

Steven R. Timmons  
Dorm MA 48, #351564  
Kershaw Corr. Inst.  
4848 Goldmine Hwy  
Kershaw, S.C. 29067

Feb. 23 2015

The Supreme Court of South Carolina  
The Honorable Daniel E. Shearouse  
Clerk of Court  
P.O. Box 11330  
Columbia, S.C. 29211

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MAR - 3 2015

S.C. Supreme Court

Re: Pro se Response  
Steven R. Timmons

VS.

The State of South Carolina  
Appellate Case No. 2014-000704

Dear Shearouse,

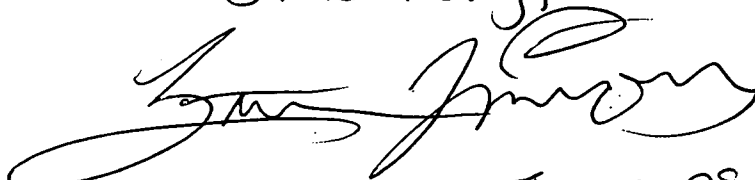
Please find enclosed my Pro se response to the Johnson Petition for above reference. If any further information is needed, please don't hesitate to contact me at the above address. I would like to request that your office return to me a clocked, dated stamped copy of this complete response as your receipt to me as being received by your office.

(1 of 2)

Thank you, Shearouse, for your assistance in all my efforts with the extension of filing my Prose.

may you be blessed.

Respectfully  
and  
Sincerely,



Steven Timmons  
#351564



---

Steven Timmons

Sworn to and subscribed before me this  
24 day of February, 2015.

Catharine A. Amos

Notary Public

My Commission Expires December 22, 2016

State of South Carolina  
In The Supreme Court

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Pro-se Response to  
The Supreme Court of South Carolina

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MAR - 3 2015

S.C. Supreme Court

Steven Ray Timmons  
Petitioner

VS.

State Of South Carolina  
Respondent

Appellate Case NO. 2014-000704

Pro-se Response

Steven R. Timmons, #351564  
Petitioner

Marshaw Corr. Inst.

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(to)  
(Amend Johnson Petition)

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(Actual Truth and Facts)  
(of the)  
(Burglary, 3rd & Petit Larceny)  
(that should be)  
(Folded from)  
(my)  
(Conviction)

(Attachment )  
Presents  
(1 of 3 pages)

# Statement

- As you read my Pro-Se, all arguments are within the Order Denying Post-Conviction Relief.
- Clearly almost all evidence is in black and white from the Record of the Appendix made by my Appellate Attorney Benjamin John Tripp for the South Carolina Supreme Court.
- The fact is the PCR Judge err in Denying me Relief, and the Pro Se will show that.
- Furthermore I respectfully ask the Court to alter the 20 years from my conviction to 10 years non-violent. The point is no crime was committed, and it was proved at PCR with my witnesses on my behalf. The Pro-Se will show that I suffered Extreme Prejudice and my sentence should be vacated.

# Refer. To Johnson Petition

- Before I start my Prose there is some inaccuracies within the Johnson Petition which could cause the fact-finding to render a faulty Conclusion. However, I am in full agreement with the arguments set forth within the Johnson Petition.

## Inaccuracies

- I appeared in Court on Two separate cases, and my time was ran Consecutive not Concurrent. The case that I proved my innocents on at PCR was for Burglary, 3<sup>rd</sup> and Petit Larceny Enhanced.

- The purpose of serving the first Case from the Conviction is to fold. 1.) A Crime was not committed; 2.) It will alter the 20 year non-violent to a sentence of 10 years non-violent.

- Note: See Attachment to show that I asked my Attorney Mr. Tripp: to amend the Johnson Petition.

## Argument I.

- I argued that I never received a Preliminary Hearing, nor did I waive my right to one.

## Relevant Facts

- The Solicitor on my case was EB Springs who had it out for me. He had already stacked 24 charges on me, my Attorney told me 90% of them would be dropped at a Preliminary Hearing which I didn't get.

