

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-001415

Opinion No. 2016-UP-039

RECEIVED

APR 27 2016

80 SUPREME COURT

The State

Respondent,

v.

Fritz Allen Timmons

Petitioner.
~~Appellant.~~

APPENDIX

Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

Attorneys for Respondents

James E. McGonagall (Dog Catcher)
467 Goodale Road
Chesterfield, SC 29709

Alan McCrory Wilson
P. O. Box 11549
Columbia, SC 29211

William Benjamin Rogers, Jr.
P.O. Box 616
Bennettsville, SC, 29512

Foard, Adam M.
120 N. Pearl St.
Pageland SC 29728

Salley W. Elliott
P. O. Box 11549
Columbia, SC 29211

Vann Henry Gunter, Jr.
P. O. Box 11549
Columbia, SC 29211

**NOTICE OF APPEAL FROM COMMON PLEAS REGARDING
A CONVICTION IN MAGISTRATES**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFEILD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-CP-130015

State Of South Carolina

Respondent,

v.

Fritz A. Timmons

Appellant.

NOTICE OF APPEAL

Fritz A. Timmons appeals the order of J. Michael Baxley dated May 8, 2013, which affirmed his conviction in magistrates court. Appellant received written notice of the order on May 14, 2013.

June 14, 2013

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

Adam M. Foard Law, LLC.
Foard, Adam M.
120 N. Pearl St.
Pageland SC 29728
(843) 672-6600
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2009-CP-1600540

State Of South Carolina

Respondent,

v.

Fritz A. Timmons

Appellant.

NOTICE OF APPEAL

Fritz A. Timmons appeals the order of J. Michael Baxley dated Oct 8, 2013,
Appellant received no written notice of the order.

Oct 29, 2013

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

Romi Yolanda Robinson
PO Box 995
Columbia SC 29202
(803) 737-2666
Attorney for Respondent

Browns A/S RV and Campers, Inc. (Pro Se)
30049 Hwy 151
McBee SC 29101



257

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 12, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Re: The State v. Fritz A. Timmons.
Appellate Case No. 2013-001415

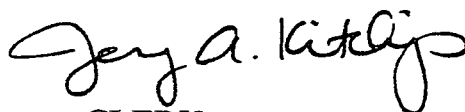
Dear Mr. Timmons:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,


CLERK

cc: Robert Michael Dudek
Adam M. Foard

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-001415

Fritz A. Timmons

Appellant.

v.

State Of South Carolina

Respondent,

[INITIAL] BRIEF OF APPELLANT

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

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OCT 15 2013

SC Court of Appeals

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-001415

Fritz A. Timmons

Appellant.

v.

State Of South Carolina

Respondent,

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Search warrant
2. Affidavit;
3. Uniform Ordinance Summons Nos. 1884-1892 and 1898-1909;
4. Search warrant return;
5. Transcript of Proceedings pp. 5, 6, 7, 8, 11, and 12;
6. Documentation identifying a carcass and skull as canine;
7. Results from a veterinarian exam of canine "Juliet", "Hansel", "Hanna", "Ethel", and "romeo" removed from the property of 1827 Tabernacle Church Rd

RECEIVED

OCT 15 2013

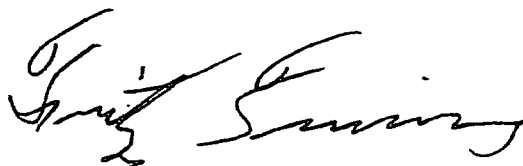
SC Court of Appeals

8. A memo from Chesterfield County Animal Control Director Danielle Bowe to Chesterfield County Deputy Jay Lewis detailing 31 canines removed from the property of 1827 Tabernackle Church Rd
9. Photo of kennels #24;
10. Photo of kennels #25;
11. Photo of canines at large #30;
12. Order of March 18, 2013;
13. Order of May 9, 2013;
14. Defendant's Exhibits 4, photo of driveway at 1827 Tabernacle Church Rd;
15. Defendant's Exhibits 1, photos of food and water bowls containing dog food and water;
16. Defendant's Exhibits 3, photo of a hole in ground;
17. Defendant's Exhibits 5, 6, 7, and 8.

I certify that this designation contains no matter which is irrelevant to this appeal.

October 8, 2013

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





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OCT 20 2013

ATTORNEY GENERALS

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

October 24, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Re: The State v. Fritz A. Timmons.
Appellate Case No. 2013-001415

Dear Mr. Timmons:

Upon reviewing your initial brief of appellant and designation of matter, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the title should read as:

The State,

Respondent,

v.

Fritz Allen Timmons,

Appellant.



ALAN WILSON
ATTORNEY GENERAL

October 28, 2013

The Honorable William B. Rogers, Jr.
Solicitor, Fourth Judicial Circuit
Post Office Box 616
Bennettsville, South Carolina 29512

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

Dear Solicitor Rogers:

Please find enclosed a letter I received from the South Carolina Court of Appeals indicating that a notice of appeal as well as an initial brief of appellant and designation of matter have been received by the Court in the criminal appeal listed above. Our office has no record that an appeal is pending. Kindly check your records and forward a copy of the notice of appeal, proof of service, indictment and sentence sheet as well the initial brief and designation of matter if you have been served with those documents. Kindly advise to the date of service for the notice of appeal and the initial brief of appellant. Please also advise if you have not been served so that I can move to dismiss the appeal for lack of timely service.

I kindly asked that you expedite your attention to this letter as our due date is fast approaching.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab



ALAN WILSON
ATTORNEY GENERAL

November 12, 2013

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

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

Dear Ms. Kitchings:

I am in receipt of notice of filing of a Notice of Appeal in the matter listed above. Upon review of the Notice of Appeal, proof of service and the Circuit Court order on appeal, it appears Mr. Timmons is appealing from the Circuit Court order affirming the decision of the South Carolina Department of Employment and Workforce respecting Mr. Timmons' unemployment benefits. This matter in no way relates to an appeal from a criminal conviction. It also appears that Mr. Timmons may have improperly captioned his appeal as The State v. Fritz Timmons when the order from the Circuit Court reveals the caption to be Fritz Timmons v. Brown A/S RV and Campers Inc. It shows Mr. Timmons served counsel for the Department of Employment and Workforce with the Notice of Appeal. Kindly remove the Office of Attorney General as counsel for any party to this appeal.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab

cc: Robert M. Dudek, Esquire
Romi Yolanda Robinson, Esquire
Fritz A. Timmons, pro se

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NOV 18 2013

SC Court of Appeals



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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1015 SUMTER STREET
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FAX: (803) 734-1839
www.sccourts.org

December 16, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Ms. Salley W. Elliott
PO Box 11549
Columbia SC 29211

Mr. Adam M. Foard
120 N. Pearl St.
Pageland SC 29728

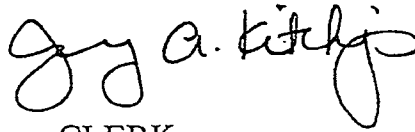
Re: Fritz Timmons v. Browns a/s RV and Campers
Appellate Case No. 2013-00002356

Dear Counsel and Mr. Timmons:

We have received a letter from Salley Elliott with the Office of Attorney General, clarifying that the notice of appeal in this matter stems from an order originating in the court of common pleas. The Attorney General is requesting that future correspondence in this matter no longer be copied on their office.

All parties are advised that the Office and Attorney General, as well as the Office of Appellate Defense, will no longer be copied on this matter.

Very truly yours,

Handwritten signature of Jay A. Kirby in cursive script.

CLERK

cc: Romi Yolanda Robinson, Esquire



267

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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www.sccourts.org

December 20, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Mr. Adam M. Foard
120 N. Pearl St.
Pageland SC 29728

Ms. Salley W. Elliott
PO Box 11549
Columbia SC 29211

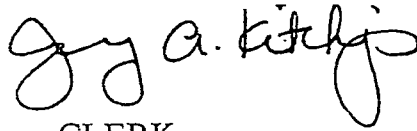
Re: The State v. Fritz A. Timmons.
Appellate Case No. 2013-001415

Dear Mr. Timmons:

We have received a letter from Salley Elliott with the Office of Attorney General, clarifying that the notice of appeal in this matter stems from an order originating in the court of common pleas. The Attorney General is requesting that future correspondence in this matter no longer be copied on their office.

All parties are advised that the Attorney General's office, as well as the Office of Appellate Defense, will no longer be copied on this matter.

Very truly yours,

Handwritten signature in cursive script, appearing to read "J. A. Kithj".

CLERK

cc: Romi Yolanda Robinson, Esquire

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

Post Office Box 8597
Columbia, SC 29202
Telephone: (803) 737-0395
Fax: (803) 737-0124

February 3, 2014

SC Court of Appeals
Attn: Elizabeth Carter
PO Box 11629
Columbia, SC 29211

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

Dear Ms. Carter:

After review, it appears there is confusion as to the parties and issues in this case. South Carolina Department of Employment and Workforce (formerly SCESC) was the Respondent in the case for unemployment benefits that Mr. Timmons filed in the Circuit Court (09-CP-16-0540). This case was decided by The Honorable J. Michael Baxley. Mr. Timmons appealed this decision to the Court of Appeals (**Appellate Number 2013-002356**). DEW has not received an Initial Brief and Designation of Matter from the Appellant in this case.

To our knowledge, DEW is not involved in Case No. 2013-001415. Case No. 2013-001415 arises from an appeal at the Magistrate Court level involving a civil rights violation by the State.

Sincerely,

Derrick McFarland
General Counsel
SC Dept. of Employment and Workforce

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FEB 07 2014

SC Court of Appeals

Dec 19, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

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DEC 23 2013
SC Court of Appeals

Re: The State v. Fritz A. Timmons
Appellate Case No. 2013-001415

Dear Jenny Abbott Kitchings

Due to the State (Respondent) that has been in clear violation of Rule 208 a(2), SCACR and 209 a, b, SCACR in well over the excess of 30 days without cause or notice of extension, the appellant request that the appeals process to continue without prejudice or delay, with or without argument by the state.

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

Cc Foard, Adam M.
Rosalyn W. Frierson
Salley W. Elliott

271

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Dec 24, 2013

DEC 30 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

ATTORNEY GENERALS
OFFICE

RE: The State v. Fritz A. Timmons Appellate Case No. 2013-001415 and
Fritz A. Timmons v. Browns a/s RV and Campers Appellate Case No.
2013-002356

Dear Jenny Abbott Kitchings

Due to the error brought on by the S.C. Appeals Clerk of Courts office and the S.C. Attorney General's office, to clarify this error, the Appellate Case No. 2013-001415 (TI State v. Fritz A. Timmons) stems from court of common pleas Case No. 2013-CP-13-00150 of Chesterfield County and an appeal from magistrate court and is of a criminal case based on civil rights violations by the state while Appellate Case No. 2013-002356 (Fritz A. Timmons v. Browns a/s RV and Campers) stems from court of common pleas Case No. 2009-CP-16-0540 of Darlington County and is an appeal from the unemployment tribunal hearing. Both appeals are from cases in which Judge J. Michael Baxley was presiding over. In Appellate Case No. 2013-001415, includes for the state, Adam M. Foard, , Salley W. Elliott, and Alan Wilson. In Appellate Case No. 2013-002356, includes for the unemployment commission, Romi Yolanda Robinson and for Browns a/s RV and Campers , Adam M. Foard.

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

Cc Foard, Adam M.
Rosalyn W. Frierson
Romi Yolanda Robinson
Salley W. Elliott

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-001415

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FEB 18 2014

SC Court of Appeals

The State

Respondent,

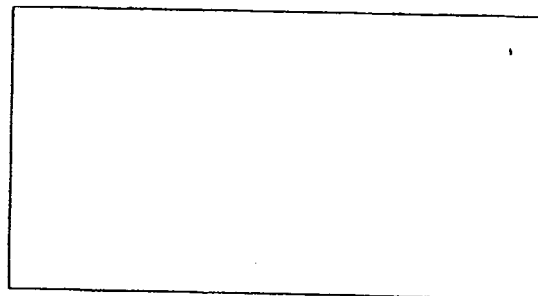
v.

Fritz Allen Timmons

Appellant.

BRIEF OF APPELLANT

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



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on The State by depositing a copy of it in the United States Mail, postage prepaid, on February 13, 2014, addressed to the attorneys of record, Adam M. Foard, 120 N. Pearl St. Pageland SC 29728 and Salley W. Elliott P. O. Box 11549 Columbia, SC 29211

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

RECEIVED
FEB 18 2014
SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

February 19, 2014

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

Re: The State v. Fritz A. Timmons
Appellate Case N: 2013-001415

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the **Motion to Relax Rules 208, 209, 210, 211 and for an Extension of Time in Which to File Respondent's Initial Brief, Designation of Matter, Supplemental Record on Appeal and Final Brief of Respondent** along with proof of service 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, pro se
Ms. Trisha Allen

The South Carolina Court of Appeals

State of South Carolina, Respondent,

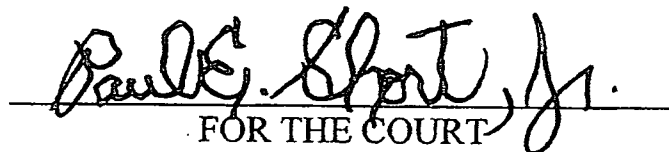
v.

