

THE STATE OF SOUTH CAROLINA
The Supreme Court of South Carolina

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No.2013-001415

The State

Respondent,

v.

Fritz Allen Timmons

Appellant.

MOTION TO INTERVIEN, REMOVE, SUSPEND,
AND DISBAR RESPONDENTS COUNSEL

RECEIVED
JAN 14 2014
SC Court of Appeals

With the Appellant's Cartilage, Residency (broken into by Chesterfield County while resident was not on premises violating Code §23-15-60), and Barn without the rest of the property (no visible boundary lines and in the middle of hundred of acres of wood land) being Searched and canines being Seized without a Warrant nor Probable Cause, The Appellant was Convicted, Charged, then Tried in a Kangaroo Court (Magistrate's). Claimed to be Criminal and also Prosecuted by a Dog Catcher (Code §23-15-110, Rule 410(d), SCACR) that was appealed to a 2nd Kangaroo Court (Circuit) then finally to the Appeals Court. Ipso facto, the Consul for the State is Defending and assisting the Unlawful and Unconstitutional Violations by the State while having a Total disregard for Court Rules, Court Orders that directly violating the Lawyers Oath of Office, ipso facto, has and currently committing **Barratry** (§16-17-10) therefore, these actions warrants the Consul (as well as the Lower Court Judges) to be Removed from the Case, Suspended and Disbarred for prolonging the violations of the Appellant's Rights to Due Process without Cause. With the subverting of Court Rules by the Appeals Court on behalf of the State, ipso facto, Violating Rule 101(a), SCACR, Rule 37, SCRCrimP, Rule 1101, SCRE and Rule 2, SCRMC, thus, if procedure calls for, then the Supreme Court would inherit a case based upon and with evidence in clear violations of the United States Constitution and Court Rules along with South Carolina Constitution, State Codes and Court Rules due to the Criminal Intent of and manipulation of Court Rules by the Lower Courts of which Court Rules nor State Code does not provide a proper procedure for. Court Rules are intended as a guide of proper procedure to correct "Error" of the Lower Courts and not as a Weapon to be used by State Prosecution to manipulate the Upper Courts and assist the "Criminal Intent" of the Lower Courts.

The following are the Constitutional Rights Violations along with State Code Violation and conspiracy §16-5-10 of by Chesterfield County Animal Control and Chesterfield County Animal Shelter Director Danielle Bowe, Chesterfield County Animal Control Officer Jim McGonigal, Chesterfield County Sherriff Deputy James Lewis, Chesterfield County Magistrate Judge John A Davis, and Fourth Circuit Court Judge J. Michael Baxley that the Consuls for the State are Defending that directly and willfully defies the United States Constitution and violates Court Rules and Court Orders.

The State Counsel has directly violated Rule 407, SCACR and assisting the violation of **RULE 5.5 and RULE 4.1(a,b)** while continuing and prolonging a Sham Legal Process (§16-17-735(A)(1)(2)), ipso facto, all of the Counsel for the State including the Dog Catcher, Magistrate Court Judge and the Circuit Court Judge has conspired to these Violations.(§16-17-410)

With a Dog Catcher charging the Appellant with State Codes and 415.60 (not a State Code nor County Ordinance) violations on County uniform summons violating §19-3-10 and §56-7-80A, Ipso facto, contradicting **ATTORNEY GENERAL'S OWN OPINION** "The **uniform summons cannot be used for the enforcement of laws other than county and municipal ordinances** and whether or not the state laws can be incorporated by ordinance in order to use the summons would depend on the content of the ordinance and penalty provisions of the state statutes in question. 1994 Op Atty Gen, No. 94-67, p. 143.". The Dog Catcher with only the authority of a constable, does not have the Authority to enforce State Laws, only write summons for County Ordinances violations.

The Dog Catcher (Chesterfield County Animal Control Officer Jim McGonigal)

that claimed charges to be criminal, **DOES NOT** have the Authority to **Prosecute** a Criminal Case in Magistrate Court (§40-5-310, §23-15-110), ipso facto, Chesterfield County Animal Control Jim McGonigal is practicing law without a license (P. 29, 33) and violation Appellant's Rights to Due Process.. With his supervisor Danielle Bowe as Director of both Chesterfield County Animal Control and Chesterfield County Animal Shelter, and the wife of Jim McGonagall (Victoria Mcgonigal) being the owner of DOCHAS NGRA (HOPE AND LOVE) rescue, Thereby having an interest in the case (supply for demand of purebred dogs for profit). *Richland County Magistrate's Court*, 389 SC. 408, 412, 699 S.E.2d 161, 163. (2010), State v. Thrift, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346 (1994), citing S.C. Const. art. V, § 24; S.C. Code Ann. § 17-1-10 (2009), State v. Martineau, 808 A.2d 51, 55 (N.H. 2002).. The South Carolina Constitution, South Carolina statutes and case law place the unfettered discretion to prosecute **solely in the prosecutor's hands**. See State v. Thrift, 312 S.C. 282, 291-92, 440 S.E.2d 341, 346 (1994), citing S.C. Const. art. V, §24; S.C. Code Ann. §17-1-10 (2009). We find that allowing prosecution decisions to be made by, or even influenced by, private interests would do irreparable harm to our criminal justice system. At the very least, there is "too much opportunity for abuse and too little motivation for detachment. See State v. Martineau, 808 A.2d 51, 55 (N.H. 2002), The dignity and might of the State are brought to bear in decisions to prosecute. These decisions must not be made by interested parties. We therefore find that a **non-lawyer's representation of a business entity in criminal magistrate's court runs afoul of South Carolina law**, is repugnant to our system of justice and **constitutes the unauthorized practice of law**. These actions are Continued by State Counsel and permitted into the Appeal by the Appeal Court Judges.

