-Conviction Relief must be denied and dismissed, with prejudice.

The Court hereby notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant's attention is directed to South Carolina Appellate Court Rule 243 for the appropriate procedures for appeal.

### IT IS THEREFORE ORDERED:

1. The Post-Conviction Relief Application is denied and dismissed, with prejudice; and,
2. The must Applicant remain in the custody of Respondent for the completion of his sentence.

### IT IS SO ORDERED.

  
\_\_\_\_\_  
J. Michael Baxley  
Presiding Circuit Judge  
Sixteenth Judicial Circuit

May 6, 2014  
Hartsville, South Carolina

DOCKET NO. 2012-GS-46-02276

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

X   
Defendant

**The State of South Carolina**  
**County of York**

I, Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
*no indictment as charged*

COURT OF GENERAL SESSIONS

July 19, Term 2012

X   
Defendant

THE STATE

vs.

Witness:  
Stephanie Naylis, Ctroom Supvr  
C.C.C. PLS. AND G.S.

STEVEN RAY TIMMONS

**WITNESSES**

YCSO / Strickland

adm

ARREST WARRANT NUMBER

J-158440

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Indictment for  
BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-160  
CDR Code: 258

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA ) CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN - 7 AM 8:47

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012; break into a 2000 Dodge Ram Quad truck motor vehicle belonging to Michael Williamson, at [REDACTED] [REDACTED] [REDACTED], York, South Carolina, with intent to steal the vehicle or anything of value from the vehicle, and the Defendant did cause \$350.00 in damage to the vehicle breaking into it. All in violation of Section 16-13-160 of the Code of Laws of South Carolina, (1976, as amended).

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

*E B Sprung II*

ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02277

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for

BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-160  
CDR Code: 258

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

*[Signature]*  
Defendant

I, Steven Ray Timmons  
hereby appear in my own proper person and plead  
~~guilty~~ to the within indictment or to  
no count  
as charged

*[Signature]*  
Defendant

Witness:  
Stephanie Naylis, Crime Supervisor  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO / Strickland

adm

ARREST WARRANT NUMBER

J-158441

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN -7 AM 8:47

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012; break into a motor vehicle, a 2005 Dodge Caravan, belonging to Michael Williamson, at [REDACTED], York, South Carolina, with intent to steal the vehicle or anything of value from the vehicle. All in violation of Section 16-13-160 of the Code of Laws of South Carolina, (1976, as amended).

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

E. B. Sprinkle IV  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02278

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

THE STATE

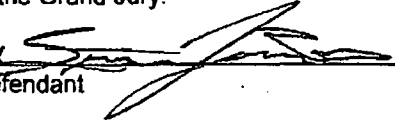
vs.

STEVEN RAY TIMMONS

Indictment for  
BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-160  
CDR Code: 258

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

X   
Defendant

I, Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no count

as charged

X   
Defendant

Witness:  
Stephanie Naylis, Court Supr  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO / Strickland

adm

ARREST WARRANT NUMBER

J-158442

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA  
SATIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN -7 AM 8:48

DAVID HAMILTON  
CLERK OF COURT

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012; break into a motor vehicle belonging to Enterprise FM Trust leasing company and leased to Glass Doctor, in the possession of Glass Doctor employee Michael Williamson at the time of the break in, at [REDACTED], York, South Carolina, and the Defendant entered the vehicle with the intent to steal the vehicle or anything of value from the vehicle. All in violation of Section 16-13-160 of the Code of Laws of South Carolina, (1976, as amended).

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

E B Sprague II  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46- 02281

WITNESSES

YCSO / Strickland

adm

ARREST WARRANT NUMBER

J-158445

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012.

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for

BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-160

CDR Code: 258

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no indictment.

as charged

Defendant

Witness:

Stephanie Naylis, Clerk Superior  
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA FILED TRUE COPY INDICTMENT

COUNTY OF YORK 2013 JUN -7 AM 8:49

DAVID HAMILTON

CLERK OF COURT

YORK COUNTY, SC

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012; break into a motor vehicle belonging to Carl Hawkins, a 2001 Chevrolet S-10 truck located at [REDACTED], York, South Carolina, with intent to steal the vehicle or anything of value from the vehicle. All in violation of Section 16-13-160 of the Code of Laws of South Carolina, (1976, as amended).

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

*EB Sprung IV*

ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02282

The State of South Carolina  
County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for

BREAKING INTO MOTOR VEHICLE

SC Code: 16-13-160  
CDR Code: 258

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

*[Signature]*  
Defendant

I Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no indictment

as charged

*[Signature]*  
Defendant

Witness:  
Stephanie Naylis, Crim Supvr  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO / Strickland

adm

ARREST WARRANT NUMBER

J-158446

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN -7 AM 8:49

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BREAKING INTO MOTOR VEHICLE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012; break into a motor vehicle belonging to Jennifer Hawkins, a 2001 Nissan Altima, located at [REDACTED], York, South Carolina, with intent to steal the vehicle or anything of value from the vehicle. All in violation of Section 16-13-160 of the Code of Laws of South Carolina, (1976, as amended).