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

cc:

Fritz Allen Timmons

Adam M. Foard, Esquire

Salley W. Elliott, Esquire

Romi Yolanda Robinson, Esquire

FILED

Sf

4/18/14

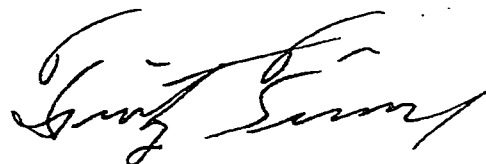
April 25, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

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

Dear Jenny Abbott Kitchings

Due to a shame legal process produced by Chesterfield County Legal and Justice system that violates Constitutional Rights, State Codes and Court Rules, and the complete subvert of Court Rules by Judge Paul E. Short Jr. in favor of the State, and to prevent the continuation of a shame legal process, the Appellant request that Clerk of Court suggest that the case to be heard En Banc.



Thank you,
Fritz A. Timmons
P. O. Box 367
Hartsville, SC 29551

Cc Foard, Adam M.
Rosalyn W. Frierson
Salley W. Elliott

RECEIVED

APR 29 2014

SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

May 5, 2014

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

Re: The State v. Fritz Allen Timmons
Appellate Case No: 2013-001415

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the **Return to Motion/Petition for Review of Order of April 18, 2014** along with proof of service 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, pro se
Ms. Trisha Allen



ALAN WILSON
ATTORNEY GENERAL

May 20, 2014

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

RE: State v. Fritz Timmons

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of Motion to Strike and Require Filing of Amended Initial Brief of Appellant in the above-referenced case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab
Enclosures

cc: Fritz A. Timmons

June 24, 2014

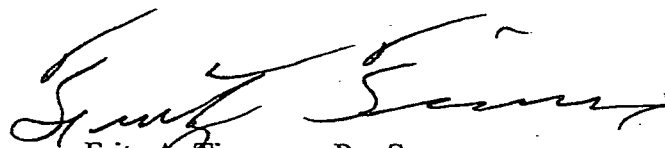
The Honorable Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

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

Dear Jenny Abbott Kitchings

The Respondent has failed to abide by the Court Order of April 18, 2014 by failing to serve its Final Brief within the required deadline. The Respondent has also failed to serve a Supplemental Record that complies to the Order. The Supplemental Record contains (a) material that is already in the Record on Appeal, (b) unreferenced material, (c) material that is irrelevant to the Appeal and (d) material that was not contested for the sole purpose of an emotional response. The Respondent has also violated Rule 264 SCACR and Rule 265 SCACR by substituting William B. Rogers, Solicitor, Fourth Judicial Circuit, P.O. Box 616, Bennettsville, SC, 29512 for Adam M. Foard Law, LLC., Foard, Adam M., 120 N. Pearl St., Pageland SC 29728

Sincerely,



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

The South Carolina Court of Appeals

State of South Carolina, Respondent,

v.

Fritz Allen Timmons, Appellant.

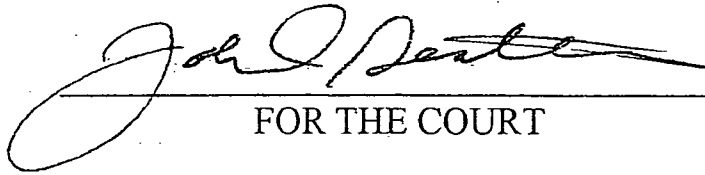
Appellate Case No. 2013-001415

ORDER

Respondent has filed a motion to strike portions of Appellant's initial brief and designation of matter and to require Appellant to file an amended initial brief including references.¹ Respondent's motion to strike portions of Appellant's initial brief is denied. However, Respondent's motion to require Appellant to file an amended initial brief including references pursuant to Rule 208(b)(4), SCACR, is granted. Appellant will file an amended initial brief complying with Rule 208(b)(4) within fifteen days of this order. Further, Respondent's motion to strike portions of Appellant's designation of matter is denied. However, after reviewing Appellant's filed record on appeal, it appears Appellant has either included matter in the record not designated or included matter in the record in a different form than it was presented to the trial court. Accordingly, the filed record on appeal is stricken and Appellant will serve an amended record on appeal including only matter properly designated by the parties in the form it was presented to the trial court within thirty days after service of the last brief. *See* Rule 210(a), SCACR ("Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on each party who has served a brief."); Rule 210(c), SCACR (noting the record on appeal shall not include matter which was not presented to

¹ Appellant has also filed a "motion to review the order of April 18, 2014," which this Court construes as a petition for rehearing. Because this Court does not entertain petitions for rehearing on motions that do not have the effect of dismissing or finally deciding an appeal, this Court declines to act on the petition for rehearing.

the trial court).


FOR THE COURT

Columbia, South Carolina

cc:

Fritz Allen Timmons

Adam M. Foard, Esquire

Salley W. Elliott, Esquire

FILED

 July 7, 2014



ALAN WILSON
ATTORNEY GENERAL

July 22, 2014

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 Motion to Require Compliance with Court Order and to Strike or Disregard 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



ALAN WILSON
ATTORNEY GENERAL

July 22, 2014

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 Motion to Strike or Disregard and Require Filing of Amended Initial Brief of Appellant 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



ALAN WILSON
ATTORNEY GENERAL

July 21, 2014

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

Re: The State v. Fritz A. Timmons
Appellate Case N: 2013-001415

Dear Mr. Kitchings:

Enclosed please find the original and six copies of the Return to Motion to Strike along with proof of service 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, pro se
Ms. Trisha Allen

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
10/17/14

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

FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

**RESPONDENT'S MOTION TO RELAX RULES 208, 209, 210, 211 AND
FOR AN EXTENSION OF TIME IN WHICH TO FILE
RESPONDENT'S INITIAL BRIEF OF RESPONDENT, DESIGNATION OF MATTER,
SUPPLEMENTAL RECORD ON APPEAL AND FINAL BRIEF OF RESPONDENT**

Pursuant to Rules 240, SCACR, Respondent, by and through undersigned counsel, hereby moves this Honorable Court for an Order Relaxing Rules 208, 209, 210, and 211, SCACR, and for an extension of time in which to file Respondent's Initial Brief, Designation of Matter, any Supplemental Record on Appeal that might be necessary, and the Final Brief of Respondent. In support of the request, Respondent would respectfully show to this Honorable Court as follows:

1. The Criminal Appeals Section of the Attorney General's Office received copies of two Notices to Appellate Defense from this Court indicating that Appellant filed Notice of Appeal in State v. Fritz A. Timmons arising from the Court of Common Pleas and from orders of the

Honorable J. Michael Baxley. The Notices were served on what appeared to the undersigned to be private counsel addresses.

2. On October 24, 2013, the undersigned received a copy of a letter from this Court to Appellant outlining deficiencies in his Initial Brief of Appellant and Designation of Matter in State v. Fritz Allen Timmons. Upon receipt of the letter but not the Initial Brief of Appellant and Designation or Matter or notice from the Solicitor's office that an appeal had been served, the undersigned corresponded with the solicitor's office requesting information about this possible criminal appeal. (See attached letters). The undersigned did not receive a response and began to review the matter independently. The undersigned located Appellant's Notice of Appeal from the order of the decision of the Honorable J. Michael Baxley affirming a decision of Department of Employment and Workforce (DEW). The caption for this appeal was listed by Appellant as State of South Carolina v. Fritz A. Timmons rather than the proper caption below which was Fritz Timmons v. Browns A/S/ RV and Campers. The undersigned was under the mistaken belief that only one appeal was pending and that it arose from the DEW decision. Based upon the confusion created by the caption and the fact that there were apparently two appeals arising from the Court of Common Pleas and orders issued by Judge Baxley respecting Appellant, the undersigned forwarded a letter to this Court and to Appellant advising that the Attorney General's Office did not represent a party to what appeared to be the civil appeal. (See attached letter).

3. By letter dated December 20, 2013, this Court advised Appellant of another deficiency in his appeal. (See attached letter).

4. By letter received by the undersigned on December 30, 2013, Appellant notified the undersigned and this Court that two separate appeals were pending, both arising from the Court of Appeals and from orders issued by Judge Baxley. He clarified that one appeal arises from

Judge Baxley's consideration of his appeal from a DEW ruling and the other was heard by Judge Baxley in his appellate capacity from a magistrate's court criminal proceeding.

5. Upon receipt of Appellant's letter, the undersigned engaged in a number of conversations with the attorney served with the Notice of Appeal in the criminal appeal to determine whether he appeared for the State rather than as a county attorney and, if so, whether he was served with the notice of appeal. The Office of the Attorney General does not appear in appeals arising from cases prosecuted on behalf of county or city entities. The undersigned also ordered the transcript of the criminal appeal heard by Judge Baxley to verify that it was a criminal matter, to determine who appeared at the hearing, and whether the appearance by the prosecutor was made by a county attorney or member of the solicitor's office.

6. The undersigned has verified that the notice of appeal was served on a part-time prosecutor for the Solicitor's Office who appeared at the appeal heard in the Court of Common Pleas arising from magistrate's court convictions for what appear to be violations of State law and county ordinance.

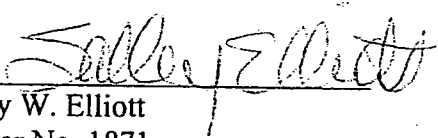
7. The earlier letter from the Office of the Attorney General advising that it did not represent a party to this appeal was mistaken and based upon confusion arising from the two appeals, the incorrectly captioned second appeal, and lack of information. Therefore, Respondent respectfully requests that this Court relax the appellate court rules to permit filing of both an Initial Brief of Respondent and Designation of Matter followed by a Final Brief of Respondent or, at the Court's discretion, to allow Respondent to proceed with filing a Final Brief of Respondent without an Initial Brief of Respondent. Respondent will undertake the responsibility of preparing and filing any Supplemental Record on Appeal that might become necessary due to matter the Respondent might need for the Record on Appeal. Respondent also moves this Court for an extension of time to file and serve the necessary briefs, designation and supplemental

record in order to gather the record presented to Judge Baxley and prepare its responsive brief and supplemental record as necessary and as permitted by the Court.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
Salley W. Elliott
SC Bar No. 1871

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

ATTORNEYS FOR RESPONDENT

February 19, 2014



291

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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1015 SUMTER STREET
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October 24, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Re: The State v. Fritz A. Timmons.
Appellate Case No. 2013-001415

Dear Mr. Timmons:

Upon reviewing your initial brief of appellant and designation of matter, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the title should read as:

The State,

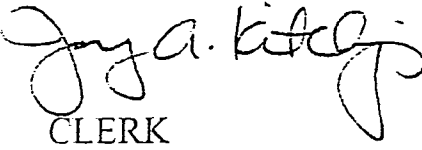
Respondent,

v.

Fritz Allen Timmons,

Appellant.

Very truly yours,


CLERK

cc: Adam M. Foard
Salley W. Elliott



ALAN WILSON
ATTORNEY GENERAL

October 28, 2013

The Honorable William B. Rogers, Jr.
Solicitor, Fourth Judicial Circuit
Post Office Box 616
Bennettsville, South Carolina 29512

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

Dear Solicitor Rogers:

Please find enclosed a letter I received from the South Carolina Court of Appeals indicating that a notice of appeal as well as an initial brief of appellant and designation of matter have been received by the Court in the criminal appeal listed above. Our office has no record that an appeal is pending. Kindly check your records and forward a copy of the notice of appeal, proof of service, indictment and sentence sheet as well the initial brief and designation of matter if you have been served with those documents. Kindly advise to the date of service for the notice of appeal and the initial brief of appellant. Please also advise if you have not been served so that I can move to dismiss the appeal for lack of timely service.

I kindly asked that you expedite your attention to this letter as our due date is fast approaching.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab



ALAN WILSON
ATTORNEY GENERAL

November 12, 2013

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

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

Dear Ms. Kitchings:

I am in receipt of notice of filing of a Notice of Appeal in the matter listed above. Upon review of the Notice of Appeal, proof of service and the Circuit Court order on appeal, it appears Mr. Timmons is appealing from the Circuit Court order affirming the decision of the South Carolina Department of Employment and Workforce respecting Mr. Timmons' unemployment benefits. This matter in no way relates to an appeal from a criminal conviction. It also appears that Mr. Timmons may have improperly captioned his appeal as The State v. Fritz Timmons when the order from the Circuit Court reveals the caption to be Fritz Timmons v. Brown A/S RV and Campers Inc. It shows Mr. Timmons served counsel for the Department of Employment and Workforce with the Notice of Appeal. Kindly remove the Office of Attorney General as counsel for any party to this appeal.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab

cc: Robert M. Dudek, Esquire
Romi Yolanda Robinson, Esquire
Fritz A. Timmons, pro se

Dec 24, 2013

RECEIVED 295

DEC 30 2013

ATTORNEY GENERAL'S
OFFICE

The Honorable Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

RE: The State v. Fritz A. Timmons Appellate Case No. 2013-001415 and
Fritz A. Timmons v. Browns a/s RV and Campers Appellate Case No.
2013-002356

Dear Jenny Abbott Kitchings

Due to the error brought on by the S.C. Appeals Clerk of Courts office and the S.C. Attorney General's office, to clarify this error, the Appellate Case No. 2013-001415 (TI State v. Fritz A. Timmons) stems from court of common pleas Case No. 2013-CP-13-00150 of Chesterfield County and an appeal from magistrate court and is of a criminal case based on civil rights violations by the state while Appellate Case No. 2013-002356 (Fritz A. Timmons v. Browns a/s RV and Campers) stems from court of common pleas Case No. 2009-CP-16-0540 of Darlington County and is an appeal from the unemployment tribunal hearing. Both appeals are from cases in which Judge J. Michael Baxley was presiding over. In Appellate Case No. 2013-001415, includes for the state, Adam M. Foard, , Salley W. Elliott, and Alan Wilson. In Appellate Case No. 2013-002356, includes for the unemployment commission, Romi Yolanda Robinson and for Browns a/s RV and Campers , Adam M. Foard.