The said anonymous E-mail that Jim McGonigal stated "I used an anonymous E-mail as probable cause to get a search warrant" (P. 29) and violates 19-1-90 (no statement such as is referred to in those sections shall be admissible in evidence in any case, nor shall any reference be made to it in the trial of any case. Also the statement ("an anonymous tipster called it in") given to WCCB Charlotte by animal control officers and broadcasted on march 6, 2013 @ 1:39 PM EDT, ipso facto, without either as any type of evidence, No Probable Cause exist to Violate the Appellants Constitutional Rights. Ipso facto, said case is based solely upon Torte (Based upon the violations including 18 U.S. Code §1018 by Judge Paul Burch in Appeals case 2013-002356) and/or Fraud. State Counsel has failed to provide evidence to the contrary and has committed spoilage of evidence (R. p. 4, line 1).

The two elements needed to satisfy the plain view exception are: (1) the initial intrusion which afforded the authorities the plain view was lawful and (2) the incriminating nature of the evidence was immediately apparent to the seizing authorities.

In this case, the deputies supposedly responded to a nonexistent anonymous tip. These observations were subject to any Fourth Amendment protection because they were not knowingly exposed to the public. The police did not have the investigative authority to approach the front door and/or back door of the mobile home in order to investigate the supposedly anonymous tip. If the deputies could properly drive up the dirt driveway to get to the front door, beyond that, exceed their investigative authority. The initial intrusion by the deputies onto Appellant's property was unlawful, both because the deputies did not had the investigative authority to enter the property, pursuant to the non existing anonymous tip and not observable from a public road, and because exigent circumstances

did not developed after entering the private driveway. Therefore, the State has not satisfied the first element of the plain view exception to the warrant requirement.

A mere hunch, suspicion, guess or unfounded opinion that evidence or contraband will be produced by the search is not probable cause. Probable must exist at the time of the search. Personal knowledge and observations cannot be used as a basis for a search warrant when the facts were gained in violation of the Constitution (See Silverthorne Lumber Co. v. United States, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. [1920]).

The clearest expression within the Fourth Amendment is that which states that "no warrant shall be issued but upon probable cause...." The probable cause standard has been defined by the Court as "...facts and circumstances within their knowledge, and of which they had reasonably trustworthy information ... sufficient in themselves to warrant a man of reasonable caution in the belief...." Brinegar v. United States, 338, U.S. 160 (1949), "in dealing with probable cause... we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." Carroll v. United States, 267 U.S. 132, at 162 (1925). For a warrant to be valid it must be **supported by facts and circumstances** which amount to probable cause.

Personal knowledge and observations cannot be used as a basis for a search warrant when the facts were **gained in violation of the Constitution** (Silverthorne Lumber The Fourth Amendment bars evidence resulting from such intrusions if the private party acted as an instrument or agent of the government. State v. Cohen, 305 S.C. 432, 409 S.E.2d 383 (1991). Co. v. United States, 251 U.S. 385, 40 S.Ct. 182, 64 L.Ed. [1920]).

Both the Fourth Amendment of the U.S. Constitution and Article I, Section 10 of the S.C. Constitution protects every person from "unreasonable seizures."

"No person shall be . . . deprived of life, liberty, or property without due process of law . . ." (U. S. Const., Fifth Amendment; see S. C. Const. Art. I, Section 3, for similar language).

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and **particularly describing the place to be searched, and the persons or things to be seized.**" (U. S. Const., Fourth Amendment; see S. C. Const., Art. I, Section 10 for similar language).

UNCONSTITUTIONAL WARRANT

The State Counsel has directly violated Rule 407, SCACR and assisting the violation of Rule 402, SCACR /**Lawyer's Oath**, Rule 410(d), SCACR "no person shall engage in the practice of law in the State of South Carolina who is not licensed by this Court and a member in good standing of the South Carolina Bar"

With the Lawyer's Oath stating the following

(A) "I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and **will preserve, protect and defend the Constitution** of this State and of the United States;"

(B) "**I will not** pursue or **maintain any** suit or **proceeding which appears** to me to be **unjust nor maintain any defenses** except those I believe to be honestly **debatable**

under the law of the land, but this obligation shall not prevent me from **defending a person** charged with a crime;”

(C) “I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with **trust and honor and the principles of professionalism**, and will never seek to **mislead an opposing party, the judge or jury by a false statement of fact or law;**”

The **judge is obligated not to consider the evidence** from an unconstitutional search and seizure in determining the issue of the defendant's guilt. (*Jackson v. Denno*, 378 U.S. 368, 84 S.Ct., 1774, 12 L.Ed.2d 908 (1964),. *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961)). "An abuse of discretion arises from an error of law or a factual conclusion that is **without evidentiary support.**" *Id.* (quoting *State v. Irick*, 344 S.C. 460, 464, 545 S.E.2d 282, 284 (2001)). Bias or prejudice either inherent in the structure of the trial system or as imposed by external events will deny one's right to a fair trial. Thus, in *Tumey v. Ohio* 48 .Bias or prejudice of an appellate judge can also deprive a litigant of due process *Dugan v. Ohio*, 277 U.S. 61 (1928).

Ipsa facto, the South Carolina Justice System happens to be sanctioning law enforcement Unconstitutional and unlawful actions along with incompetence.

With Chesterfield County Sherriff Deputy James Lewis Swearing out and servicing the Search Warrant, the Magistrate court violated State Code §22-5-180. (Swearer of warrant precluded from serving it. No magistrate shall deputize the person swearing out a warrant in any case to serve it.), ipso facto, violating Code §23-13-20, §17-13-140 and Section 26, of Article III, of the Constitution.

DEFYING THE CONSTITUTION

The Respondent's Counsels Defending an Unconstitutional Affidavit (P. 24), ipso facto, violating Rule 402(k)(3), SCACR Due to the following

- (1) Does not meet Particularity Requirement for place to be searched **"ON ITS FACE"**
- (2) Does not meet Particularity Requirement for items to be seized **"ON ITS FACE"**
- (3) Does not provide a Probable Cause **"ON ITS FACE"**
- (4) Does not state time of occurrence of facts alleged **"ON ITS FACE"** (State v. Winborne, 273 S.C. 62, 254 S.E.2d 297 (1979), Affidavit which fails altogether to state time of occurrence of facts alleged therein is **insufficient** State v. Weston, 329 S.C. 287, 494 S.E.2d 801 (1997). Nor any alleged Facts.
- (5) Violating 18 U.S. Code §1001

The Despondence Counsels Defending an Unconstitutional Search Warrant (P.