## Discussion

- Due Process of law requires that a person shall have a reasonable opportunity to be heard at a Preliminary Hearing before a legally appointed Attorney, which I didn't get nor waive affecting my rights.

## Argument II.

- I argued I never got a (Rule 5) Motion of discovery materials until May 2013, almost a year after I was sentenced.

## Relevant Facts

- After asking many times, I still never got any Evidence held against me. My parents even tried to get it from him, he told them that he

Couldn't because I was his client. He said he would send me a copy to the jail, and I could give my parents a copy, but Never did so which left me not knowing what the state had against me. He (my Attorney) claims he went over the discovery with me, but admits on record that everything was on DVD. I only saw one thing in the discovery, that was the photo of the homes on my driveway. Isn't that the idea of Due Process so that a person should always have a real chance to view what is against him to present his side of the truth in a legal dispute. No Procedures should be unfair.

- App. 79-80 (La. 25, 1, 2) (Michael Matthews by Mr. Johnson)

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

• A Did he get -- yes, I did talk with him about discovery. Did I make copies for him and send it through the mail at the jail, Not Necessarily.

## Discussion

- When a defendant lacks knowledge of material evidence in possession of the prosecutor the waiver of constitutional rights can't be known and voluntary

Gibson vs. State. The Government's obligations to make (5) each disclosures of Brady material is pertinent not only to Accused Preparation for trial but also in his determination on whether or not to Plead guilty. Id. 334 S.C. At 523-24, 514 S.E. 2d At 324 U.S. vs. Avellino 136 F.3d 249, 255 (2d Cir. 1998).

- A Plea can't be knowing and voluntary if A defendant lacks knowledge of material evidence in Prosecution Possession. Id 334 S.C. At 523, 514 S.E. 2d at 324.
- Once Brady Rule disclosure is violated Reversal is required. Kennerly vs. State S.C. App. 1998 331 S.C. 442, 503 S.E. 2d 214, 337, S.C. 617, 524 S.E. 2d 837.

### Argument III.

- I testified my Attorney was ineffective for failing to investigate my case, and for failing to visit the crime scene, and for Pictures to show that there wasn't a crime committed.

# Why

- Because he felt there wasn't a need to "win the battle, but lose the war," instead my Attorney wanted me to have a conviction on my record of something I didn't even do. Clearly the record shows the only thing he was focused on, was to get me to plea out. He didn't care that I was Actually Innocent. Attorneys took an oath to protect those that are innocent, and the guiding principle is that my Attorney should have fulfilled my expectations with the duty to act in my best interests, and that is not to plea to something I didn't do.

## Relevant Facts

- App. 85 (L3) He admits, he didn't subpoena Samantha Timmons, and didn't attempt to ask for a continuance.

- App. 86 (L1-3) They (the police) took photographs showing the sign of the different numbers of the trailer and stuff like that. Those pictures came from the police.

Corroborating - Clearly he tells there on (App. 86 L1-3) that the photos he showed me. In the case report, there was claimed to be \$300 door damage. There's no proof of that, nor no photos, which is why I asked him to go take photos. He admits on record that I asked him to move for Continuance.

( - App. 97 (L14-15) He asked me about continuing the case because of her (Samantha) testimony. )  
\* I was told it would get denied because I had a hold on me, so therefor my attorney didn't even bother trying.

## Discussion

- In the context of an ineffective assistance claim, Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary; and thus, a criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence introduced by the state.  
U.S.C.A. Const. Amendment 6. Taylor vs. State  
404 S.C. 350, 745 S.E. 2d 97 S.C. (2013).

## Argument IV.

- I testified that I was the Assistant Solicitor's (EB, Springs) "2012 project", meaning that with the vindictiveness the Solicitor had toward me, to ensure that I would serve a substantial Prison sentence.

## Relevant Facts

- App. 103 (L12-76) (Attorney) The solicitor on the case was EB, Springs. In the past, EB, 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 deals on this case and that he was going to try him until "he was satisfied", with the amount of time the defendant received.