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

Cc Foard, Adam M.
Rosalyn W. Frierson
Romi Yolanda Robinson
Salley W. Elliott

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

FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA.

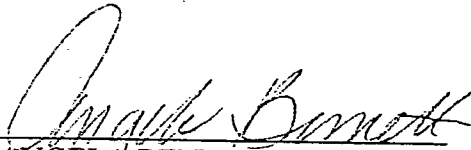
Respondent.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the **Motion to Relax Rules 208, 209, 210, 211 and for an Extension of Time in Which to File Respondent's Initial Brief, Designation of Matter, Supplemental Record on Appeal and 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 19th day of February, 2014.


ANGELA BENNETT
Administrative Assistant

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

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

APPELLANT'S RETURN FOR THE RESPONDENT'S MOTION TO RELAX RULES
208,209,210,211, AND FOR AN EXTENSION OF TIME IN WHICH TO FILE
RESPONDENT'S INITIAL BRIEF OF RESPONDENT, DESIGNATION OF MATTER.
SUPPLEMENTAL RECORD ON APPEAL AND FINAL BRIEF OF RESPONDENT

1. With the attorney generals office removing themselves as counsel and not
rejoining as a party to the case, therefore, as a third party, the attorney generals office
does not have the authority to file the motion to relax..

2. With the counsels of the state being bound by Rule 407, SCACR and due to the
State having Adam M. Foard as attorney of record under Rule 264, SCACR and served
all documents in a timely manor, therefore all requirements has been met and does not
provide cause for this motion to relax

3. The motion to relax lacks facts and authority to support it
4. Failure of communication amongst counsels of the state does not provide cause for the motion to relax
5. Failure to observe difference between case numbers (incompetence) by the general attorneys office does not provide cause for the motion to relax
6. The clerical error of the order of the parties on the title of the case (Rule 264, SCACR) cause by the lower court being an appeal brought by the appellant from a magistrate criminal court brought by the state (deficiency 1, example is the title of the respondent's motion itself). Along with the court changing the appeal from a criminal appeal to a civil appeal thereby causing a filing fee (deficiency 2), both corrected in a timely manor and neither caused a change in the timing nor justice of the case. Therefore minor infractions by a "Pro Se" does not provide cause for the major disregard for the court rules by the counsels of the state (a team of highly trained lawyers, assistances and others that is well versed in the court process, procedures, and **RULES** with full access to state resources) and does not provide cause to the motion to relax nor to subvert court procedures and process.
7. With the attorney general's office in contact with the solicitors office (10/28/2013) and served a clarification letter (12/24/2013), therefore the state had ample time to file any motions **PRIOR** to the **FINAL** Brief of Appellant and Record of Appeal. Therefore the motion to relax should be denied.

February 24, 2014

Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

Adam M. Foard Law, LLC.
Foard, Adam M.
120 N. Pearl St.
Pageland SC 29728
Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No. 2013-001415

RECEIVED

APR 29 2014

SC Court of Appeals

The State

Respondent,

v.

Fritz Allen Timmons

Appellant.

MOTION/PETITION TO REVIEW ORDER OF APRIL 18, 2014 FOR THE
RESPONDENT'S MOTION TO RELAX RULES 208, 209, 210, 211, AND FOR AN
EXTENSION OF TIME IN WHICH TO FILE RESPONDENT'S INITIAL BRIEF OF
RESPONDENT, DESIGNATION OF MATTER. SUPPLEMENTAL RECORD ON
APPEAL AND FINAL BRIEF OF RESPONDENT

Due to the court order filed on April 18, 2014 by Judge Paul E. Short, Jr, that
completely subverts court rules in which could be construed as bias in favor of the State
in a case that the State has caused a shame legal process by the violations of the
appellants constitutional rights and by violation of court rules, canons and state codes by
Judge J. Michael Baxley (4th Circuit Court), Judge John A Davis (Magistrate),
Chesterfield County Sheriff Department, Chesterfield County Animal Control, and

Chesterfield County Animal Shelter. Therefore the order should be reviewed and reversed for the following ;

- 1) An extension of time would be for only the violation of one rule and only delay the time limits of the following rules consecutively, not to subvert several rules concurrently while producing an unreasonable delay in the court process and produces Bias in favor of the State. With the Appellants initial brief filed on Oct. 15, 2013, and the expiration time limit of filing of the Respondent initial brief as of Nov. 14, 2013, therefore the filing of the motion to relax rules and extension of time filed on Feb 19, 2014 exceeds any reasonable timely filing period especially AFTER the filing of the Appellants FINAL BRIEF AND RECORD ON APPEAL.
- 2) The order could be construed as violation of court Rule 501,3(B5), SCACR due to the State violation of Rules 208, 209, 210, 211, and 264 SCACR and permit's the violation of Rules 212 SCACR, ipso facto, continuing a shame legal process caused by Chesterfield County legal and justice systems.
- 3) Therefore this order contradicts any motions to dismiss for failure to timely filing that the State uses on a regular basis, examples of on attached from Civil case numbers 2009-CP-160540 and Appeals case number 2013-002356 along with letter from the Attorney Generals office to the County Prosecutors office on the original motion that produces Extreme bias.
- 4) Due to Court of Common Pleas case number 2013CP1300150 being an appeal from magistrate court and bound by the Appeals Court rules, therefore the State has violated Rule 264 (a, b), SCACR by having Adam M. Foard as representative and not Jim McGonigal from Magistrate Court. Then again the State has violated 264 a, SCACR

by having Salley W. Elliott as representative of which withdrew from case on Nov 12, 2013, ipso facto, is not a party to the case and does not have legal authority for this motion.

5) With charger to be filed against Chesterfield County Authorities, Therefore if prosecuted by the Attorney General Office, the Respondence representative by Salley W. Elliott (Senior Assistant Deputy Attorney General) would cause a conflict of interest violating Rule 407 1.7 and/or 1.8, SCACR.

Therefore the Court should reverse the order and deny the Respondents MOTION TO RELAX RULES 208,209,210,211, AND FOR AN EXTEDSION OF TIME IN WHICH TO FILE RESPONDENT'S INITIAL BRIEF OF RESPONDENT, DESIGNATION OF MATTER. SUPPLEMENTAL RECORD ON APPEAL AND FINAL BRIEF OF RESPONDENT.

April 24, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

Adam M. Foard Law, LLC.
Foard, Adam M.
120 N. Pearl St.
Pageland SC 29728
Attorney for Respondent



303

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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December 16, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Ms. Salley W. Elliott
PO Box 11549
Columbia SC 29211

Mr. Adam M. Foard
120 N. Pearl St.
Pageland SC 29728

Re: Fritz Timmons v. Browns a/s RV and Campers
Appellate Case No. 2013-00002356

Dear Counsel and Mr. Timmons:

We have received a letter from Salley Elliott with the Office of Attorney General, clarifying that the notice of appeal in this matter stems from an order originating in the court of common pleas. The Attorney General is requesting that future correspondence in this matter no longer be copied on their office.

All parties are advised that the Office and Attorney General, as well as the Office of Appellate Defense, will no longer be copied on this matter.



304

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29201
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FAX: (803) 734-1839
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December 20, 2013

Fritz Allen Timmons
P.O. Box 367
Hartsville SC 29551

Mr. Adam M. Foard
120 N. Pearl St.
Pageland SC 29728

Ms. Salley W. Elliott
PO Box 11549
Columbia SC 29211

Re: The State v. Fritz A. Timmons.
Appellate Case No. 2013-001415

Dear Mr. Timmons:

We have received a letter from Salley Elliott with the Office of Attorney General, clarifying that the notice of appeal in this matter stems from an order originating in the court of common pleas. The Attorney General is requesting that future correspondence in this matter no longer be copied on their office.

All parties are advised that the Attorney General's office, as well as the Office of Appellate Defense, will no longer be copied on this matter.

COMMISSIONERS
J. William McLeod
Becky D. Richardson
McKinley Washington, Jr.

EXECUTIVE DIRECTOR
Roosevelt T. Halley
803.737.2617



305
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for Workforce Solutions!
www.sces.org

631 Hampton Street
P.O. Box 995
Columbia, South Carolina 29202
(803) 737-2666
FAX (803) 737-0124
August 25, 2009

The Honorable Scott B. Suggs
Darlington County Clerk of Court
1 Public Square, Room B9
Darlington, SC 29532

Re: Fritz Timmons v. Browns A/S RV and Campers Inc.
Case No. 2009-CP-16-0540

Dear Mr. Suggs:

Enclosed is the Motion to Dismiss of the SC Employment Security Commission in the above case along with a \$25 check for the motion fee. Please file with the other pleadings and return a receipt to Ms. Robinson in the enclosed envelope.

With kind regards, I am

Sincerely Yours,

Jessica Chesley

Jessica Chesley
Administrative Legal Assistant for
Romi Y. Robinson
Staff Attorney

Cc: Fritz Timmons
PO Box 367
Hartsville, SC 29550

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/EMC
DARLINGTON COUNTY, SC

2009 AUG 26 AM 9:44
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, SC
MOTION FILED
PAID
0083

FILED

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE CIRCUIT COURT
J. Michael Baxley, Presiding Judge

Case No. 09-CP-16-0540

Appellate Case No.: 2013-002356

Fritz Timmons,

Appellant,

v.

South Carolina Department of Employment
and Workforce,

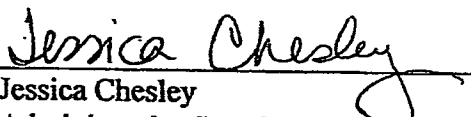
Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent South Carolina Department of Employment and Workforce's Motion to Dismiss on the parties in this case by depositing a copy of it in the United States Mail, postage prepaid, on March 28, 2014, addressed to the Appellant in this case at his address of record:

Fritz Timmons
PO Box 367
Hartsville, SC 29551

March 28, 2014


Jessica Chesley
Administrative Legal Assistant
SC Dept of Employment and Workforce
Post Office Box 8597
Columbia, South Carolina 29202
(803) 737-0395

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

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

FRITZ ALLEN TIMMONS,

Appellant,

vs.

STATE OF SOUTH CAROLINA,

Respondent.

RETURN TO MOTION/PETITION FOR REVIEW OF ORDER OF APRIL 18, 2014

Respondent, by and through undersigned counsel, making Return to Appellant's Motion/Petition for Review of Order of April 18, 2014, would respectfully show to this Court as follows:

1. The Criminal Appeals Section of the Attorney General's Office received copies of two Notices to Appellate Defense from this Court indicating that Appellant filed Notice of Appeal in State v. Fritz A. Timmons arising from the Court of Common Pleas and from orders of the Honorable J. Michael Baxley. The Notices were served on what appeared to the undersigned to be private counsel addresses. Based upon the confusion created by the caption and the fact that there were apparently two appeals arising from the Court of Common Pleas and orders issued by Judge Baxley respecting Appellant, the undersigned mistakenly considered the appeal

to be a one arising from a private civil action and was one the Attorney General's Office would not handle.

2. However, it was later determined one of the appeals arose from a circuit court appeal of a criminal conviction in magistrate's court. The Respondent thereafter moved this Court to be allowed to file a Brief of Respondent out of time and to file any Supplemental Record that might be necessary for this Court's review in connection with the appeal.

3. Appellant made Return opposing Respondent's motion.

4. On behalf of the Court, the Honorable Paul E. Short, Jr., granted Respondent's motion to file an Initial Brief of Respondent and Designation of Matter within thirty(30) days of the Order which was filed April 18, 2014. The Order also provided deadlines for submitting a Supplemental Record on Appeal, final briefs and a reply brief.