25). Due to the following

- (1) Does not meet Particularity Requirement for place to be searched **"ON ITS FACE"**, violating Code §17-13-140
- (2) Does not meet Particularity Requirement for items to be seized **"ON ITS FACE"**, violating Code §17-13-140
- (3) Contains contradicting Duplicity **"ON ITS FACE"**
- (4) Executed on March 5, 2013 **one day after** the search of March 4, 2013, ipso facto, violating 18 U.S. Code §241 and §242 (P. 26)

- (5) Violating State Code §22-5-180 by being sworn out by and executed by Chesterfield County Sherriff Deputy James Lewis (P. 24, 26)
- (6) Warrant was Served 1 day after the Search and not the Day of the Search, ipso facto, Search was conducted **without a Search Warrant** (P. 26).
- (7) Violating 18 U.S. Code §1001
- (8) Itemized List was entered **Two Days after** the Warrant Return filed and without witness, ipso facto, tampering with evidence by Judge John A Davis (P. 26, 27)
- (9) Itemized List was entered without a pet carrier nor bag of dog food also taken during the search.
- (10) Itemized List dated March 7, 2013 (P.27) added Two Days After Warrant Returned filed March 5, 2013 (P.26), **Rule 41 (1) (C)**, Fed. R. Crim. P. (“The officer executing the warrant must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken or **leave a copy** of the warrant and receipt at the place where the officer took the property.”). **Rule 41 (1) (D)**, Fed. R. Crim. P. (“The officer executing the warrant must promptly return it—**together with a copy of the inventory**”)And violating Code §17-13-150 and §16-13-10(3).
- (11) Judge John A Davis issued and refused to dismiss Unconstitutional Warrant Twice, ipso facto, Violated the Color of Law Rule 501, SCACR Conon 3 and the Judges Oath Rule 502.1, SCACR that states “I pledge to **uphold the integrity and independence of the judiciary**”, “I pledge, in the discharge of my duties, to treat all persons who enter the courtroom with civility, **fairness**, and respect;” and “I pledge to listen courteously, **sit impartially**, act promptly, and rule after careful

and considerate deliberation". Judge John A Davis also is not a member of the SC Bar. After the Hearing of March 18, 2013, Judge John A Davis entered into the record State Photos of unearthed canines (Shown to Appellant on March 5, 2013 and was not contested due to animal corpses being dug up and eaten by wildlife then dragged into yard by own dogs including an opossum skull that CCAC also found) that was not entered during the Hearing and only a portion of said 150 photos that the State failed to disclose that would verify the perjury of the State. Judge John A Davis entered into the record the modified copy of the warrant itemized list without date (P. 28), where as the original (P. 27) was produced Two days after the Return filed (Rule 41 (1) (D), Fed. R. Crim. P.), without missing items listed and not witnessed (P. 26).

- (12) Judge J. Michael Baxley has also Violated the Color of Law, the Judges Oath Rule 502.1, SCACR, Rule 501, SCACR Conon 3 and with being a Member of the SC Bar, the Lawyer's Oath Rule 402(k)(3), SCACR.
- (13) Both Judge John A Davis and Judge J. Michael Baxley failed to disclose either the Said anonymous E-mail or anonymous phone call (stated and aired by WCCB along with photos not in the record, ipso facto, Invasion of Privacy) that was supposedly used as probable cause, therefore, the probable cause is based on torte or complete fraud.

The burden of proving that the evidence was or was not legally seized will rest on the prosecution in which the Magistrate Court Lacked and being defended, assisted by, and/or covered up by State Counsel, Thereby;

(A) the judge wholly abandoned his judicial role so that no well-trained officer would rely

on the warrant

- (B) the affidavit was so lacking in probable cause that belief in its truth was entirely unreasonable
- (C) the warrant was so deficient on its face (failing to particularize the place to be searched or things to be seized) that the police officers executing the warrant could not reasonably presume it to be valid. United States v. Leon, Id.
- (D) The warrant, on its face, is vague enough to lead a reasonable police officer to believe it's invalid, evidence found pursuant to it will be inadmissible.
- (E) The State Lacked Probable Cause as stated previously.
- (F) Court Order of March 5, 2013, (P. 29) is substantial evidence of Lack of Prosecution "ON ITS FACE" stating "the State of South Carolina represented by Chesterfield County Animal Control Officer Jim McGonigal"
- (G) RETURN OF THE CRIMINAL APPEAL (P. 33) is substantial evidence of Lack of Prosecution "ON ITS FACE" stating "Chesterfield County represented by Chesterfield County Animal Control Officer Jim McGonigal"
- (H) With Chesterfield County breaking into the Appellants residency while appellant was not on premises, ipso facto, has violated SC Code §23-15-60 and Title 18 U.S. Code §3109 which states "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, **if, after notice of his authority and purpose, he is refused**"

Both the affidavit and the search warrant must particularly describe the place to be searched and the objects to be seized. It is inadequate if the descriptions are so general that the executing officer has discretion to search more than one place or seize more than

that specifically intended

DEFYING STATE CODES AND COURT RULES

The Respondents Counsels Defending Violations of State Code and Court Rules by the State, ipso facto, violating Rule 402(k)(3), SCACR for the Following;

