

RECEIVED  
JAN 23 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Chesterfield County  
Honorable J. Michael Baxley, Circuit Court Judge  
Appellate Case No. 2013-001415

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THE STATE,

Respondent,

vs.

FRITZ A. TIMMONS,

Appellant.

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**RETURN TO MOTION TO “INTERVIEN,” (sic) REMOVE, SUSPEND, AND DISBAR  
RESPONDENT’S COUNSEL**

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Respondent to this appeal, through its undersigned counsel, would respectfully show unto the Court as follows:

1. Appellant was found guilty after a bench trial in magistrate’s court in Chesterfield County of Uniform Ordinance Summons 1900, 1901, and 1902 for violating S.C. Code 47-1-40, which is commonly referred to as Ill-Treatment of Animals, and Uniform Ordinance Summons 1887, 1888, 1898, 1899, 1900, 1903, 1904, and 1905 for violating 47-1-70, which is commonly referred to as Animal Abandonment or Neglect. The magistrate judge imposed a sentence of Three Thousand Dollars (\$3,000.00) in fines.
2. Thereafter, Appellant appealed the convictions to the circuit court and the appeal was dismissed by the Honorable J. Michael Baxley.

3. Appellant appealed Judge Baxley's order to this Court. All briefs and records on appeal have been submitted and the appeal is ripe for this Court's consideration. However, Appellant now moves to "intervien" (sic), remove, suspend and disbar Respondent's counsel.
4. While it is difficult to determine the exact nature of the complaints, Respondent incorporates herein all of the previous returns and motions it filed and served in this appeal as response to the current motion. The undersigned also submits that it represents the interests of the State as directed by S.C. Code Ann. section 1-7-40 (2005). The undersigned submits that the appeal is confined to the evidence before the circuit court, that it is relying on that evidence and the appellate court standard of review in presenting its arguments, and that Appellant fails to present a valid ground to support his motion. Instead, Appellant appears to be improperly revisiting matters already ruled upon by this Court, arguing new matters and matters outside of the record, and reasserting arguments already presented in his brief to this Court. Respondent also submits that Appellant appears to use this motion to offer new arguments either not raised to the trial court, the circuit court or in his briefs to this Court or is reasserting matter pertaining to the merits of his case and already addressed in his brief. The appellate court rules provide that the position and arguments of the parties on the merits of the issues are presented by way of briefs. See Rules 208; 211, SCACR; see also State v. Burroughs, 328 S.C. 489, 492 S.E.2d 408 (Ct.App. 2008). It is improper for Appellant to present new or additional argument or revisit arguments made in his brief after the time for submitting his brief and reply brief has passed. The statements and arguments presented in the motion do not support his request and should not be considered when the merits of the appeal are ruled

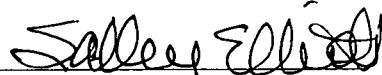
upon by this Court. State v. Wakefield, 323 S.C. 189, 473 S.E.2d 831 (Ct.App. 1996); State v. Black, 319 S.C. 515, 462 S.E.2d 311 (Ct. App. 1995). Moreover, the motion is not appropriate for this Court's consideration in its appellate capacity as Appellant asks this Court to rule on complaints without presenting them below. See S.C. Const. art. V section 9; S.C. Code Ann. sections 14-8-200(a) (Supp. 2013); Terry v. Terry 400 S.C. 453, 734 S.E.2d 646 (2012);

WHEREFORE, Respondent prays that this Court deny the motion.

Respectfully submitted,

ALAN WILSON  
Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

BY:   
SALLEY W. ELLIOTT  
S.C. Bar No: 1871

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

ATTORNEYS FOR RESPONDENT

January 23, 2015

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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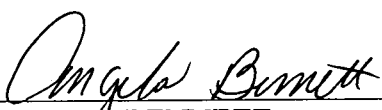
**PROOF OF SERVICE**

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I, Angela Bennett, certify that I have served the Return to Motion to "Intervien," Remove, Suspend, and Disbar Respondent's Counsel by depositing two copies of the same in the United States mail, postage prepaid, addressed to Fritz A. Timmons, Post Office Box 367, Hartsville, SC 29551.

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

This 23<sup>rd</sup> day of January, 2015

  
\_\_\_\_\_  
ANGELA BENNETT  
Administrative Assistant  
Office of Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3727



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JAN 23 2015  
SC Court of Appeals

ALAN WILSON  
ATTORNEY GENERAL

January 23, 2015

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

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

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Return to Motion to "Intervien,"  
Remove, Suspend, and Disbar Respondent's Counsel in the above-referenced case.

Sincerely,

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

SWE/ab  
Enclosures

cc: Fritz A. Timmons