5. Appellant now moves this Court to review and reverse the order permitting Respondent to file and serve an Initial Brief of Respondent, Designation of Matter and any Supplement Record that might be necessary. He contends the appeal will be unreasonably delayed and that it favors Respondent. He also alleges that the undersigned somehow operates under a conflict of interest because "charges" might be filed against unidentified Chesterfield County authorities. The undersigned personally has no information or knowledge of what Appellant contends is a conflict or of "charges" against Chesterfield County authorities, particularly in light of the fact Appellant has been convicted of the charge(s) brought against him and that are the subject of this appeal. He also attaches a letter about the other appeal arising from the Department of Employment and WorkForce (DEW) that caused the confusion leading to the mistaken belief that the underlying subject matter of the appeal was a civil claim involving Appellant's employment. It is not clear how the letter concerning the DEW appeal is relevant. The

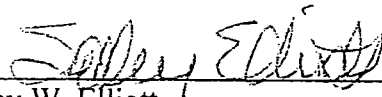
undersigned has no involvement in the appeal involving DEW and it is the submission of the DEW appeal documents that led to the confusion about this criminal appeal. Appellant continues to blend the appeals. Appellant also attaches this Court's letter in response to the undersigned's mistaken belief that the appeal involved an employment matter with DEW. The letter indicates the undersigned will no longer receive copies of correspondence about the case. The letter, of course, was premised upon the mistaken belief that this was an appeal from a DEW decision.

6. Respondent submits, first, that reconsideration of an order that does not dismiss or end the appeal is not available to Appellant. This is not a situation in which a party is requesting the Court to "rehear an appeal or other proceeding." See Rule 219, SCACR. Moreover, to the extent Appellant asks for *en banc* review, the order in question is not a determination of the appeal and does not present an issue respecting uniformity of the Court's decisions or an issue of exceptional importance related to the Court. Second, Appellant will not be prejudiced and the appeal will not be further delayed. The Order in question made clear that no extensions will be granted and Respondent will not seek an extension. The Initial Brief of Respondent, Designation of Matter and any Supplemental Record on Appeal will be filed and served within the time allotted. Respondent is also willing to file and serve its Final Brief of Respondent at the same time as the Initial Brief of Respondent is filed and served if the Court so desires in order to expedite the submissions. Third, for the reasons set forth in the motion Respondent submitted asking this Court to permit it to file a Brief of Respondent, the motion was properly granted.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
Salley W. Elliott
SC Bar No. 1871

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

ATTORNEYS FOR RESPONDENT

May 5, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

APPELLANT REPLY TO RESPONDENTS RETURN TO MOTION/PETITION FOR
REVIEW OF ORDER OF APRIL 18, 2014

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

Adam M. Foard Law, LLC.
Foard, Adam M.
120 N. Pearl St.
Pageland SC 29728
Attorney for Respondent

Due to the following the Appellant believes that the actions of the General Attorneys Office is in effect an strategic action to deceive the Court for the purpose of gaining excessive time and supplementing the Record on Appeal with possible evidence that is not on record from the lower courts. Therefore directly violates Rule 269, SCACR

1) As members of the Bar Association with Salley W. Elliott SC Bar No. 1871, Senior Assistant Deputy Attorney General, becomes easily confused as submitted.

2) Confused as to notices of Appeal that are served approximately 4 ½ months apart with different counties, case numbers, dates, and counsels. the General Attorneys Office was already in the process to the appeal when receiving the notice of a separate appeal. The Notice of Appeal for this case plainly and clearly in bold type states **“NOTICE OF APPEAL FROM COMMON PLEAS RTGARDING A CONVICTION IN MAGISTRATES”**, ipso facto, the notice cannot be confused as to being that of filed for the South Carolina Department of Employment and Workforce. Attached are copies of the notices on file.

3) Contacting Fourth Judicial Circuit Solicitor requesting initial brief and designation of matter for the purpose to move to dismiss appeal dated Oct 8, 2013. The letter also has the correct Case Title and Appeal number along with the statement **“our due date is fast approaching”**, ipso facto, the Attorney General Office was well informed as to the appropriate filing dates on file and in accordance to Court Rules and that the appeal was from a **criminal case** from magistrate court and appealed to the circuit court. This letter indicates that the General Attorneys Office’s knowledge of the intensions of the appeal, time factor for filing, and the intensions of the General Attorneys Office as to a Motion to Dismiss for Failure to File in a Timely Manor. The letter for

Removal of the General Attorneys Office as representative was dated two days prior to the expiration for filing the Respondents Initial Brief and Designation of Matter to be included in the Record on Appeal. Therefore, the request for removal by intentional confusion for the sole purpose of avoiding Court Rules time limitations.

4) The Attorney General Office was served a notice that differentiates the difference between the two appeals **two months prior** to the respondents motion to relax, ipso facto, The Attorney General Office knowingly and willfully did not file the motion in a timely manner nor petitioned the court to **rejoin** the case. The motion was also filed **AFTER** the Appellants **FINAL BRIEF** and **RECORD on APPEAL**

5) The motion to relax rules 208, 209, 210, 211 and for an extension of time in which to file respondent's initial brief, Designation of Matter, Supplemental Record on Appeal and Final Brief of Respondent was filed (Feb 19, 2014) **four** months after the Appellants Initial Brief was filed (Oct 15, 2013) therefore the motion was not filed in a timely motion. Also the Order does not limit the supplemental to the record to the record from the lower court that would violate Rule 212 (b), SCACR. (With the written consent of all attorneys of record,), ipso facto, The Attorney General Office was well aware of the time requirements of Court Rules and withdrew to purposely avoid these limitations.

6) The Respondent submits no knowledge of charges to be filed by the court on the appellants behalf or the identity of Chesterfield Authorities although charges are a part of the appellants briefs that was served to Salley W. Elliott as well as Adam M. Foard prior to the respondents motion to relax, ipso facto, the Respondent did have knowledge of the charges and identities of the Chesterfield Authorities. Attached are copies of charges from the Appellants Brief.

The Respondent also submits no knowledge of conflict arising from above said charges. In the case STATE OF SOUTH CAROLINA, ex rel ALAN WILSON, ATTORNEY GENERAL v. CHESTERFIELD COUNTY and SAM PARKER, in his official capacity as SHERIFF OF CHESTERFIELD COUNTY (Case No. 2011CP1300423 with J. Michael Baxley as presiding judge) of which involved the Chesterfield County Animal Shelter personnel shooting dogs and beating cats in the head with pipes and dumping them in a landfill, with no criminal charges filed against the employees. The case states “ This action is brought in the name of the State by the Attorney General of the State of South Carolina, Alan Wilson. The Defendant County of Chesterfield is a political subdivision of the State of South Carolina. The Defendant Sam Parker is named in his official capacity as Sheriff of Chesterfield County. The Office of the Sheriff manages the Defendant Chesterfield County Animal Shelter under authorization from the County of Chesterfield.” along with ALAN WILSON, Attorney General, J. EMORY SMITH, JR., Assistant Deputy Attorney General, Office of the Attorney General, P. O. Box 11549, Columbia, SC 29211, (803) 734-3680, ATTORNEYS FOR STATE EX REL, with the Chesterfield County Animal Shelter and Chesterfield County (with Daniel Bowe as director of both) and managed by Chesterfield County Sheriff Office along with Sheriff Sam Parker as supervisor of the Chesterfield County Sheriff Deputies involves, ipso facto, causes a conflict of interest as to the Attorney General and Assistant Deputy Attorney General as being prosecutor and defendant with the above said.

- 7) Respondent submits that appellant was convicted of charges though does

not mention the sham legal process that caused them that is clearly identified in the Appellants Brief that violates state codes, court rules and constitutional rights. Example of which is the affidavit for the search warrant. See attached.

8) Respondent claims that the review is not available to the Appellant although Rule 240 (j), SCACR, an order issued by an individual judge may be reviewed, therefore due to the order was by only Paul E. Short Jr., the motion to review is available and permitted within court rules and if it wasn't then should be anyways due to the previous subvention of Court Rules

9) Respondent claims that the En Banc request notice served was intended for the motion, though Rule 219 (b), SCACR, (If a party desires to suggest that a matter be heard initially en banc) is intended for the initial hearing of the case due to the sham legal process of Chesterfield County Legal and Justice systems and the subvention of court rules by Judge Paul E. Short Jr.

10) With Adam M. Foard as representative for the State under Rule 264a, SCACR and the withdraw from the case by General Attorneys Office under Rule 264a, SCACR of which has not petitioned the Court to rejoin the case, therefore the motion to relax rules was not available to General Attorneys Office as representative.

11) With **only confusion** as cause for the motion to relax without fact of state code, court rules, authority or any reasonable cause for the motion to relax, and by the General Attorneys Office as not a party to the case due to their withdraw, the order to relax was granted.

With the above said, the General Attorneys Office has willfully and knowingly

deceived the Court by strategically withdrawing from the case and claiming the cause to be by confusion in order to reenter at a later date solely for the purposes of avoiding the timely filings in accordance to court rules, ipso facto, violating Rule 269, SCACR. As far as the Supplement of Record on Appeal. Therefore the General Attorneys Office should have been considered as if a motion to dismiss for failure to timely file was granted against them.

If not contained to the record in the lower courts then the Appellant will be requesting, due to the appellants limited resources, the court to subpoena possible crucial evidence contained in E-mails, text messages ect. to and from the Chesterfield County Sheriff Office, Chesterfield County Animal Shelter, Chesterfield County Animal Control and Chesterfield County Magistrates Office that is controlled by *Freedom of Information Act* along with the rescues in association with Chesterfield County Animal Shelter and Chesterfield County Animal along with the financial and phone record and dockets of said and the involved personnel of the above due to selective and partial evidence provided by the state in the lower courts.. Therefore the order was granted under deceit and the Appellant request that the Order of April 18, 2014 to be reversed and that the motion to relax rules to be denied along with the removal of General Attorneys Office due to their withdraw and possible conflict of interest.

May 9, 2014

Fritz A. Timmons Pro Se
P. O. Box 367
Hartsville, SC 29551

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,

Respondent,

vs.

FRITZ A. TIMMONS,

Appellant.

**MOTION TO STRIKE
AND REQUIRE FILING OF
AMENDED INITIAL BRIEF OF APPELLANT OR TO HAVE THE COURT
DISREGARD**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

Procedural History

On March 18, 2013, the Honorable John A. Davis, of the Magistrate Court of Chesterfield County, held a bench trial in the case of Chesterfield County v. Fritz Timmons. Appellant Fritz Timmons attended to defend against the charges against him. Prior to the bench trial, Appellant raised two motions to dismiss. The magistrate judge denied each of the motions.

Following the bench trial, Judge Davis found Appellant guilty 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 with scheduled payments.

Thereafter, Appellant appealed the magistrate judge's ruling to the circuit court.

On May 8, 2013, the Honorable J. Michael Baxley held a hearing in circuit court regarding Appellant's appeal from the magistrate court. Judge Baxley ruled the appeal inartfully pled because Appellant filled out a civil appeal form, as opposed to a criminal appeal form, and Appellant did not appropriately state his exceptions to the magistrate court's judgment. Also, the court construed Appellant's arguments at the hearing to raise an issue of probable cause. However, the court determined there was sufficient probable cause based on the facts and the law presented.

Motion to Strike Factual Assertions, Statements, Arguments from Initial Brief of Appellant

It is Appellant's obligation to present an appropriate record on appeal, including moving the magistrate to correct the Return, if necessary. Price v. Pickens County, 308 S.C. 64, 416 S.E.2d 666 (Ct. App. 1992); State v. Barbee, 280 S.C. 328, 313 S.E.2d 297 (1984); State v. Adams, 244 S.C. 323, 137 S.E.2d 100 (1964). Any issue presented to this Court for consideration on appeal must have been raised to and ruled upon below. Price v. Pickens County, 308 S.C. at 64, 416 S.E.2d at 666. Specifically, the circuit court may not consider a question not presented to the magistrate, Indigo Associates v. Ryan Investment Co., 314 S.C. 519, 431 S.E.2d 271 (Ct.App. 1994), and this Court may not consider an issue not raised to the circuit court. A & I, Inc. v. Gore, 366 S.C. 233, 621 S.E.2d 383 (Ct.App. 2005). Upon appeal of the magistrate court's conviction, the magistrate shall file the notice of appeal in the circuit court along with the magistrate's return which includes the record and statement of proceedings and

testimony presented. City of Greenville v. Latimer, 80 S.C. 92, 61 S.E. 224 (1908). The circuit court is limited to consideration of these documents for the appeal. Id.

Once a case has been appealed from the trial court, the Record on Appeal can only contain matter presented to the trial judge. See Rule 210(c), SCACR (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”). Significantly, “the appellate court will not consider any fact which does not appear in the Record on Appeal.” Rule 210(h), SCACR. Rule 210(c), SCACR, provides that the Record on Appeal “shall include all matter designated to be included by any party under Rule 209. . .” Critically, the rule further provides that the Record on Appeal “shall not, however, include matter **which was not presented to the lower court or tribunal.**” Id. (emphasis added).