- (1) Uniform County Ordinance Summons Ticket numbers 1889, 1890, 1891, 1892, 1906, 1907, 1908, and 1909 (R. pp. 16-19, 28-31) for rabies, 415.60 (unknown, not Code nor Ordinance), are not Supported by the Search Warrant (The charges of Rabies fall under the Fruit of the Poisonous Tree doctrine) and thereby Invalid..
- (2) Uniform County Ordinance Summons Ticket numbers 1884 through 1892 was written on March 5, 2013, while numbers 1898 through 2009 was written on March 7, 2013 and after the numbers 1983 through 1987 was written for Pam Conley in a different case (Case No. 2013CP1300231 (P. 35, 36) with almost identical violations by the state and same State personnel with an anonymous 911 call from California that came in Three days After her Search was Conducted (Rule 608, SCACR)), Therefore the Summons Ticket was not written at time of said accusations (Code §56-7-35(A)(1),(2)) and are not consecutively numbered (§56-7-80(C)).
- (3) With Uniform County Ordinance Summons Ticket numbers 1884-1888, 1898, 1899, 1903-1905 (R. pp. 11-15, 20-21, 25-27) citing Two descriptions (Abandonment and Neglect) while citing State Code for a County Ordinance, Ipso

facto, has dualality, Therefore which of the Two was the State's intentions and for what animals, Wildlife?. Respondent's Counsel claims that the Photos in Respondents Supplemental Record are of canine that were neglected that does not correspond to county summons violation code §47-1-70 (state code not county ordinance)

- (4) With Three Separate charges Charged and Tried multiple times for each and found not guilty and guilty on same charges, ipso facto, the Court has violated S.C. Const. Art. I, §12 and Code §17-23-20 No person shall be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall any person be compelled in any criminal case to be a witness against himself. (1970 (56) 2684; 1971 (57) 315.)
- (5) Supposed evidence was admitted in Magistrate and Circuit Court and is still admitted in Appeals Court despite Motion to discard and being in Violation to the Fourth Amendment as to being inadmissible in Court with an unconstitutional Search and Seizer. Motion was also made in Magistrate's Court on March 5, 2013 Preliminary Hearing and also at the March 18, 2013 Hearing (Rule 17, SCRCrimP) for Warrant Violations, ipso facto, any possible evidence inadmissible.
- (6) With Chesterfield County Animal Control adopting the dogs out **PIOR TO** the Appeal time limit, ipso facto, violating §22-3-310 stating "no sale shall be made under any such execution until **after** the time for **appeal has expired**".
- (8) The only witness to Testify under Oath, Animal Control Officer Danielle Bowe, and only at the Preliminary Heating of March 5, 2013, stating "Canine "Hanna"

tested positive for hookworms and has tumors” (P. 29), The correct statement was “has tumors and ulcers” with the Veterinarian Exam - “no significant findings” (P. 34), ipso facto, has Committed Perjury §16-9-10(A)(1)

MISLEADING THE COURT

State Counsel has Mislead the Court and violated Rule 407. SCACR. (Rule 4.1(a, b)) by the Following:

- (A) Failed to dismiss or withdraw from the case due Unconstitutional Affidavit and Warrant and to the Lack of Prosecution (Withholding having a Dog Catcher as a Prosecutor that claimed charges are Criminal) and Still Claiming that the Magistrate case as Criminal despite the Criminal Conspiracy of the Chesterfield County Agencies of said case.
- (B) State Counsel claims that the Warrant was not based on a supposedly anonymous E-mail, although the Court Order of March 5, 2013 (P. 29) Clearly states, ON IT'S FACE, “A search warrant was executed onof Chesterfield County based on an anonymous tip...”
- (C) Statement from Court Order of March 5, 2013, “Officers testified there was half a bag of dog food on the property” (P. 29), Specifically a ½ to ¾ 50 lb bag of “Purina Puppy Chow, Healthy Morsels” inside the Appellant’s Residency and seized without being on warrant or return, and with adlib by the Respondent’s Counsel as “**outside**”.
- (D) The Respondent’s whole Defense relies solely upon Case Laws out of context and without any Codes, Rules, or Regulations to support the defense with incompatible cases with incompatible facts, thereby the Respondent has created a **PLATYPUS Defense**

without lawfully issued charges nor evidence in support of charges, Thereby misleading the Court to effect the Justice of the Case. Without Substantial Evidence and based solely on assumption without fact and conducted on Complete torte and/or fraud for the unconstitutional search and seizer, fraudulent charges and Constitutional Rights violation by the Lower Courts, with no probable cause and intruding in on legitimate expectation of privacy.

(E) Adam Foard stated that Deputy James Loius “seen“, without being present at the hearing on March 18,2013 to testify nor nothing mentioned on the affidavit, ipso facto, gave a false statement to mislead the court. Also failed to submit the fact that the lower Court Lacked Prosecution and also Lacked any member of the South Carolina Bar of which he was the Appeals Counsel for. With only a Dog Catcher (Jim McGonigal) acting as a Prosecutor, ipso facto, not a member of the Bar Association and Judge John A Davis that is also not a member.

(F) State Counsel has misled the Court by claiming no knowledge of any Charges the Appellant requested this Court to file, although, the said Charges are a part of the Appellants Initial and Final Briefs.

(G) With county uniform ordinance summons that violates State Code §56-7-80(A) and contradicts **ATTORNEY GENERAL’S OPINION**, 1994 Op Atty Gen, No. 94-67, p. 143. Therefore, the Appellant was charged with only fraudulent charges and construed by illegal and unconstitutional means. Also the county uniform ordinance summons was not written at time of said occurrence with ticket numbers 1993 through and including 1997 as to being written for Pamela Conley in an almost identical case (Case No. 2013CP1300231). With only 21 county summons written for 31 dogs, with 3 different

charges and found guilty and not guilty on same charges, therefore what dogs was the charges for and which ones was not, why was the dogs that had no charges also taken by Chesterfield County Animal Service and Chesterfield County Sheriff Office. Also why was there only five Veterinarian Exams presented (from elderly dogs and two recovering from a Parvo and/or Circovirus outbreak, of which the carcasses that was unearth and found by Animal Services, died from several months earlier) and not for **ALL** dogs, Thus, Counsel claiming Criminal Charges without Substantial evidence nor probable cause of along with supposed evidence that is inadmissible in Court due to Fourth Amendment Violations.