### Email from EB to my Attorney

- App. 82 (L8-13) Mike, I get someone like Steven Timmons about once a year. Someone who is such a **pro**lific threat to the security of the Community that I basically stop everything and focus

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On him until I have gotten him off the streets for a good long time. Steven Timmons is my 2012 project.

- A prosecutor is not suppose to express Personal opinions about the defendant, and should avoid unfair or improper justice against the defendant. A finding of actual vindictiveness requires "direct" evidence, such as evidence of a statements by the prosecutor.

(U.S. v. Goodwin, 457 U.S. 368, 380-81 (1982))

Corroborating - Clearly you can see I was singled out which my Attorney didn't protect me from.

↓ (Quoting E.B.'s Remarks) ↓

- App. 82 (L15-17) He says he wouldn't accept a Plea offer because I am going to keep coming after him until I have him sentenced for at least 20 years.

↓ (Attorney) ↓

- App. 87 (L13-14) But E.B. was insistent that he wanted 20 years.

↓ (Attorney) ↓

- App. 104 (L35-37) 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.

- App. 89 (L10-11) the reason EB wanted two burglaries second violent is because he wanted (2) strikes on his record.

↓ (Quoting E.B.'s Remarks) ↓

- App. 23 (L12-14) I'm wanting 20 years, I don't care how you structure it, this is what im wanting....

- Clearly you can see the solicitor was out to get me with Miscarriage of Justice, depriving me the right to be treated Equal. The 14<sup>th</sup> Amendment requires that a state Government not treat equals unequally.

## Discussion

- Fairness didn't play a role in my case, the court's power is not to do injustice, it is not to single someone out and treat them unequal. 14<sup>th</sup> Amendment for-

bids the state from depriving any person of due process or equal protection of law, "the very rights the judicial system was setup to protect." My Attorney failed to protect those rights. Actions taken by the Solicitor exposed me to an increased punishment.

- Result of vindictive prosecution. State vs. Fletcher, 322 S.C. 256, 258-259, 471 S.E. 2d 702, 704 (Ct. App. 1996) was indicated by the actions of the solicitor. It is a due process violation to § 658 punish a person for exercising a protected statutory or constitutional right. Id at 259, 471 S.E. 2d at 704.

- Our court in Fletcher noted that "The United States Supreme Court" has fashioned certain rules as a protection against vindictive action in response to a criminal defendant's exercise of a statutory or Constitutional right. "Fletcher, 322 S.C. at 260, 471 S.E. 2d at 704 includes whether the actions taken which exposes the accused to an increased punishment, poses such a reasonable of vindictiveness as to require a presumption of vindictiveness." Id, at 260-61, 470 S.E. 2d at 704.

- 8th Amendment Cruel and unusual punishment State vs. Corns (S.C. App. 1992) 310 S.C. 546, 426 S.E. 2d 324.

## Argument IV.

- I testified I was in the process of proceeding to trial, but took the plea because I was left with no choice. I wasn't "clear headed," I feel I was backed into a corner left with only one option. I was left in Duress.

## Relevant Facts

- 1<sup>st</sup> off on July 9<sup>th</sup> 2012 it was my son's birthday, and I was going to trial that day for Burglary 3<sup>rd</sup> and Enhanced Petty Larceny. When I said I was afraid to proceed to trial, it was because I knew my Attorney wasn't ready to present a complete defense. At the time I still had no M.O.D, nor had all my witnesses there. I wanted to continue my trial in order to have a fair trial on my behalf. On top of all this pressure re my Attorney lied to me, and my family. Leading with Coercion to plea out.

## Pressure & Lies

(Attorney)

- App. 84 (L3-11) what I told Mr. Timmons

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was not that I had special projects when I was Prosecutor, was that I did at one point in time, a you few times during my career as prosecutor, whenever someone would not take an offer I would try one case, try another case and try to get the judge to give us consecutive sentences on it, which is a tool that prosecutors have, and I had no hesitancy that E.B. Springs would go forward and ask the judge for Consecutive Sentences or give him notification of a LWOP.

(Attorney)

- App. 24 (L18-21) Your Honor, I honestly told my client I thought that it was a potential that if Mr. Springs stuck to what he said he was going to do if we did multiple trials it was a possibility of consecutive sentencing here.