In the case sub judice, Appellant references a letter allegedly sent to him by the Darlington Clerk of Court in case number 2009-CP-16-540, which includes a reference to the Honorable Paul M. Burch and an anonymous e-mail Appellant asserts the officers used as probable cause to obtain a warrant. (App. Br. pp. 2, 7). These factual assertions appear to arise from a completely different civil case and not the criminal matter involved in this pending appeal. The docket number for the circuit court appeal in this case is 2013-CP-13-00150. Also, Appellant presents factual assertions concerning the valid search and seizure of abused animals conducted by law enforcement and animal control. Specifically, Appellant asserts that law enforcement did not leave any “papers” at the residency, law enforcement interviewed his neighbor, and law enforcement damaged his property. (App. Br. pp. 2, 13). Appellant also mentions an interrogation by Chesterfield sheriff deputies and threats by an animal shelter director, Jim McGonigal, including specific statements allegedly made by McGonigal to Appellant. (App. Br. pp. 3-4, 9, 12, 17, 19, 22, 24, 25). In addition, Appellant asserts factual

statements from media outlets allegedly relating to the instant case, including a local news outlet, various animal shelters' FaceBook pages, and a local newspaper. (App. Br. pp. 4-5, 14, 17, 23, 27-28). Appellant includes statements James Lewis allegedly made regarding the basis for probable cause, which are not in the trial court record. (App. Br. p. 25). These assertions and factual statements are outside the record in this case and cannot properly be included in the Record on Appeal or in Appellant's brief. References to proceedings Appellant contends occurred on March 5, 2013 also fall outside this Record and may not be properly included in the Record on Appeal or Appellant's brief. Appellant's trial occurred on March 18, 2013. The magistrate's return indicates Appellant did not testify at trial but made two motions to dismiss and offered photographs and receipts for the magistrate's consideration. These assertions and/or statements should either not be considered by this Court during the appeal or this Court should strike the matters and require Appellant to file an amended brief complying with the appellate court rules.

Appellant asserts Judge Baxley was prejudiced because he stated "with all this evidence against you, you're lucky you're not in jail," a statement he asserts was purposely omitted by the court reporter and made by the judge with "papers in hand and arm outstretched." (App. Br. p. 7). On the contrary, a similar statement is included in the circuit court hearing transcript, and Appellant's clear misconstruction of the judge's comments should be stricken from his brief. (R. p. 9). Appellant also asserts his yard is "totally enclosed by woods with no possibility of plain view," and that his residence was "broken into during working hours," allegations not presented to the trial court or included in the record for consideration by the circuit court. (R. p. 10, 15-16). Appellant mentions that animal control purposely omitted pictures of food and water from

the magistrate court return. (App. Br. p. 20). However, this assertion should be stricken from the brief because the trial court record did include pictures of food and water bowls.

The foregoing factual assertions made in Appellant's initial brief are not contained in the trial court record and have not been presented to the trial judge and cannot be included for consideration by this Court. The magistrate's entire return and the transcript of the circuit court appeal are produced in the Supplemental Record on Appeal. The Supplemental Record on Appeal contains the only material appropriate for this Court's consideration. Therefore, those assertions cannot appropriately be embodied in Appellant's brief pursuant to our appellate court rules. See Williamsburg Rural Water & Sewer Co., Inc. v. Williamsburg County Water & Sewer Auth., 367 S.C. 566, 571, 627 S.E.2d 690, 693 (2006) ("Nothing in the appellate court rules permits a party to unilaterally add after-created evidence to the record."); South Carolina State Highway Dep't v. Meredith, 241 S.C. 306, 311, 128 S.E.2d 179, 182 (1962) ("[C]ounsel is prohibited from embodying in their briefs any fact which does not appear in the record."); see also Rule 210(h), SCACR ("[T]he appellate court **will not consider any fact** which does not appear in the Record on Appeal." (emphasis added)). Accordingly, the State asks this Court to either strike the arguments, statements, of factual assertions from Appellant's brief or decline to consider the factual assertions, arguments and statements included in Appellant's brief that do not appear in the record of the trial court and circuit court proceedings. The magistrate's return lists all documents, photographs, and testimony considered at trial. The circuit court's consideration was necessarily limited to the magistrate's return and information before the magistrate at the time of trial and for the purposes of the trial in **this** case.

Motion to Require Amended Initial Brief of Respondent Containing Citing References

The South Carolina Appellate Court Rules govern the form and content of appellate briefs. See Rule 208, SCACR (establishing the required format for initial briefs); Rule 211, SCACR (establishing the required format for final briefs). Pursuant to Rule 208(b) (4), SCACR, appellate briefs must contain references to transcripts or other matter supporting the facts alleged. “In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced[.]” Rule 208(b) (4), SCACR.

In his brief, Appellant repeatedly cities to facts, testimony, and other documents allegedly presented during the trial court proceedings in his summary of the facts and in support of his appellate arguments. However, aside from a few occasions in the thirty-three page brief, Appellant did not include any identifying references to the transcripts or other materials supporting those factual allegations. (“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”). Accordingly, the State asks this Court to either decline to consider the matters included in Appellant’s brief that are outside the Record on Appeal or Supplemental Record on Appeal and that are not supported by specific citations to the Record or require Appellant to file and serve an amended brief omitting the facts and statements that are not found in the Record before this Court and containing identifiable references to the transcripts or materials being referred to in support of Appellant’s factual allegations in a manner consistent with the requirements of our appellate court rules.

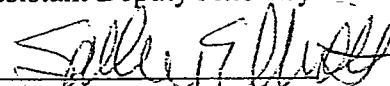
matter from Appellant's Designation of Matter, Brief of Appellant, and Record on Appeal and to require Appellant to file an amended brief and Record on Appeal containing no references to the improperly-designated matter.

WHEREFORE, Respondent prays that this Court will strike the portions of the Appellant's containing factual assertions not appearing in the record of the trial court proceedings or before the circuit court; strike the portion of the Appellant's brief containing references to improperly-designated material not presented below; strike all improperly-designated material from Appellant's Designation of Matter; require the filing of an amended brief by Appellant containing no reference to the unsupported factual assertions, or improperly-designated material; require the filing of an amended brief by Appellant complying with the requirements of Rule 208, SCACR or, short of requiring an amended brief, to decline to consider the improperly included documents, arguments, and statements; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

BY: 
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ATTORNEYS FOR RESPONDENT

May 20, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

APPELLANT'S RETURN TO RESPONDANT'S
MOTION TO STRIKE AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF
APPELLANT OR THE HAVE THE COURT DISREGARD

The MOTION TO STRIKE AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF APPELLANT OR THE HAVE THE COURT DISREGARD is not available to the Respondent due to that the Appellants **Final Brief and Record on Appeal** has already been filed and was not contested by the State.

The Respondent states "any issue presented to this court to consideration on appeal must have been raised to and ruled upon below." and "specifically, the circuit court may not consider a question not presented to the magistrate," of which the question of the Constitutional Rights of the Appellant was raise as to the unconstitutional Search and Seizer conducted by Chesterfield County Animal Service and Chesterfield County Sheriff Office along with the magistrates office as to the issuing of the unconstitutionally issued warrant, ipso facto, a Sham Legal Process for the purpose of the Chesterfield County Animal Shelter to obtain purebred dogs for profit due to Danielle Bowe being Director of Both the Chesterfield County Animal Service and Chesterfield County Animal Shelter. The issue of Probable Cause has been raised in Both magistrate and circuit Courts as to the **Lack off**. Of which no probable cause has been established by the State to intrude upon the privacy or property of the Appellant. Therefore, any possible evidence submitted by the Affidavit would have been construed through Constitutional Intrusion by the State and inadmissible in a court of law. The State claims to have an E-mail as Probable Cause, No evidence as to the existence of said E-mail by the State has been provided and if there is existence of said, then it would violate State Code §22-3-710, and due to the Appellant numerous requests for this so call E-mail, the State has fail to provide it, thus violating Rule 5(1c) SCRCrimP. Thereby raised the possible Torte accusation against Judge Paul M. Burch as to the violations of Rule 501, SCACR cannon

3 produced to letters from the Clerk of Court of Darlington as in regards to another case. Thereby causing a possible search and seizer to be conducted out of retaliation.

In response to this motion, The State has failed to file the motion in respect to the Appellants Initial Brief in a timely manor. The Appellants Initial Brief and Designation of Matter was filed on **Oct 15**, 2013 and the Appellants **Final Brief and Record on Appeal** was filed on **Feb 18**, 2014. Therefore causing this to be a frivolous motion violating Rule 269, SCACR. With the States violating Rules 208(a,2), 209(a), SCACR and after withdrawing from this appeal, the Attorney Generals Office has reentered the case without petitioning the court violating Rule 264, SCACR and without good cause shown. The State has also violated Rule 264(a,b), SCACR by substituting Adam M. Foard with William B Rogers without petitioning the court. A Motion to Review the Order of April 18, 2014 by Judge Paul E. Short is pending that has permitted the Attorney Generals Office to reenter case and violate numerous Court Rules based solely on confusion by the Attorney Generals Office.

The above said contradicts the motion's own statement "(T)he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with and orderly mechanism through which to guide appeals in this State.". Therefore when the Lower Courts produce a Sham Legal Process, does the Appellant Court continues this Sham Legal Process that continues the violations of the Constitutional Rights of the Appellant or does the Appellant Court uphold the Constitutional Rights of the Appellant.

The Court Order does not permit the respondent to challenge the Appellants Initial Brief, Appellants **Final Brief**, Designation of Matter nor **Record on Appeal**.

The Court Order also does not permit the respondent to **REPLACE** the Record on Appeal with the Supplemental Record.

Due to the Respondents violation of Rule 208(a2), SCACR, Thereby causing the Rule 208(a4), SCACR to be enacted that states "Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper", of which in this case that the Constitutional Rights of the Appellant are upheld and that the charges for the Sham Legal Process to be filed (as described in Appellants Brief) would be most proper action of this Court.

The Respondent also request the strict enforcement of Court Rules after the Court Rules has already been subverted in favor to the Respondent. Therefore, with the Respondent adamant to follow Court Rules, the respondent should have follow Rules 208(a2), 209(a) SCACR instead of withdrawing from the case with the excuse of confusion as explained in the pending Motion to Review.

The Court Rules does not provide a guideline when a Sham Legal Process is produced by the conspiracy to violate Constitutional Rights and State Codes by the members of the lower Courts. **THEREFORE**, Court Rules should be relaxed to provide **JUSTICE** when involved in a Sham Legal Process, and not to relax Rules only for the State to continue a Sham Legal Process and to prevent State Employees from being charge for violation of State and Federal Laws and Regulations. **STATE EMPLOYEES are not ABOVE THE LAW!**

With the knowledge of the Attorney Generals Office as to the Constitutional violations by the State and has purposely and knowingly joined to defend these violations of the Constitution, does this constitute as conspiring with the State employees for the

purpose to continue a Sham Legal Process? If so, does this constitute filing charges of and promote the prosecution of and by whom?

With the respondents being members of the South Carolina Bar Association of which "The purposes of the Bar shall be to uphold and defend the Constitution of the United States and the Constitution of the State of South Carolina to protect and maintain respect for representative government to continually improve the administration of justice throughout the State to require the highest standards of ethical and professional conduct, and uphold the integrity and honor of the legal profession" and to defend a Sham Legal Process that violates the United States Constitution and the South Carolina Constitution, ipso facto, violates its own purpose.

Prior to the Respondents Procedural History, and as explained in the Appellants Brief, the State conducted a search and seizure without probable cause, a warrant nor probable cause to obtain a warrant at the Appellants Residency on March 4, 2013.

On March 5, 2013, the State produced an Affidavit and a Search Warrant that without particular requirements nor supposedly timing of occurrence of any possible violations, ipso facto, violates the FOURTH AMENDMENT and STATE CONSTITUTIONAL RIGHTS of the Appellant. THEREFORE, a Sham Legal Process (§30-9-30 (4) (a) "Sham legal process" means a document that is not issued lawfully and that purports to be a judgment, lien, or order of a court or appropriate government entity, or otherwise purports to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of a person or property., and (b) "Lawfully issued" means adopted, issued, or rendered in accordance with applicable statutes, rules, regulations, and ordinances of the United States, a state, or an agency or a political

subdivision of a state.) was conducted by County and State Officials and at the magistrate and circuit judicial levels. The Record of the lower Court was falsified due to the introduction of evidence that was not provided in the magistrates hearing on March 18, 2013, the said matter is for the sole purpose of an emotion response that the Respondents has included in their Supplemental Record.

Without probable cause established by affidavit, (Carlyle v. Tuomey Hosp., 305 S.C. 187, 193, 407 S.E.2d 630, 633 (1991), Conner v. City of Forest Acres, 363 S.C. 460, 467, 611 S.E.2d 905, 908 (2005), State v. Weston, 329 S.C. 287, 494 S.E.2d 801 (1997)), and without reason stated for probable cause (State v. Winborne, 273 S.C. 62, 254 S.E.2d 297 (1979), McDonald v. United States, 335 U.S. 451, at 455-456, 69 S.Ct.191, 93 L.Ed. 153 (1948)). The Itemized list was not provided with the Search warrant return and was filed two days after on March 7, 2013. The Itemized list also was conducted by the Director of the Animal Control and Animal Shelter, Danielle Bowe, not by any deputy and was not taken in the presence of anybody else, also list does not include a pet carrier and a bag of dog food that was also taken during the search and seizer as explained in the Appellants Brief. Therefore the copies of this Warrant Return list, 1st copy from magistrates office that's dated March 7, 2013 does not comply with the warrant Return that's dated March 5, 2013 and 2nd copy from the "RETURN OF THE CRIMINAL APPEAL" filed in the Chesterfield County Clerk of Courts Office does not provide a date and neither the Return nor Return list was provided to the Appellant at time of being served the warrant the day after the search and seizer was conducted

With county uniform ordinance summons that violates State Code §56-7-80(A) and contradicts **ATTORNEY GENERAL'S 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.” 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) that is currently stalled since Order filed Oct 10, 2013 in Chesterfield County Court System. With only 21 tickets 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

The motion states “the court determined there was sufficient probable cause”, without evidence of an E-mail of which Animal Control bases their probable cause to constitutionally intrude, of which the Affidavit is based and without the particular requirements met in the Affidavit or Search Warrant, Without substantial evidence (Richardson v. Perales, 402 U.S. 389, 401 (1971), Estate of Teed (1952) 112 Cal.App.2d 638, 644, Kruse v. Bank of America (1988) 202 Cal.App.3d 38, 51-52), nor with prima facie evidence along with perjury by Danielle Bowe (§16-9-10(A)(1))(as described in

Appellants Brief).