With the above said, the Appellant has shown how the Chesterfield County Sherriff's Department, Chesterfield County Animal Control Officers, Judge John A Davis and Judge J. Michael Baxley as well as all the Counsels for the State established a relationship of trust through their activities and how these events flowered into the crimes to be charged, Ipso facto, **Violating the Color of Law** of which **State Counsel is assisting**. With the Appeals Court Judges permitting after withdrawal based on confusion (Rule 264(b), SCACR) and re-entering without petitioning the Court After the Appellant's Final Brief, the Inadmissible evidence, subvention of Court Rules that violates the Rights to Due Process by permitting the unnecessary delay (State v. Chapman, 289 S.C. 42, 344 S.E.2d 611 (1986)) of the motions of the State, ipso facto, the Judges are also **Violating the Color of Law**. Bias or prejudice of an appellate judge can also deprive a litigant of due process Dugan v. Ohio, 277 U.S. 61 (1928). Bias or prejudice either inherent in the structure of the trial system or as imposed by external

events will deny one's right to a fair trial. Thus, in *Tumey v. Ohio* 48. Code §22-3-710 "All proceedings before magistrates in criminal cases shall be commenced on **information under oath**, plainly and substantially setting forth the offense charged, upon, and only which, shall a warrant of arrest issue." The Fourth Amendment's probable cause requirement implies that probable cause be demonstrated by **truthful statements** in an affidavit. *Franks v. Delaware*, 438 U.S. 154, 165-66 (1978). Thus, where probable cause is grounded in an affiant's "deliberate falsehood[s]" or statements made with "reckless disregard for the truth" the resulting **warrant is invalid** and the Fourth Amendment rights of individuals subject to its execution are **violated**. Because the magistrate has the responsibility for determining the existence of probable cause, he may do so **only when the "facts or circumstances presented to him under oath or affirmation" support that conclusion**. *Nathanson v. United States*, 290 U.S. 41 (1933).

DEFYING COURT ORDER

State Counsel has Directly and Willfully Disobeyed the Court Order (§20-7-1350) of April 18, 2014 (P. 30) of which states " Should Respondent fail to comply with this order, this appeal will proceed without a Respondent's brief". State Counsel has failed to serve Designation of Matter, File an Final Brief on August 28, 2014 (P. 30, 32) (not within the sixty day deadline) of which violates Rule 208(b4), SCACR that reference to the Respondent's Supplemental Record in which Violates Rule 212(b).(c), SCACR, Rule 402, SCRE, The Supplemental Record also includes irrelevant material (Rule 209(b), SCACR),

Photos of an opossum skull and canine corpses and that was dug up, partially eaten by wildlife and dragged into yard and not contested the finding of during the Preliminary hearing on March 5, 2013 (P. 29) and violating Rule 403, SCRE. Rule 403, SCRE states that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.", "[p]hotographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are . . . not necessary to substantiate material facts or conditions." *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 228 (2010), "[p]hotographs calculated to arouse the sympathy or prejudice of the jury should be excluded if they are . . . not necessary to substantiate material facts or conditions." *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 228 (2010). ", "Photographs pose a danger of unfair prejudice when they have 'an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.'" *Id.* (quoting *State v. Holder*, 382 S.C. 278, 290, 676 S.E.2d 690, 697 (2009)). "Like probative value, unfair prejudice should be evaluated in the practical context of the issues at stake in the trial of the case." *Id.*; see *State v. Wilson*, 345 S.C. 1, 7, 545 S.E.2d 827, 830 (2001) ("The determination of prejudice must be based on the entire record and the result will generally turn on the facts of each case."). the Respondent's Supplemental Record Does not include the Order of March 5, 2013 Preliminary Hearing, Remaining of the 150+ Photos of the Dog Catcher that contains Substantial evidence of the States perjury 18 U.S. Code §1621, nor does not contain the examination Reports for the Remainder of the 31 Canines nor the fully in tacked corpse that appeared to be washed then frozen (of which was subpoena for

“All Dogs” (§16-9-330(A)) that the State Seized and violates §20-7-1350, ipso facto, the State Failed to Disclose Evidence violating Code §15-47-140. The Supplemental Record also violates Court Order (P. 30) by containing material already in the Record on Appeal, Rule 212(c), SCACR. The Supplemental Record also contains referenced material that violates Rule 602, SCACR and Rule 602, SCRE and Rule 603, SCRE. With both the Affidavit (P. 24) and the Search Warrant (P. 25) Violating the Fourth Amendment, ipso facto, any possible evidence contained in the Respondent’s Supplemental Record is Inadmissible and Clearly and Directly violates the Lawyers Oath and the Fourth Amendment. With the Appeals Court Refusal to Order the Supplemental to be amended or discarded, Thus the Appeals Court has also violated Rule 1101, SCRE and assisting the Violations by the Lower Courts and the State, ipso facto, committing **Barratry** (§16-17-10).

PROBABLE CAUSE

The clearest expression within the Fourth Amendment is that which states that "no warrant shall be issued but upon probable cause...." The probable cause standard has been defined by the Court as "...**facts and circumstances within their knowledge**, and of which they had reasonably trustworthy information ... sufficient in themselves to warrant a man of reasonable caution in the belief..." *Brinegar v. United States*, 338, U.S. 160 (1949), "in dealing with probable cause... we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." *Carroll v. United States*, 267 U.S. 132, at 162 (1925). For a warrant to be valid it must be **supported by facts and**

circumstances which amount to probable cause.

Therefore the following must be answered in order to prove otherwise

- (1) What was the probable Cause and evidentiary support of to Constitutionally Intrude upon Appellants property without being torte or fraud and prior to search?
- (2) How can a Dog Catcher be the Prosecutor of the March 18, 2013 (P. 29) hearing and what was the Authority to Prosecute (§40-5-310) or claim charges to be crimminal?
- (3) Who was Supposedly have personal knowledge of accusations in accordance to Rule 602, SCACR as to the anonymous tip and was it an E-mail or Phone Call and evidentiary support of that does not violate Code §22-3-710 and under Code §19-1-90?
- (4) What was the County Ordinance violation and evidence of each of each Summons Ticket that does not Violate §56-7-80A and under Code §19-3-10?
- (5) How does the Search Warrant (P. 25) support the Charge of violating 415.60 ?
- (6) What was the actual County Ordinance violation Charge for Uniform County Ordinance Summons Ticket numbers 1884-1888, 1898, 1899, 1903-1905 (R. pp. 11-15, 20-21, 25-27) and evidence of each, Abandonment or Neglect?
- (7) What happened to Uniform County Ordinance Summons Ticket numbers 1893-1897?
- (8) How does the above said charged does not violate Code §22-3-740 and §17-25-50?
- (9) What Particular item was Sought on the Affidavit (P. 24) and how does it refure