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

*E B Sprague*

ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02279

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

[Signature]  
Defendant

The State of South Carolina  
County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
as charged

[Signature]  
Defendant

Witness:  
Stephanie Naylis, Ctroom Supvr  
C.C.C. PLS. AND G.S.

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for  
PETIT LARCENY

SC Code: 16-1-57, 16-13-30  
CDR Code: 3596

WITNESSES

YCSO\Strickland

adm

ARREST WARRANT NUMBER

J-158443

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA NOTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN -7 AM 8:48

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**PETIT LARCENY**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012, feloniously take and carry away goods belonging to the victim, Michael Williamson and/or Glass Doctor, valued at less than Two Thousand Dollars, described as follows: a Tom Tom brand GPS unit, compact disc, a glass sample kit, binoculars, a cat litter box, and a clipboard, with intent to deprive the owner(s) permanently of such property. When this occurred Steven Ray Timmons already had two or more prior convictions for property crimes for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Sections 16-1-57 and 16-13-30, Code of Laws of South Carolina, (1976, as amended).

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

E B Sprague IV  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46- 02280

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

[Signature]  
Defendant

**The State of South Carolina**  
**County of York**

**COURT OF GENERAL SESSIONS**

**July 19, Term 2012**

I Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
*no contest* as charged

[Signature]  
Defendant

**THE STATE**

**vs.**

**STEVEN RAY TIMMONS**

Witness:  
Stephanie Naylis, Ctmm Supvr  
C.C.C. PLS. AND G.S.

**WITNESSES**

YCSO\Strickland

adm

**ARREST WARRANT NUMBER**

J-158444

**ACTION OF GRAND JURY**

Foreperson of Grand Jury  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

**Indictment for**

**PETIT LARCENY**

SC Code: 16-1-57, 16-13-30  
CDR Code: 3596

STATE OF SOUTH CAROLINA ) CERTIFIED TRUE COPY INDICTMENT  
COUNTY OF YORK 2013 JUN -7 AM 8:48

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath. DAVID HAMILTON  
CLERK OF COURT YORK COUNTY, SC

**PETIT LARCENY**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012, feloniously take and carry away goods belonging to the victims, Carl Hawkins and Jennifer Hawkins, valued at less than Two Thousand Dollars, including the following: a pocket book, a pink colored wallet with credit cards and a driver's license, assorted clothing, a red colored Igloo Cooler, a black "O'Neill" baseball cap, assorted gift cards, and a number of compact discs. The Defendant stole these things with the intent to deprive the owner permanently of such property, and when he did this, Steven Ray Timmons already had two or more prior convictions for property crimes for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Sections 16-1-57 and 16-13-30, Code of Laws of South Carolina, (1976, as amended).

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

*E B Sprague IV*  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02275

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

THE STATE

VS.

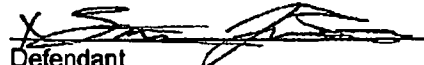
STEVEN RAY TIMMONS

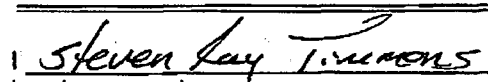
Indictment for

PETIT LARCENY

SC Code: 16-1-57, 16-13-30  
CDR Code: 3596

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

  
Defendant

  
I, Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no contest  
as charged

  
Defendant

Witness:  
Stephanie Naylis, Ct. Supv.  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO\Strickland

adm

ARREST WARRANT NUMBER

J-158436

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA ) CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK )

2013 JUN 27 AM 8:47

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**PETIT LARCENY**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012, feloniously take and carry away goods belonging to the victim, Thelma Harrison, valued at less than Two Thousand Dollars, including the following: tools, wheel barrow, coffee maker, microwave oven, a projector, and a suitcase containing personal papers, with intent to deprive the owner permanently of such property. When he did this, the Defendant already had two or more prior convictions for property crimes for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Sections 16-1-57 and 16-13-30, Code of Laws of South Carolina, (1976, as amended).

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

*E B Sprague IV*  
\_\_\_\_\_  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-

02017

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

WITNESSES

YCSO\LoveLace

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

June 14, Term 2012

no contact

I Steven Ray Timmons hereby appear in my own proper person and plead guilty to the within indictment or to

as charged

adm

ARREST WARRANT NUMBER

J-158418

THE STATE

vs.