Therefore the determination of the court has no prima facie nor substantial evidence to be based on, ipso facto, continuing the Sham Legal Process (as described in Appellants Brief). Therefore the Appellant can only conclude that the probable cause to constitutionally intrude was based solely on Torte or Fraud (as described in Appellants Brief) and by Judge Paul M. Burch which happens to be involve in the Appellant case No. 2013-002356 and the probable cause for the Torte accusations.

With the only form available to the Appellant that appeals a magistrate case to court of common pleas is that of a civil appeal and not of a criminal appeal. Regardless of the "CIVIL" or "CRIMINAL" on the notice to appeal, the facts remain, with the circuit court bound by Appellant Court Rules, Judge J. Michael Baxley violated Rule 204(a), SCACR. Although the Circuit Court handles both civil and criminal cases and in front of the same judges.

The Respondent claims as to the residency surrounded by woods and broken into during working hours is not presented to the trial court nor included in the record, the picture of the 1/10 mile driveway through woods to the residency (in Record of Appeal) and the search and seizer conducted by Chesterfield County Sheriff Office and Chesterfield County Animal Service during working hours proves otherwise.

As to the Supplemental Record of the respondent, the Court Order filed on April 18, 2014 does not permit the substitution of Record on Appeal with the Respondents Supplemental Record. The Order only permits the addition of matter to be supplemented to the Record on Appeal. The Supplemental Record contains the following;

(A) matter that is not relevant to the Appeal that violates Rule 209(b), SCACR, that is

- not permitted by Court Order, pp 1, 2, 5, 6, 10, 45-51, 68, 69, 80
- (B) matter that was not contested for the sole purpose of emotional Psychological manipulation (photos of unearthed canine corpse found that was not contested) and not relevant to the Appeal and violates Rule 212(b), SCACR, and added to the Record after the hearing of March 18, 2013. pp. 52-58,61-62
 - (C) portion of matter that is not relevant to the Appeal that violates 210(b), SCACR and is not permitted by Court Order
 - (D) Portions of Record on Appeal that is contained in the Respondents Supplemental Record and is not permitted by Court Order, pp. 7, 11-38, 41-44, 64-66, 72, 73, 74, 75, 77, 78, 79, 81
 - (E) Pages 1, 2, 5, 6, 11-38, 41-43; 52-63, 69-73, 80, and 82 of the Respondents Supplemental Record are not specifically reference to in the Respondents Initial Breif
 - (F) the Respondents Supplemental Record fails comply to Rule 210(c), SCACR

Therefore the Supplemental Record should be stricken.

As to the Respondents claim as to the Order of March 18, 2013, this is the only error (clerical) in the Record on Appeal and should be list in the index as the Order of March 5, 2013. The Order is and Order from a Preliminary Hearing held the day after the Chesterfield County Animal Service and Chesterfield County Sheriff Office conducted a search and seizer on Appellants property and is referenced by the testimony of Danielle Bowe (testimony was during the preliminary hearing on March 5, 2013) in the Magistrates Return. This order is substantial evidence that the said E-mail supposedly

used by Chesterfield County Animal Service totally fraudulent and possibly torte. With the Appellant being the only one in the Appellant residency in over four years and with 15 of the dogs, that includes the 6 one week old puppies, therefore it is impossible for Chesterfield County Animal Service to have received any possible information as to the number of dogs being over 30, ipso facto, the said probable cause was produced **AFTER** the search and seizer was conducted. Also no substantial evidence has been provided for the probable cause.

As to the Respondents claim as to the photos in the Record of Appeal, under Rule 210(f), SCACR, Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size, Therefore, the separation of the individual photos and the enlargement portion of each said photo for proper viewing, would be to the same effect as the combining of separate photos onto a single page as produced in the Respondents Supplemental Record. Each of the photos are in the record of the lower court.

Therefore the State has failed:

- (A) to prove probable cause existed prior to the Affidavit
- (B) to prove the Affidavit meets the particular requirements of the **FOURTH**
ADMENDMENT
- (C) to prove the Search Warrant meets the particular requirements of the **FOURTH**
ADMENDMENT
- (D) to prove Search Warrant Inventory was conducted lawfully (Rule 41(f1A),
FRCrP)

Without Due Process of Law in the Lower Courts that violates Constitutional Rights of the Appellant, the State

- (1) constitutionally intruded upon the Appellant's property without Probable Cause and conducted a search and seizer.
- (2) obtain an unlawful Search Warrant with an unlawful Warrant Return
- (3) attempted Back Male by State Employees for the relinquishment of ownership of Appellants dogs
- (4) conducted a Sham Legal Process without Substantial evidence at the Magistrate Level that includes;
 - (a) unlawfully issued uniform ordinance summons for fraudulent charges
 - (b) duplicity in warrant
 - (c) three separate Multiple Double Jeopardy Charges
 - (d) no evidence of Abandonment of dogs in Appellants own yard
 - (e) no evidence of Neglect of Appellants dogs
 - (f) only partial and misleading evidence and not full evidence
 - (g) Animal Control not under Oath during March 18, 2013 Hearing
 - (h) Deputy on Warrant NOT present during March 18, 2013 Hearing.
 - (i) Perjury by Animal Control Officer
 - (j) Conspiracy among Chesterfield County Animal Control, Chesterfield County Animal Shelter, Chesterfield County Sherriff Department and Chesterfield County Magistrates Office for the purpose of obtaining purebred dogs for profit

- (5) Evidence introduced in Record that was not presented during March 18, 2013 Hearing. For the sole purpose of emotional Psychological manipulation (photos of unearthed canine corpse found that was not contested that is also in the Respondents Supplemental Record)
- (6) continued a Sham Legal Process at the Circuit Lever still without Probable Cause

The Respondent construes that this Appeal is from a proper Judicial Lower Court System that abides by the Constitution of the United States, the Constitution of South Carolina, Federal and State Rules and Regulation, and State Codes. When in fact, the Lower Court System is a Shame Legal Process of which is proven by the evidence of the Case that is backed by the Constitution of the United States, the Constitution of South Carolina, Federal and State Rules and Regulation, and State Codes. The Respondent has not provided any Rules, Codes, or Citations to uphold the Violations of the Lower Courts but only to hinder the Justice in the Court System. Nor has the Respondent provide any evidence to support the Unconstitutional Affidavit and Warrant,

THEREFORE, the Appellant preys that this Court defends the **CONSTITUTION OF THE UNITED STATES** and upholds **JUSTICE** of which the Appellant has not had in the Lower Courts of this State. The Appellant Also preys that this Court abides by Rule 208(a4), SCACR. "Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper" and believes in, if members or not of South Carolina Bar Association, 410(b), SCACR. "shall be to uphold and defend the Constitution of the United States and the Constitution of the State of South Carolina; to protect, and maintain respect for, representative government; to

continually improve the administration of justice throughout the State; to require the highest standards of ethical and professional conduct, and uphold the integrity and honor of the legal profession". In conclusion, the State has failed to provide any Fact, Law, Rule, Citation, or Order that would prevent this Court from upholding the Constitution of the United States.

In short, the Respondent wishes this Court to strictly enforce the Court Rules for a Pro Se with limited resources and limited time due to full time work that is in no means related or trained as that of a lawyer while, **AFTER COURT RULES HAS BEEN SUBVERTED IN FAVOR OF** the Respondent of which is a large group of highly trained and experienced Full Time lawyers and associates with members of the South Carolina Bar Association that is **AGAINST** the defense of the **CONSTITUTION OF THE UNITED STATES** and **CONSTITUTION OF THE SOUTH CAROLINA**, of which has full resources of the State.

If the order of the court is to enforce Court Rules then also, ALAN WILSON, SALLEY W. ELLIOTT, and WILLIAM B. ROGERS must be removed as Attorneys for Respondent and ALL the Respondents motions to be denied and stricken along with Respondents Initial Brief and Supplemental Record for the violations of Rules 208, 209, 210, 211, 212 and 264 SCACR.

May 27, 2014

Respectfully submitted,

Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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 STRIKE AND DISREGARD RESPONDENTS SUPPLEMENT RECORD
AND REQUIRE FILING OF AMENDED INITIAL BRIEF OF RESPONDENT

The Respondents Supplemental Record should be stricken and disregarded due to violating the following;

(A) Court Order of April 18, 2014 for containing matter that already exist in the Record On Appeal. Pages 7, 11-38, 41,42,44, 64-66, 72-75, and 77-78. The Respondent has also failed to serve a designation of matter that violates the above said Order.

(B) Rule 209(b), SCACR (A party shall not include any matter ...which is not relevant to the appeal), pages 45 - 51, 63, 67, 68, 69, 82. The following pages are not referenced to by the Respondent, Pages 11-38, 41-62, 68-73, 83-84.

(C) Rule 210(c), SCACR (shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents)

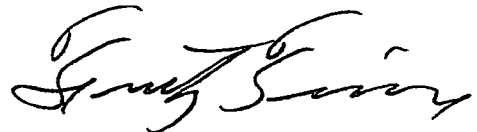
(D) Rule 212(b), SCACR (With the written consent of all attorneys of record)

(E) Rule 403, SCRE (Although 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.). Pages 52 through 62

Due to the Court Order of July 7, 2014 to enforce Rule 208(b)(4), SCACR upon the Appellant's Initial Brief although the Appellant's Final Brief has already been served on September 9, 2013. The Respondent's Initial Brief also does not comply with Rule 208(b)(4), SCACR, Therefore this court **must also** enforce this Rule upon the Respondent although the Respondent has violated Court Order of April 18, 2014 stating **"Should Respondent fail to comply with this order, this appeal will proceed without a Respondent's brief."**

Therefore this Court should order the amendment of the Respondent's Initial Brief to comply with 208(b)(4), SCACR and Strike and Disregard the Respondent's Supplemental of Record.

July 14, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

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 a motion to strike portions of Appellant's initial brief and designation of matter and to require Appellant to file an amended initial brief including references.¹ Respondent's motion to strike portions of Appellant's initial brief is denied. However, Respondent's motion to require Appellant to file an amended initial brief including references pursuant to Rule 208(b)(4), SCACR, is granted. Appellant will file an amended initial brief complying with Rule 208(b)(4) within fifteen days of this order. Further, Respondent's motion to strike portions of Appellant's designation of matter is denied. However, after reviewing Appellant's filed record on appeal, it appears Appellant has either included matter in the record not designated or included matter in the record in a different form than it was presented to the trial court. Accordingly, the filed record on appeal is stricken and Appellant will serve an amended record on appeal including only matter properly designated by the parties in the form it was presented to the trial court within thirty days after service of the last brief. *See* Rule 210(a), SCACR ("Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on each party who has served a brief."); Rule 210(c), SCACR (noting the record on appeal shall not include matter which was not presented to

¹ Appellant has also filed a "motion to review the order of April 18, 2014," which this Court construes as a petition for rehearing. Because this Court does not entertain petitions for rehearing on motions that do not have the effect of dismissing or finally deciding an appeal, this Court declines to act on the petition for rehearing.

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

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
The Honorable J. Michael Baxley, Presiding Judge

Appellate Case No: 2013-001415

THE STATE,

Respondent,

vs.

FRITZ ALLEN TIMMONS,

Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Initial Brief of Respondent and Supplemental Record on Appeal on appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to appellant, Fritz Allen 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 19th day of May, 2014.


ANGELA BENNETT
Administrative Assistant

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

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,

Respondent,

vs.

FRITZ A. TIMMONS,

Appellant.

RETURN TO MOTION TO STRIKE

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

Procedural History

On March 18, 2013, the Honorable John A. Davis, of the Magistrate Court of Chesterfield County, held a bench trial in the case of Chesterfield County v. Fritz Timmons. Appellant Fritz Timmons attended to defend against the charges against him. Prior to the bench trial, Appellant raised two motions to dismiss. The magistrate judge denied each of the motions.

Following the bench trial, Judge Davis found Appellant guilty 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 with scheduled payments.

Thereafter, Appellant appealed the magistrate judge's ruling to the circuit court.