- to the Appellants dogs?
- (10) How was the place to be searched Particularly described on the Affidavit (P. 24)?
 - (11) What was the accusation (probable cause), time of accusation, and source of accusation on the Affidavit (P. 24)?
 - (12) With the above said, how does the Affidavit Support (P. 24) the Warrant (P. 25) ?
 - (13) How does the Appellants “address” Particularly described the place to be searched on the Warrant (P. 25)?
 - (14) What was the Actual Intent of the Search Warrant (P. 25), Abandoned animals or Neglected animals and how does this particularly describe the items sought?
 - (15) How does the Items Sought on the Warrant (P. 25) correspond with the Items Sought on the Affidavit (P. 24) ?
 - (16) How does the Return (P. 26) without Witnesses sworn ou March 5, 2013 without the Itemized List (March 7, 2013) (P. 27) complies to Rule 41(f) (1) (B), FRCrP and Rule 41(f) (1) (C), FRCrP and does not commit perjury and/or tampering with evidence?
 - (17) How was the Search and Seizer Constitutional on March 4, 2013 while the Warrant wasn’t served until March 5, 2013 (P. 26)?
 - (18) With Chesterfield County Sherriff Deputy James Lewis Swearing out and Serving the Search Warrant (P. 24, 26), how does this not violate §22-5-180 and §23-15-60 thus enacts Code §23-17-90?
 - (19) With Danielle Bowe testifying at the Preliminary Hearing on March 5, 2013 (P. 29) as to the canine “Hanna” as to “having tumors and ulcers” and proved to be false by the Veterinarian exam (P. 34), how does this not violate Rule 602,

SCACR, Rule 603, SCACR and 18 U.S. Code §1621?

- (20) How does only 5 of 31 canine exams can not be considered as Spoilage of Evidence?
- (21) How does only 32 of over 150 Photos can not be considered as Spoilage of Evidence?
- (22) How does 32 Photos not presented at the Hearing of March 18, 2013 but appears in the Record not be considered as Tampering with Evidence??
- (23) How can the Warrant Return (Original Magistrates copy) Itemized List dated 3/7/2013 6:07 am (P. 27, 28) appear in the Record (File on 3/5/2013) without the date not be considered as Tampering with Evidence?
- (24) How does evidence that is inadmissible under the Fourth Amendment still be admissible in State Court without being Unjust and Bias?
- (25) What is the purpose of canine photos in the state counsels supplemental record that was not contested the finding of other then to arouse sympathy or prejudice?
- (26) How does the supplemental Record complies to Rule 212, SCACR?

Therefore, with the numerous violations with substantial evidence of, “ON IT’S FACE”, in which the Judges and Lawyers Refuse to see, thereby gives a new meaning to the term “BLIND JUSTICE”. Are Judges required to Ignore substantial evidence that is not specifically identified by a party weather its unconstitutional, unlawful or not?

In conclusion, the Counsels for the State has violated State Codes, Court Rules, Lawyer’s Oath, and defied the Constitution of the United States and Constitution of South Carolina while assisting the violations of the said State Agencies and employees. Also

Judge Baxley (currently employed by Santee Cooper) and Judge Davis (except Lawyer's Oath, not a Bar Member) violating the same along with the Judge's Oath . Therefore, under Rule 413, SCACR , Rule 502, SCACR and State Code §22-1-30, the Appellant request that the All the State's Counsels immediately removed from said case, suspended and disbarred along with said Judges. State Council includes South Carolina's Attorney General Alan Wilson (P.O. Box 11549, Columbia, S.C. 29211), Senior Assistant Deputy Attorney General Salley W. Elliott (P. O. Box 11549, Columbia, SC 29211), Solicitor, Fourth Judicial Circuit, William B. Rogers (P.O. Box 616, Bennettsville, SC, 29512), Foard, Adam M. (120 N. Pearl St., Pageland SC 29728) as well as Chesterfield County Animal Control Officer Jim McGonagall (467 Goodale Road, Chesterfield , SC 29709). The Appellant also request that this Court file charges for the violation of Code §40-5-310 and Rule 407, R. 5.5, SCACR by Jim McGonagall (Dog Catcher). The actions of the Lower Court, counsels of and that of the State, ipso facto, the State's counsels has committed Barratry (§16-17-10). Therefore the Appellant request that this court file charges for Barratry with the appropriate agency.

STATE OF SOUTH CAROLINA

COUNTY OF WESTERFIELD

AFFIDAVIT

Personally appeared before me, one JAMES LEWIS who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

(827) TRERNACE CHURCH RD. MERRI

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

PROPERTY AND DWELLING

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

POUNDRISHED AND DEAD ANIMALS OUTSIDE AND EVIDENCE OF MORE ANIMALS OUTSIDE. NO FOOD OR WATER FOR ANIMALS

Sworn to and Subscribed before me, this 11th day of March, 2013.
[Signature] (L.S.)
Signature of Judge

COPY
[Signature]
Affiant

Address SCOTCH RD.

24

WESTERFIELD, SC.

Phone 623-2101

SEARCH WARRANT

Form Approved by
Attorney General
Section 17-13-160
March 15, 1978

ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY

CHESTER

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

1517 TABERNACLE CHURCH RD. CHESTER

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

ABANDONED OR NEGLECTED
DOMESTIC

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

JUDGE JOHN DAVIS - 843-625-9009

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable; and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

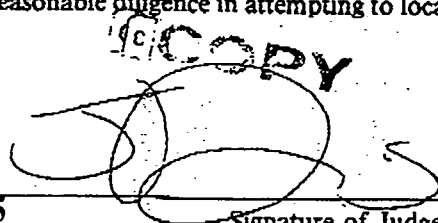
Chester

March 4

, S.C.

2013

25

COPY


Signature of Judge

(L.S.)