(Attorney)

- App. 105 (L12-13) I also stated that if the jury convicted him, the cards would begin to line up for the solicitor to hit him hard.

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## (Attorney)

- App. 106 (9-10) EB stated he would be looking for consecutive sentencing for each trial.

- The pressure I had on me that day pushed me into doing what I didn't want to do. My Attorney told my family if I went to trial that day the cards would fall in place for a life sentence. I couldn't talk to my family, but he would come tell me that my family doesn't wanna see me with a LWOP. He had them so discouraged, they were begging me to take the plea.

## Lies

- My Attorney kept telling my family, and I that EB Springs was going to try one Burglary for one strike, then try another for 2 strikes, and then try another for LWOP. He even tells this on record, had the Court thinking all my charges occurred on different dates.

- Mr. Matthews asked (2) questions by Mr. Johnson.

- App. 83 (L1-3) (Q) And all these charges that he accrued happened -- some of them happened on different dates?

- (A) Oh, yeah. There were several.

- App. 83 (L10-12) (Q) And if he gets one of the burglary 1<sup>st</sup> degrees and then tries another one that is mandatory life without parole, am I not correct?

---

- Clearly the record shows that both of the alleged Burglary 1<sup>st</sup> degrees accrued on the same date 4-16-12.

- Under the 17-25-50 Close related Crime Spree law clearly states under sentencing purposes any number of offences which have been committed at times so closely connected in point of time that they must be considered as one offense, not withstanding under the law they constitute separate.

- My Attorney coerced my family, and I into thinking that a domino effect was going to happen in order to seek HWOP.

He used the solicitor's threat of trying each offense separately to seek LWOP. Clearly by law the solicitor can't do a domino effect to give me multiple strikes to seek LWOP if it all occurred on the same date.

(Lawyer)

- App. 81 (L19-21) the two burglaries first degrees (that's what was driving the whole thing.)

(Lawyer)

- App. 105 (L20-21) I told him that several individuals with history of Burglaries received life terms in York County.

- I don't even have a juvenile record, the day of my trial he was not focused on my innocents. My Attorney was only looking for one thing, and that was to satisfy the solicitor. That was to influence my family, and I into thinking the plea was my best interest. The record shows he didn't care that I was Innocent, his goal was to Ensure the 20 years the solicitor wanted.

## -Attorney Ref. to Solicitor-

- App. 82 (L15-17) He says he wouldn't accept a plea offer because I am going to keep coming after him until I have him sentenced for at least 20 years.

- I was given 3 options based on my Attorney's testimony, but however with the improper coercion left me backed into a corner to take the 20 year deal.

### Option 1

- Was 20 years the solicitor was so determined to have my Attorney coerce me into accepting.

### Option 2

- was to have 10 years, and plea to 10 more charges in front of Judge Hayes. He told me if I took this option I would get more time than option 1.

## -Attorney Ref. to Option 2-

- App. 94 (L3-4) As soon as it came out I knew it wasn't a good deal.

- My Attorney told me that EB. has us going in front of Hayes because he gets his way with him, and that he would be asking for Consecutive Sentencing. So I asked him how much time would be asked to be added, that's when he says...  
(Attorney)

- App. 107 (L29-30) He asked me how much Consecutive time - I told him my experience suggests a 10 year Consecutive sentence as a minimum.

- So clearly Option 2 was taken from me because from the "Professional Advice," my Attorney had given me I was going to get the minimum 20 years which is the same, as option 1. I knew I was the solicitor's "Project" meaning I had a target on me from the beginning.