[Signature]  
Defendant

Witness:  
Stephanie Naylis, Ctroom Suprvs  
C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

STEVEN RAY TIMMONS

[Signature]  
Foreperson of Grand Jury

Date: 6/19/12

VERDICT

Indictment for

PETIT LARCENY

SC Code: 16-13-30; 16-1-57

CDR Code: 3598

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA  
 COUNTY OF YORK

CERTIFIED TRUE COPY  
 2013 JUN -7 AM 8:46

INDICTMENT

At a Court of General Sessions, convened on June 14, 2012, the Grand Jurors of York County present upon their oath

DAVID HAMILTON  
 YORK COUNTY, SC

**PETIT LARCENY**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about the time from January 14, 2012, until March 8, 2012, feloniously take and carry away goods belonging to the victim, Rebecca Oxford, valued at less than Two Thousand Dollars, described as follows: various items of furniture including a sofa, love seat and two tables, which were in a vacant furnished house located at [REDACTED], owned by the victim. The Defendant took the furniture with the intent to deprive the owner permanently of such property, and when he did this, the Defendant had already been convicted of two or more crimes for which the term of imprisonment is contingent upon the value of the property involved. All in violation of Sections 16-13-30, and 16-1-57, Code of Laws of South Carolina, (1976, as amended).

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

*E B Sprague IV*

ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02016

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

June 14. Term 2012

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for

BURGLARY, THIRD DEGREE

SC Code: 16-11-313

CDR Code: 427

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no contest

as charged

Defendant

Witness:

Stephanie Naylor, Cdr. Supv  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO / Lovelace

adm

ARREST WARRANT NUMBER

J-158417

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA ) CERTIFIED TRUE COPY  
COUNTY OF YORK ) 2013 JUN -7 AM 8:46

At a Court of General Sessions, convened on June 14, 2012, the Grand Jurors of York County present upon their oath:

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

**BURGLARY, THIRD DEGREE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about the time period between January 14, 2012, and March 8, 2012, willfully and unlawfully enter the un-occupied dwelling building belonging to Rebecca Oxford, located at [REDACTED], York, South Carolina, without consent and with the intent to commit the crime of larceny therein. All in violation of Section 16-11-313, Code of Laws of South Carolina, (1976, as amended).

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

*E. B. Springs IV*  
ASSISTANT SOLICITOR

**WITNESSES**

YCSO/ Strickland

adm

**ARREST WARRANT NUMBER**

J-158433

**ACTION OF GRAND JURY**Foreperson of Grand Jury  
Date:**VERDICT**Foreperson of Petit Jury  
Date:

DOCKET NO. 2012-GS-4602274

**The State of South Carolina**

County of York

**COURT OF GENERAL SESSIONS**

July 19, Term 2012

**THE STATE**

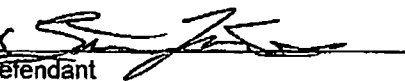
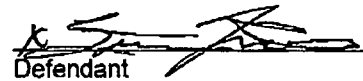
vs.

**STEVEN RAY TIMMONS**

Indictment for

**BURGLARY, 1<sup>ST</sup> DEGREE**SC Code: 16-11-311  
CDR Code: 079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

X   
DefendantI Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no contestBurg 2nd degreeX   
DefendantWitness:  
Stephanie Naylis, Ctroom Supvr  
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA CERTIFIED TRUE COPY INDICTMENT

COUNTY OF YORK

2013 JUN -7 AM 8:46

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions, convened on July 19, 2012, the Grand Jurors of York County present upon their oath:

**BURGLARY, 1<sup>ST</sup> DEGREE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012, willfully and unlawfully enter a shed which was part of the dwelling house of Jeffrey Gibson, located at [REDACTED], York, South Carolina, without consent and with the intent to commit the crime of larceny therein, and the Defendant did commit said offense during the nighttime, all in violation of Section 16-11-311, Code of Laws of South Carolina (1976, as amended).

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

*8 B Springs IV*  
\_\_\_\_\_  
ASSISTANT SOLICITOR

DOCKET NO. 2012-GS-46-02273

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

July 19, Term 2012

THE STATE

vs.

STEVEN RAY TIMMONS

Indictment for  
BURGLARY, 1<sup>ST</sup> DEGREE

SC Code: 16-11-311  
CDR Code: 079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I Steven Ray Timmons  
hereby appear in my own proper person and plead  
guilty to the within indictment or to  
no contest  
Burg 2nd degree violent

Defendant

Witness:  
Stephanie Naylis, Ctrm Supvr  
C.C.C. PLS. AND G.S.

WITNESSES

YCSO/ Strickland

adm

ARREST WARRANT NUMBER

J-158428

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA) INDICTMENT  
 COUNTY OF YORK

CERTIFIED TRUE COPY  
 2013 JUN -7 AM 8:46

At a Court of General Sessions convened on July 19, 2012, the Grand Jurors of York County present upon their oath: DAVID HAMILTON  
 YORK COUNTY, SC

**BURGLARY, 1<sup>ST</sup> DEGREE**

The Defendant, Steven Ray Timmons, did in York County, South Carolina, on or about April 16, 2012, willfully and unlawfully enter the dwelling of Thelma Harrison, located at [REDACTED], York, South Carolina, without consent and with the intent to commit the crime of larceny therein, and the Defendant did this during the nighttime, all in violation of Section 16-11-311, Code of Laws of South Carolina (1976, as amended).

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

*E B Springs IV*  
 ASSISTANT SOLICITOR