RETURN

I received the attached Search Warrant 3-5-13, 2013, and have executed it as follows:

On 3-5-13, 2013 at 14:14 o'clock P M, I searched

(the person) described in the warrant and (the premises)

I left a copy of the warrant with Fritz Timmers

Name of person searched or "at the place of search" with. Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

ALL BACKGROUND

1 BLACK PENALTY - PRESENT

1 RED PENALTY - POOR / 1 RED PENALTY - ALICE

ATTACHED

This inventory was made in the presence of _____

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 5th

day of March

2013

[Signature]

Signature of Judge

(L.S.)

[Signature]

(Signature of Officer Executing Warrant)

COUNTY OF
TO

Chesterfield County Animal Services
457 Goodale Rd
Chesterfield, SC 29709
843-623-3585

To: Officer Jay Lewis

Chesterfield County Sheriff's Dept.

Dogs removed from 1827 Tabernacle Church Rd McBee, SC owner Fritz Timmons

All dogs removed were Dachshund in breed

Front Kennel- Male MH red 1 partial blue eye, Male SH red/tan

Back Kennels- 1. Female red merle poss. Preg, Male red, Male Red/white merle, Female red

2. Male red, Female red both emaciated

3. Male LH red/tan

4. Male LH red

Running Loose Female Black/tan/white-MH, Male red LH, Female red LH, Male black/tan LH, Female black/tan LH

Inside- In crate- Female Red mother 6 pups under 2 wks

Big bathrm- Female red/tan/white, Male Blk/tan, Female red, Female Red merle, Female Tan w/black

Sm. Bathrm- Male White/ Black, Female Red/tan, Female Black merle/tan, Female Black merle/tan

Total dogs removed from property: 31

COPIY

Danielle N. Bowe, Director

57



Chesterfield County Animal Services
467 Goodale Rd
Chesterfield, SC 29709
843-623-3585

To: Officer Jay Lewis

Chesterfield County Sheriff's Dept.

Dogs removed from 1827 Tabernacle Church Rd McBee, SC owner Fritz Timmons

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4. Male LH red

Running Loose Female Black/tan/white MH, Male red LH, Female red LH, Male black/tan LH, Female black/tan LH

Inside- In crate- Female Red mother 6 pups under 2 wks

Big bathrm- Female red/tan/white, Male Blk/tan, Female red, Female Red merle, Female Tan w/black

Sm. Bathrm- Male White/ Black, Female Red/tan, Female Black merle/tan, Female Black merle/tan

Total dogs removed from property: 31

Danielle N. Bowe, Director

2013 MAR 28 PM 4 02
FAYE L. CELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

[Faint, illegible stamp]

STATE OF SOUTH CAROLINA)	IN THE MAGISTRATE COURT
)	
COUNTY OF CHESTERFIELD)	
)	
State of South Carolina)	
)	
)	
Vs.)	ORDER
)	
Fritz Timmons)	
Defendant.)	
_____)	

During criminal proceeding in the summary court March 5, 2013, the State of South Carolina represented by Chesterfield County Animal Control Jim McGonigal and Chesterfield County Deputy Jay Lewis and defendant and Fritz Timmons were present.

A search warrant was executed on the property at 1827 Tabernacle Church Road in the McBee area of Chesterfield County based on an anonymous tip of poor conditions for more than 30 canines on property and several of those dogs is varying degrees of poor health in plain view of officers.


County animal control and deputies testified the conditions of the property were not suitable conditions for the numerous animals on the property. Officers testified there was half a bag of dog food on the property, puppies being housed inside a partially dilapidated mobile home with feces covering interior flooring and at least two canine carcasses believed to be a food source for remaining dogs.

The defendant testified he has purchased 100 pounds of food for the animals the day of but prior to the search warrant being executed. He testified the feces-covered floor inside the mobile home on the property was in the process of being cleaned and puppies inside were being housed their until they could be released outside in spring.

IT IS ORDERED under Chesterfield County Ordinance 11-12-14 Section 10(B) that all animals at 1827 Tabernacle Church Road shall be taken into custody of Chesterfield County until the duration of a criminal case against him.

March 5, 2013
Chesterfield S.C.

copy


Judge John A. Davis
Magistrate, Chesterfield County

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Fritz Allen Timmons, Appellant.

Appellate Case No. 2013-001415

ORDER

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


FOR THE COURT

Columbia, South Carolina

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Fritz Allen Timmons, Appellant.

Appellate Case No. 2013-001415

ORDER

Appellant has filed a Motion to Strike and Disregard Respondent's Supplemental Record and Requiring Filing of an Amended Initial Brief of Respondent. Appellant's motion is denied.

Respondent has filed a Motion to Strike or Disregard Unsupported Statements in Appellant's Initial Reply Brief and a Motion to Require Compliance with Court Order and Motion to Strike or Disregard. Respondent's motions are denied. Within thirty days, Appellant shall serve and file Appellant's final brief, and Respondent shall serve and file Respondent's final brief.¹


FOR THE COURT

Columbia, South Carolina

cc: Fritz Allen Timmons
Adam M. Foard, Esquire
Salley W. Elliott, Esquire

FILED
10/12/14

¹ This court has received Appellant's final reply brief.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Appellate Case No. 2013-001415

STATE OF SOUTH CAROLINA,

Respondent,

vs.

FRITZ ALLEN TIMMONS.


Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Fritz A. Timmons
P.O. Box 367
Hartsville, South Carolina 29551

I further certify that all parties required by Rule to be served have been served.
This 28th day of August, 2014.


ANGELA BENNETT
Administrative Assistant

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

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHESTERFIELD)
)
 Chesterfield County)
)
 Vs.)
)
 Fritz Allen Timmons)
 1827 Tabernacle Church Road)
 McBee, SC 29101)
 Defendant.)
 _____)

IN THE CIRCUIT COURT

2013 CP 13-150

RETURN OF THE CRIMINAL APPEAL

John A. Davis
John A. Davis
 JUDGE

2013 APR 28 PM 4 00
 MAYE L. COLLERS
 CLERK OF COURT
 CHESTERFIELD COUNTY, S.C.

This matter is on appeal from the Magistrate Court of Chesterfield County, South Carolina, the Honorable John A. Davis, Presiding Judge.