### Option 3

- Even though my Attorney told me that a trial wasn't an option because we wouldn't win, I was still determined to go because I didn't want to

accept a deal for something I didn't do, but with the mental coercion on what to do, my Attorney told me my mother was hysterical, He told my family that I was about to take trial, and told them how the domino effect would work if I lost that day how I would face life, so now they begging me to take option one. My Attorney said he was going to go ask for more time from the Judge. When he came back, he said we was granted more time. Things changed after he told me that the Solicitor was hoping & praying that I didn't take the deal, because if we lost that day EB was adding all the charges on Brittany. So then he told me that trial wasn't an option. Brittany, and I already had a 3 year old son out there, and she was 5 months pregnant with my daughter. The Solicitor had a bullseye on me, I didn't want her to suffer what I was going through. He told me to plea no contest which explained that it was me saying im not guilty, but didn't want to challenge the state. He told me what I could, and couldn't say to the Judge on the questions he would ask me because the Judge would insist on

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Going to trial that day which I knew we wasn't prepared for at the time. I didn't want to plea out, but with all the unlawful pressure and the improper demanding by my Attorney, and the solicitor left me with only one choice, which was to take 20 years for something I didn't do. I was left in Duress.

(Michael - crossed by miss Moody)

- App. 98 (L5-12) (Q) At any point in time did he decide -- state to you that he did not want to go forward with the plea?

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

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

(A) WELL, I THINK YOU JUST ANSWERED YOUR QUESTION.

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LEGAL

## (Attorney)

- App. 107 (L23-24) But I did tell him  
that obviously the trial would not  
be an option based upon the  
Potential for never coming out of  
jail.

## Discussion

- Clearly the record shows my plea wasn't done knowingly and voluntarily made. The evidence is all on the record showing my Attorney, and the solicitor was only out to finish a "project," that EB Springs made clear he was going to do. My Attorney wasn't looking for my best interest, he only wanted to help E.B. finish his objective, and that was to hand me 20 years for something I didn't do.

- Conspiracy defined as a combination between 2 or more persons for the purpose of accomplishing an unlawful objective coupled with an intent to achieve the agreement's objective. State vs. Oliver 275 S.C. 79, 267 S.E. 2d 529 (1980)

- State v. Buckman 347 S.C. 316 555 S.E. 2d 402 (2001)

- Conspiracy may be shown by Circumstantial evidence including the parties Consent. State v. Oliver 275 S.C. 79, 267 S.E. 2d 529 (1980)

- Defendant who pleads guilty on advice of Counsel may only attack the voluntary and intelligent character of a plea by showing that Counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases and that there is a reasonable probability that, but for Counsel's errors, defendant would not have pled guilty and would have insisted on going to trial, and "reasonable probability," is a probability sufficient to undermine confidence in the trial. Thompson v. State (S.C. 2000) 340 S.C. 112, 531 S.E. 2d 294

## Conclusion

- Knowingly means having knowledge, information on everything. Intelligent is having a high satisfactory degree of intelligence and mental capacity, and

Voluntarily has to proceed from FREE Will, meaning by one's own choice with no interference. To be a valid guilty plea it must be voluntary, that is, it must not be the product of improper coercion by the Attorney. The standard of voluntariness is not to be pushed into a plea. Attorneys may not produce a plea by actual threats of a domino effect of trying each offense separately to seek LWOP.

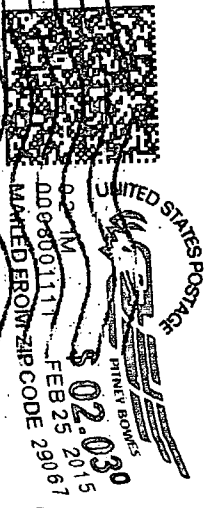
My plea was not done under free will nor self-determined. It was a degree of control and mental coercion telling me if I didn't plea, I was going to get a life sentence. Threats of adding charges to my wife, and threats period as part of an effort to get me to plead guilty, any resulting plea would be involuntary. Having me plead to charges that I'm not guilty of is not my best interest. If not for Counsel's errors, I 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) Clearly my claims were proved, and my Attorney was ineffective, therefore I did suffer EXTREME Prejudice.

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HERNDON COURT, JUSTICE  
4848 Goldmine Hwy  
Kershaw, SC 29067

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The Supreme Court Of South Carolina  
The Honorable Daniel E. Shearouse  
Clerk Of Court  
P.O. Box 11330  
Columbia, SC 29211

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