On May 8, 2013, the Honorable J. Michael Baxley held a hearing in circuit court regarding Appellant's appeal from the magistrate court. Judge Baxley ruled the appeal inartfully pled because Appellant filled out a civil appeal form, as opposed to a criminal appeal form, and Appellant did not appropriately state his exceptions to the magistrate court's judgment. Also, the court construed Appellant's arguments at the hearing to raise an issue of probable cause. However, the court determined there was sufficient probable cause based on the facts and the law presented.

The Respondent filed a motion to file its initial brief out of time with this Court. After careful consideration by the Court, the motion was granted. In the Order, dated April 18, 2014, The Honorable Paul E. Short, Jr., stated that "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."

Appellant's Allegations

Appellant moves this Court to strike the State's Supplemental Record for a variety of nonsensical reasons. The State submits that all of these assertions are completely without merit.

- (A) Appellant first asserts that the State's Supplemental Record should be stricken and disregarded for containing matter that already exists in the Record on Appeal he filed, as it violates the April 18, 2014 order of Judge Short.
- Appellant further asserts that the State's Supplemental Record should be

stricken and disregarded due to a failure by the State to serve a Designation of Matter that is also violative of Judge Short's Order dated April 18, 2014.

First, Respondent submits that the State's Supplemental Record is not violative of Judge Short's April 18th Order. Appellant misconstrues Judge Short's Order to restrict the State from including any matter in its record that was previously included in the record on appeal. Judge Short's Order simply required the State to file a supplemental record if the State wished to include matter that was not in the record on appeal. Therefore, the State's inclusion of matter that was already in the record on appeal is not violative of Judge Short's April 18th Order. For the convenience of this Court, Respondent submitted the entire magistrate's return which was filed and considered by the circuit court on appeal from magistrate's court as well as the circuit court order and the entire transcript from the circuit court appeal rather than present the matter piecemeal as was done in Appellant's Record on Appeal.

Consideration of all of the material before the circuit court is imperative to this Court's review of the proceedings. As for Appellant's assertion that the State failed to serve a Designation of Matter as required by Judge Short's Order, the State direct Appellant's attention to the document filed with its brief and served on Appellant entitled "DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL." In this Designation of Matter, the State designates all the items included in the supplemental record and presents the matter in the Supplemental Record in a manner more

beneficial to the reader. Appellant's argument, therefore completely lacks merit.

(B) Appellant next contends that pages 45-51, 63, 67, 68, 69, and 82 should be stricken and disregarded as they are not relevant to the appeal. Appellant also contends that pages 11-38, 41-62, 68-73, and 83-84 should be stricken and disregarded because they are not "referenced to by the respondent." First, Appellant's argument lacks merit, as pages 45-51, 63, 67, 68, 69, and 82 are all relevant. Pages 45-51 of the Supplemental Record are relevant, as they show the animals Appellant was convicted of neglecting, receipts from a feed store and Wal-Mart for dog food and supplies, and an exhibit originally offered into evidence by Appellant. All this material is relevant to the appeal of a conviction involving neglect of animals. Page 63 of the Supplemental Record contains the cover page for the search warrant executed by law enforcement, which is clearly relevant as it lists important details like the county, the date of the search warrant, and the officer who obtained the warrant. Page 67 of the Supplemental Record contains Appellant's notice of Appeal to the Circuit Court of Common Pleas in Chesterfield, which is relevant to the procedural history as well as relevant to the grounds on which Appellant has sought relief. Pages 68-69 contain the cover pages of a motion hearing on the appeal from magistrate's Court. This is relevant to the procedural history of the case. Page 82 contains the State's Certificate of Counsel, which is a required portion of the Supplemental Record on Appeal. Rule 210(g), SCACR, provides that "Appellant or his counsel shall certify that

the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.” It stands to reason that a certificate of counsel is also required for a supplemental record, pursuant to Rule 212, SCACR. Second, Appellant’s assertion that pages 11-38, 41-62, 68-73, and 83-84 should be stricken and disregarded because the pages are not referenced by respondent also lacks merit. There is no requirement that each page of the Supplemental Record must be cited by Respondent in its brief. All pages of the Supplemental Record are relevant to this appeal, despite the fact that the State does not cite every single page in its brief. The Supplemental Record on Appeal contains the matter considered by the circuit court on appeal as well as the order and transcript from that appeal. All are proper, pursuant to Rules 209 and 210, SCACR (stating that the Record on Appeal shall include all matter designated by any party and the only prohibition is that the matter included must have been presented to the lower court). Respondent has fully assumed responsibility for the costs associated with filing and serving the Supplemental Record on Appeal and the entirety of the circuit court proceedings and the magistrate’s return are relevant to the appeal. The State would also like to note that the last page of the Supplemental Record is page 82, which would explain its strategic move not to cite pages 83 and 84 in its brief.

(C) Appellant’s next assertion is that Respondent’s Supplemental Record should be stricken and disregarded for violating Rule 210(c), SCACR, which states that “matter included in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgment, decrees, decisions,

pleadings, transcript, charges, exhibits, and other materials or documents, and a certificate by appellant.” The State’s Supplemental Record is arranged in chronological order, for the ease of this Court’s understanding. The Order on Appeal in Common Pleas appears after the transcript of that proceeding for the sake of clarity. This practice is not uncommon.

(D) Appellant next contends that the Supplemental Record should be stricken due to a violation of Rule 212(b), SCACR. Appellant seems to assert that Appellant’s Supplemental Record was improper as there was not written consent by all attorneys of record to the filing of the Supplemental Record. The State submits that Appellant’s argument was without merit, as the State had permission from the Court to file its Supplemental Record. Rule 212(b), SCACR, provides that “With the written consent of all attorneys of record, a party may supplement the Record on Appeal at any time before argument commences. Without such consent or after argument commences, a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so.” While Respondent did not obtain written consent by Appellant to file its Supplemental Record, Respondent had express permission from this Court to do so. As noted earlier, Judge Short’s April 18th Order stated, “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.” Respondent designated matters not included in the Record on Appeal, therefore it was

necessary for Respondent to file a supplemental record, as was outlined by this Court.

(E) Appellant's final contention is that pages 52-62 should be stricken and disregarded, as they fail the balancing test under Rule 403, SCRE. Pages 52-62 contain images of the deplorable condition of Appellant's dogs and their living area. If Appellant felt the images were unduly prejudicial, he should have made some effort to exclude them before they became part of the trial record. The fact that certain evidence is particularly damaging to Appellant does not in any way constitute grounds for a motion to strike.

Following Appellant's list of grounds on which his motion to strike was sought, Appellant made the generalized assertion that Respondent's Initial Brief does not comply with Rule 208(b) (4), SCACR. The relief Appellant seeks for this imagined transgression is an order by this Court for the Respondent to amend its initial brief. Appellant fails to list any specific grounds for how Respondent's brief violates Rule 208(b) (4), SCACR. The State submits that this allegation is baseless, and that the Initial Brief of Respondent complies with Rule 208(b) (4), SCACR, as well as all other applicable court rules.

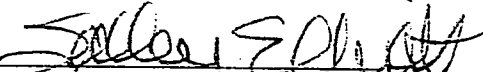
WHEREFORE, Respondent prays that this Court will deny Appellant's motion to strike Respondent's Supplemental Record and deny Appellant's motion to order the amendment of Respondent's Initial brief.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT

Senior Assistant Deputy Attorney General

BY: 

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ATTORNEYS FOR RESPONDENT

July 21, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

APPELANTS REPLY TO THE RESPONDENTS RETURN TO THE MOTION TO
STRIKE AND DISREGARD RESPONDENTS SUPPLEMENT RECORD AND
REQUIRE FILING OF AMENDED INITIAL BRIEF OF RESPONDENT

With the Respondents failure to comply to the deadline established by the Court Order of April 18, 2014 to file the Respondents Final Brief, therefore **the Appeal will proceed without a Respondents Brief**, ipso facto, the Respondents Supplemental Record will not be referenced by the Appellant's Brief causing it to be irrelevant to the Appeal (Rule 402, SCRE and Rule 403, SCRE), and thereby this court should strike and disregard the Respondents Supplemental Record. The Respondent has misconstrued the terminology of Substitutional and Supplemental.

The Respondent claims that all the matter in the Respondents Supplemental Record is relevant to the Appeal (see attached pages from supplement), thereby violating

Rule 209(b), SCACR “include **portions** of the transcript, pleadings, orders, exhibits, or other materials **which may be properly included** in the Record on Appeal [See Rule 210(c)]. A party **shall not include any matter** in his Designation **which is not relevant to the appeal.**” and 210(c), SCACR “that the portion of a pleading showing verification or service **shall not be included unless relevant to the appeal**”. With these violations the Respondents Supplemental Record should be stricken and disregarded.

With the Respondents noting the motion to dismiss, the Respondent failed to state that the **motions was based on the violation of Constitutional Rights by the State** by issuing an unlawful and unconstitutional search warrant without probable cause, ipso facto, that **any possible evidence of the state is inadmissible in a court of law.** The Affidavit alone states “1827 Tabernacle Church Rd McBee SC” as items to be seized, ipso facto, violating the Particular Requirements along with other violations (Rule 41(f)(1)(B) FRCrP, Rule 41(f)(1)(C) FRCrP, and Rule 41(f)(1)(D) FRCrP), as explained in the Appellants Brief, therefore is unconstitutional as well as the search warrant itself. The Motion to Dismiss was Denied by the same Judge that issued the unlawful warrant. Under Rule 17, SCRCrimP, the Motion to Dismiss for Constitutional Violations by the State, Therefore, All possible evidence by the State has been objected to and due to the Corruption and conspiracy of the Lower Courts, the states possible evidence still presides in court records. With the Corruption and conspiracy of the magistrates office and Chesterfield Agencies, only partial evidence was provided therefore providing a bias record to manipulate the Upper Courts through its Court Rules. As explained in the Appellants Reply Brief, the March 8, 2013 internet posting of “**all the dogs will be available after the 20th**”, “**they cannot be released as the court date is on the**

20th...when they are released after that date”, “we need to wait for the court date & then have a central ...” and “**Director of Animal Services (again - dogs not released until after court date on 20th) Danielle Bowe** “ by Chesterfield County Animal Control and Shelter Director Danielle Bowe, Thereby confirming the conspiracy as to the Chesterfield County Magistrates office, Chesterfield County Animal Control and Shelter and Chesterfield County Sherriff Department with the predetermined verdict of the hearing of March 18, 2013. Along with only 5 Veterinarian exams produced as evidence and not for all 25 adults and 6 one week old puppies, Therefore under Rule 5, SCRCrimP, the Appellant should have been offered the opportunity to add the missing exams as well as any other evidence including the above posted statements by Chesterfield County Animal Control to the Respondents Supplemental Record due to the Magistrate Court not being a TRUE COURT OF RECORD and that has violated State Codes and Constitutional Rights.

With the Respondents noting that the COUNTY UNIFORM ORDINANCE SUMMONS written for the violations of STATE CODES, thereby violating State Code §56-7-80(A) ”...use an ordinance summons as provided herein for the enforcement of county and municipal ordinances” and the ATTORNEY GENERAL’S OPINION “The uniform summons cannot be used for the enforcement of laws other than county and municipal ordinances ...”. 1994 Op Atty Gen, No. 94-67, p. 143., ipso facto, the summons and charges are invalid and unlawful although the Appellant was still convicted and fined multiple times as explained in Appellant’s Brief. Therefore, the Respondent has failed to provide the ordinance required under State Code §19-3-10. Also with County Uniform Summons written for rabies, abandonment of animals and ill treatment of

animals with the Search warrant written for "abandonment or neglected animal", Therefore was the State going for abandoned animals, neglected animal or ill treated animals which includes wildlife. Does the charges of violation of §47-1-40 violates the jurisdiction of the magistrate with the possibility of it being a class B misdemeanors or even a class F felonies. Also the State has Failed to explain or proven how the Appellant has supposedly had abandoned, neglected and/or ill treated any animals or ill treated an abandoned animal and warrant does no support rabies violations.

As for the Respondents Initial Brief violation of Rule 208(b)(4), SCACR, the references refers to the Respondents Supplemental Record of which was not part of the Lower Court Record, ipso facto, violates the above said Rule and therefore should be amended to match the record of the Lower Court in accordance to Rule 208(b)(4), SCACR. As the Respondent filed a Motion to amended Appellant's Initial Brief **AFTER** the Appellant had filed and served the Appellant's **FINAL Brief**, therefore, this Court should order the amendment of the Respondent's Initial Brief as it did for the Appellant's Initial Brief, in layman's terms, *what's good for the goose is good for the gander*.

Respondent claims Supplemental pages 45-46 that the 6 photos of under one week old puppies are dogs that the Appellant was charged for neglect, therefore, what part of State Code §47-1-70 is a violation for neglect, under what county ordinance was the Appellant charged under and what County Uniform Ordinance Summons Ticket number was written to confirm this. This is the first mentioning of any charge was for what dog, therefore, what charged are for what dogs and why was the dogs that was not charged for was also seized. While Supplemental pages 47-51 for Appellants receipts only proves that the Appellants dogs was not neglected or abandoned as the States claims and is

irrelevant to the Constitutional and State Code Violations that has occurred by the State.