The defendant, Fritz Allen Timmons, was charged by Chesterfield County Animal Control March 1, 2013, with Uniform Ordinance Summons 1900, 1901 and 1901 for violating S.C. Code 47-1-40 which is commonly referred to as Ill-Treatment of Animals; Uniform Ordinance Summons 1884, 1885, 1886, 1887, 1888, 1898, 1899, 1903, 1904 and 1905 for violating 47-1-70 which is commonly referred to as Animal Abandonment or Neglect; and Uniform Ordinance Summons 1889, 1890, 1891, 1892, 1906, 1907, 1908 and 1909 of County Ordinance 415.60 which is commonly referred to as a Rabies Vaccination Violation.

The defendant entered a plea of guilty on Uniform Ordinance Summons 1889, 1890, 1891, 1892, 1906, 1907, 1908 and 1909 of for Rabies Vaccination Violations.

Chesterfield County was represented by Animal Control Officer Jim McGonigal.

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Hartsville Animal Hospital
914 West Carolina Avenue
Hartsville, SC 29550
843-383-4555

An adult intact female dachshund named Hanna presented on 03/05/13 from Chesterfield county Animal Services for a complete physical exam and wellness check out. The Canine was bright, alert, and responsive upon presentation.

Physical Exam: The initial exam revealed an animal that was given a body condition score of 5/9 with an ideal score being 5/9. The weight at presentation was 17lbs. An estimated ideal weight for this animal was 17lbs. Eyes were normal. Ears were normal. Oral exam revealed multiple missing and broken teeth. Both upper canines were broken, and all lower incisors and lower canines were missing. Thoracic auscultation revealed no significant findings. Abdominal palpation revealed no significant findings.

Lab Tests: Occult heart worm test – negative
Fecal flotation test – positive for hookworms

Treatments: No treatments were performed, but Hanna should be treated for hookworm infection.

Faye L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

2013 MAR 28 PM 4 02

FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

THE LINK
May 7, 2013
(Chesterfield county newspaper)
(www.thelinkpaper.com)

A chesterfield dog breeder is out more than \$20,000 in canines and facing \$1,000 in fines after being charged with mistreatment of her animals in January.

Pam Conley of Zoar Road said she feels she is being bullied by chesterfield County animal control officers who, she said, came onto her property without probable cause. A Chesterfield County magistrate agreed officers laked probable cause when he heard Conley's case April 22: however, the magistrate's decision is now being appealed by the Fourth Circuit Solicitor's Office.

According to the information presented at the probable cause hearing April 22, animal control officers received a phone call from an anonymous source Jan. 11 saying dogs were being mistreated in Conley's care. Officers said they did not know who the caller was, nor could they provide any information about the caller. When asked for the phone number where the call originated, they only number that was provided was one that was traced back to a woman offering sex on the Internet in Oakland, Calif.

Because officers did not provide evidence of a call being made, Judge John Davis dismissed the case due to lack of probable cause. Deputy Solicitor Kenard Redmond filed a notice of appeal May 2 contending that ruling was made in error given the facts of the case.

Chesterfield county animal control officers have declined comment on the case because it is still pending litigation. The Fourth Circuit Solicitor's Office has also refused comment.

Conley's attorney, JR Joyner, said he's confident the evidence he has will prove his client is completely innocent of the charges against her. Regardless of the outcome of the trial, Conley's animals will not be returned.

According to Conley, the situation all started in June 2012 when animal control officer Jim McGonigal came to her house looking for a missing German shepherd.

"Next thing I know, he's walking around looking at my kennels and asking questions about my dogs," Conley said. "He never said anything else about a German shepherd."

Conley said animal control director Danielle Bowe later returned with McGonigal and informed her there were problems with her kennels and that she was required to have rubber mates inside. Conley said she abided by the officers' demands and thought everything was in order.

However, McGonigal returned to Conley's home seven months later, on Jan. 11, saying he'd received a 911 call about ill treatment of animals. Conley said McGonigal took pictures of her dogs, which were wet and muddy because it had been raining that day. She said he then threatened to file criminal charges against her if she didn't sign the animals over to Chesterfield County.

On Jan. 12 Bowe posted a social media request alerting animal rescue groups that the shelter we likely going to acquire around 40 purebred dogs once Conley saw the charges she'd be facing. When the ticket was written, it was for 40 counts of ill treatment

of animals, each count carrying a maximum \$500 fine and/or 60 days in prison.

Conley said she was presented the ticket Jan. 14 a day after her fiance was hospitalized with a broken arm following a four-wheeler accident.

"McGonigal's first question when he gave me the ticket was whether I was going to hire an attorney," Conley said. "He said if I wasn't, he would work with me (to lower the \$20,000 in fines or dismiss the charges)."

On March 6, the charges were reduced to five counts of abandonment, which each carry a penalty of \$200 in fines.

Conley said she had no intention of hiring an attorney until Jan. 16 when officers returned to her home and started confiscating her dogs. She said she remembers signing paperwork Jan. 14 but was unaware she was relinquishing her dogs to the county at that time.

Conley said she hired an attorney after her dogs were taken, and Joyner requested a hearing that was scheduled for Jan. 18 in hopes of getting Conley her dogs back. According to Conley, all of her dogs were adopted by rescues on Jan. 17 prior to the hearing.

During the hearing Jan. 18, animal control officers were asked to produce a copy of the 911 call that was made Jan. 11. Being unable to do so at the hearing, they later presented Joyner a 911 call that was reportedly made Jan. 19, a day after the hearing and three days after all of their dogs had been removed from Conley's property. At the probable cause hearing April 22, a copy of the original complaint was still not presented.

As of press time, a court date had not been set to hear the state's appeal to the dismissal of the charges.

January 9, 2014

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Fritz A. Timmons". The signature is fluid and cursive, with the first name "Fritz" being more prominent and the last name "Timmons" following in a similar style.

Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551
(843)-335-6283