

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

THE STATE,

vs.

FRITZ ALLEN TIMMONS,

RECEIVED
FEB 11 2016
Respondent,
SC Court of Appeals

Appellant.

RESPONDENT'S RETURN TO PETITION FOR REHEARING

On January 20, 2016, this Court issued an unpublished opinion in which it unanimously affirmed Appellant Fritz Timmons' conviction for ten animal abandonment and neglect offenses. State v. Timmons, Op. No. 16-UP-039 (S.C. Ct. App. filed Jan. 20, 2016). Pursuant to Rule 221(a), SCACR, Timmons petitioned this Court for rehearing, and this Court requested that Respondent ("the State") file a return to Timmons' petition. For the following reasons, Timmons' petition for rehearing should be denied.

Appellant's Petition for Rehearing

In his Petition for Rehearing, Appellant makes a variety of unclear arguments seemingly alleging error on the part of this Court in determining there was sufficient probable cause to support the search warrant. Appellant also makes confusing allegations of professional and judicial misconduct on the part of the State and various levels of the judiciary. The State submits that Appellant's Petition for Rehearing should be dismissed out of hand, as it fails to comply

with Rule 221(a), SCACR. Rule 221(a), SCACR provides “A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court.” Appellant’s petition contains a wide array of vagueries that are not in compliance with the Appellate Court Rules whatsoever. As such, the State requests Appellant’s Petition be dismissed. Furthermore, as to Appellant’s allegations of misconduct on the part of the State and the judiciary, the State would note that this Court is not the proper forum to raise his complaints.

Search Warrant Issue

In his Petition for Rehearing, Appellant seems to continue to contend there was not probable cause to justify the issuance of the search warrant. To the extent Appellant alleges Constitutional violations, that issue was fully addressed in the opinion of this Court. The warrant issued by the magistrate judge was sufficiently supported by probable cause because the officers viewed the incriminating evidence on the property from a lawful vantage point free from Fourth Amendment intrusion.


Conclusion

Based on the foregoing coupled with the arguments raised in the Final Brief of Respondent, the State respectfully requests that Timmons’ petition for rehearing be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

V. HENRY GUNTER, JR.
Assistant Attorney General

By: 
V. Henry Gunter, Jr.

Office of the Attorney General
Post Office Box 11549
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February 11, 2016

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APPELLANT.

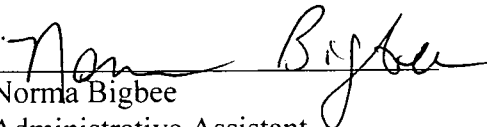
SC Court of Appeals

PROOF OF SERVICE

I, Norma Bigbee, certify that I have served the Respondent's Return To Petition For Rehearing on Appellant by depositing a copy of the same in the United States mail, postage prepaid, addressed to: Fritz Allen Timmons, P.O. Box 367, Hartsville, SC 29551.

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

This 11th day of February, 2016.



Norma Bigbee
Administrative Assistant
Office of Attorney General
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(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

February 11, 2016

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VIA HAND DELIVERY

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

RE: **State of South Carolina v. Fritz Allen Timmons**
Appellate Case No: 2013-001415

Dear Ms. Kitchings:

Enclosed please find the Original Respondent's Return To Petition For Rehearing in the above case.

Sincerely,

V. Henry Gunter, Jr.
Assistant Attorney General
Bar No: 102259

VHG/nb

Enclosures

cc: Fritz Allen Timmons
Trisha Allen