Respondent claims Supplemental page 63 is relevant because it states the county, date and officer of the Search Warrant. Although the Affidavit and the Search Warrant itself contains this information, therefore, the information is irrelevant to the Appeal. The Respondent has not shown the relevancy of this..

Respondent claims Supplemental pages 67 is relevant for procedural history, Although it only proves that the appeal was base on Constitutional Rights violations as well as State Code violations by the State and Conspiracy by the Circuit Court to continue these violations as well as evidence not provided by Animal Control in the Magistrate Court. The Respondent has not shown the relevancy of this

Respondent claims Supplemental pages 68-69 is relevant for procedural history, although the cover sheets of filings and the Statement of the Case in the briefs contains this information, therefore, is irrelevant to the Appeal. The Respondent has not shown the relevancy of this

In Regard to page 82, due to clerical error, was in reference to page 80 of which is the CERTIFICATE OF REPORTER of which Rule 210(c) SCACR states "that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal" and the Respondent has not shown the relevancy of this..

Respondent claims Supplemental pages 11-38, 41-62, 68-73 is relevant, under Rule 209(b), SCACR, must clearly identify what the party desires, which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal., Therefore, The Supplemental pages are not clearly identified which causes it to be irrelevant. The

Respondent has not shown the relevancy of this

As to Supplemental pages 83-84, was added by clerical error and should be ignored.

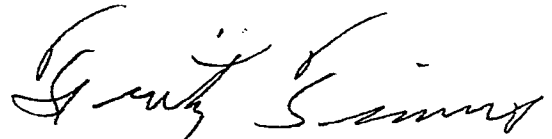
The Respondent claims that the violation to Rule 210(c), SCACR is not uncommon, Therefore, the State Claims that it is not uncommon that this Court cannot abide by its own Rules which would explain the constant violations of Court Rules (other than correction of clerical error) by the State and permitted to do so by this Court while, so far, the Rules are enforced upon the Appellant (example: Order of July 7, 2014, for the Appellant to amend the Initial Brief **AFTER** the **FINAL BRIEF** has been served and filed and to amend Record on Appeal (on this Court own initiative and disregarding clerical error on Appellants Designation of Matter to be Included in the Record on Appeal) due to a magnified portion of a photo on the same page was added of which the order would violates Rule 1003, SCRE or for the Original Warrant Return list (Magistrates Copy) that is permitted under Rule 1002, SCRE. or for clerical error not motioned for correction due to failure of Respondent to Serve the Respondents Initial Brief and Designation of Matter to be Included in the Record and withdrawal of the Respondent on the Deadline for filing of said due to Respondents confusion thereby violating Rule 208(a2), SCACR, 209(a), SCACR., and SCACR,211(a), SCACR. Therefore, causing the elimination of evidence by this Court on its own initiative.

Respondent claims Supplemental pages 52-62 of which contains photos of carcasses of canines that died from parvo or Canine Circovirus outbreak (all dogs was vaccinated with 7way shots prior to and that included parvo) and buried in 2012 and was dug up and partially eaten by wildlife and dragged into yard (Rule 403, SCRE), (Exam

confirms by Extreme Decay during winter nor mentioning of ant infestation (R. p. 37)) and with burial wrappings or being within the custody of Chesterfield Animal Control over a week prior to exam of which a fully intact carcass also in their custody did not have an exam presented to the court nor photos of, and had already committed Constitutional Intrusion, Perjury (§16-9-10(A)(1)) and various other Federal and State Violations as explained in the Appellants Brief, therefore is not beyond reasoning that Chesterfield Animal Control had washed the carcasses prior to the exams.

THEREFORE, this Court should strike and disregard the Respondents Supplemental Record and to have the Respondents amended to comply to Rule 208(b4), SCACR

July 25, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

Motion Hearing

Page 03

Decision of the Court

Page 11

Certificate of Reporter

Page 13

CERTIFICATE OF REPORTER

13

I, the undersigned, Pamela Ozment-Cartee, official Court Reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the above captioned case, relative to appeal, in The Court of General Sessions in Chesterfield County, South Carolina, on the 8th day of May 2013.

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

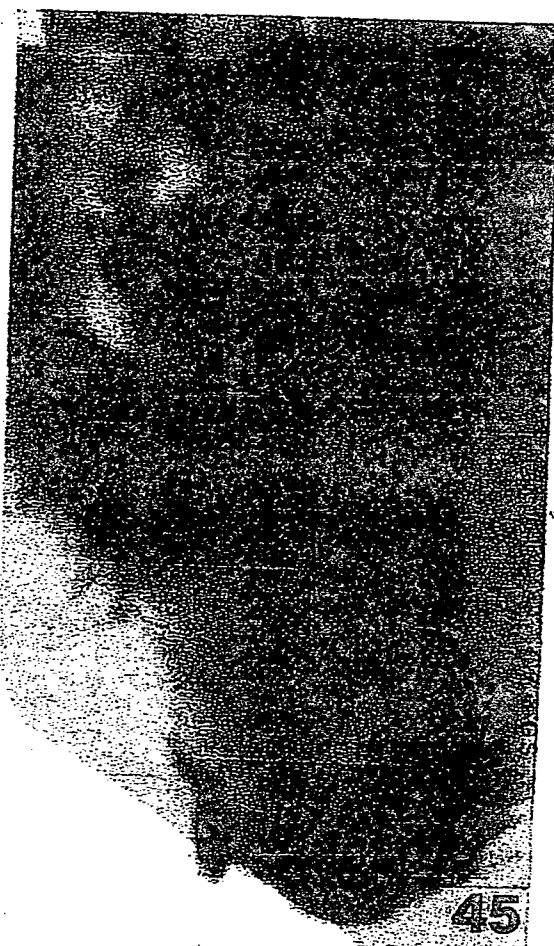
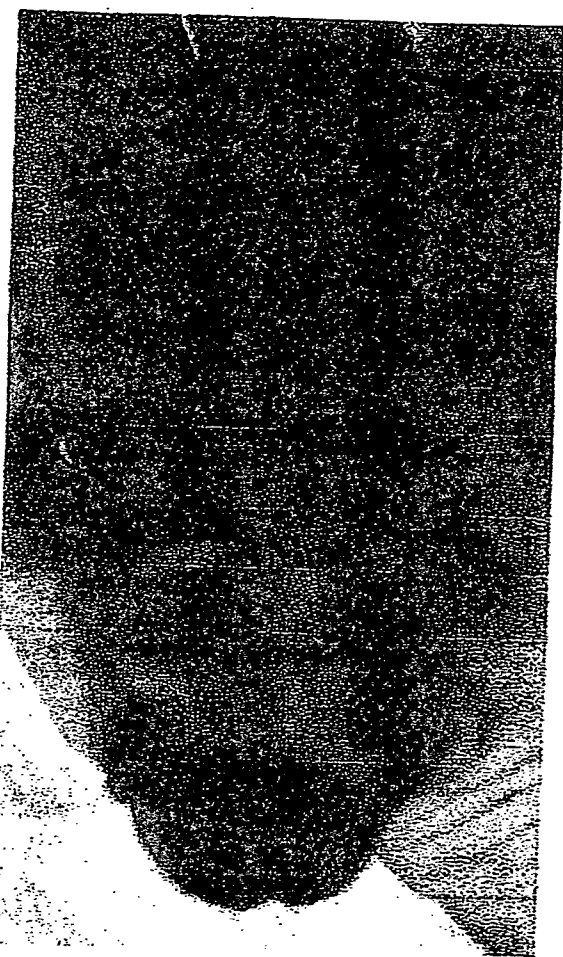
February 4, 2014

Pamela Ozment-Cartee

Pamela Ozment-Cartee
Circuit Court Reporter

Q19

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A True Copy Attest
Jorge C. Salgado

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,

Respondent,

vs.

FRITZ A. TIMMONS,

Appellant.

**MOTION TO STRIKE OR DISREGARD UNSUPPORTED STATEMENTS IN
APPELLANT'S INITIAL REPLY BRIEF**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

Procedural History

On March 18, 2013, the Honorable John A. Davis, of the Magistrate Court of Chesterfield County, held a bench trial in the case of Chesterfield County v. Fritz Timmons. Appellant Fritz Timmons attended to defend against the charges against him. Prior to the bench trial, Appellant raised two motions to dismiss. The magistrate judge denied each of the motions.

Following the bench trial, Judge Davis found Appellant guilty 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 with scheduled payments.

Thereafter, Appellant appealed the magistrate judge's ruling to the circuit court.

On May 8, 2013, the Honorable J. Michael Baxley held a hearing in circuit court regarding Appellant's appeal from the magistrate court. Judge Baxley ruled the appeal inartfully pled because Appellant filled out a civil appeal form, as opposed to a criminal appeal form, and Appellant did not appropriately state his exceptions to the magistrate court's judgment. Also, the court construed Appellant's arguments at the hearing to raise an issue of probable cause. However, the court determined there was sufficient probable cause based on the facts and the law presented.

Motion to Strike Factual Assertions, Statements, Arguments from Initial Brief of Appellant

It is Appellant's obligation to present an appropriate record on appeal, including moving the magistrate to correct the Return, if necessary. Price v. Pickens County, 308 S.C. 64, 416 S.E.2d 666 (Ct. App. 1992); State v. Barbee, 280 S.C. 328, 313 S.E.2d 297 (1984); State v. Adams, 244 S.C. 323, 137 S.E.2d 100 (1964). Any issue presented to this Court for consideration on appeal must have been raised to and ruled upon below. Price v. Pickens County, 308 S.C. at 64, 416 S.E.2d at 666. Specifically, the circuit court may not consider a question not presented to the magistrate, Indigo Associates v. Ryan Investment Co., 314 S.C. 519, 431 S.E.2d 271 (Ct.App. 1994), and this Court may not consider an issue not raised to the circuit court. A & I. Inc. v. Gore, 366 S.C. 233, 621 S.E.2d 383 (Ct.App. 2005). Upon appeal of the magistrate court's conviction, the magistrate shall file the notice of appeal in the circuit court along with the magistrate's return which includes the record and statement of proceedings and

testimony presented. City of Greenville v. Latimer, 80 S.C. 92, 61 S.E. 224 (1908). The circuit court is limited to consideration of these documents for the appeal. Id.

Once a case has been appealed from the trial court, the Record on Appeal can only contain matter presented to the trial judge. See Rule 210(c), SCACR (“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”). Significantly, “the appellate court will not consider any fact which does not appear in the Record on Appeal.” Rule 210(h), SCACR. Rule 210(c), SCACR, provides that the Record on Appeal “shall include all matter designated to be included by any party under Rule 209. . .” Critically, the rule further provides that the Record on Appeal “shall not, however, include matter **which was not presented to the lower court or tribunal.**” Id. (emphasis added).

In the case sub judice, Appellant presents a litany of factual assertions that are outside the Record on Appeal. Appellant asserts that Animal Control Officer Danielle Bowe’s testimony that “Canine Hanna” testified positive for hookworms and has tumors was incorrect, and that “Hanna” instead “has tumors and ulcers”. (App. Br. pp. 3, 10). Appellant states that he fed and watered his dogs and proceeded to work around 9:15 A.M. on the morning of March 4, 2013. (App. Br. p. 7). Appellant also asserts that Chesterfield County Animal Control (CCAC) travelled 35 miles to conduct a search and seizure, without a warrant, without probable cause, and without checking the dogs for positive ID for the express purpose of “gaining purebred dogs for quick profit by donation.” (App. Br. p. 7). Appellant asserts that CCAC failed to search the woods surrounding the property where the graves of deceased dogs were located. (App. Br. pp. 7-8). Appellant also asserts that CCAC failed to confiscate all the wildlife in the surrounding woods. (App. Br. p. 8). Appellant also makes assertions regarding the interrogation of a former resident of Appellant’s property, and alleges that threats were made by CCAC to that former

resident. (App. Br. p. 8). Appellant mentions purchasing “100 lbs of Adult dog food and 12 cans of food (for the recovering ill(d)sic) dogs) before proceeding to a local restaurant to eat.” (App. Br. p. 8). Appellant also presents factual assertions concerning a series of conversations with Chesterfield County Deputies. (App. Br. p. 8). Specifically, Appellant mentions a conversation with a Chesterfield County Deputy at a restaurant and a subsequent phone conversation with Deputy Jay Lewis. (App. Br. p. 8). Appellant then states that law enforcement did not leave any “seized items list” at the residence and that law enforcement damaged his property. (App. Br. p. 8). Appellant also mentions an interrogation by Animal Control Officers and Sheriff’s Deputies and threats by an animal shelter director, Jim McGonigal, including specific statements allegedly made by McGonigal to Appellant. (App. Br. pp. 9-10). Appellant also asserts that the dead animals found in the yard at the time of the search were strays and animals that were previously buried that had been dug up by wildlife and dragged into the yard. (App. Br. p. 10). Appellant states that he traveled to the Chesterfield County Animal County Animal Shelter where he verified that the digs taken matched his own. (App. Br. p. 11). Appellant further states that at the Animal Shelter he was shown a carcass of a dog that Appellant did not recognize and believed it must be a stray. (App. Br. p. 11). Appellant also states that when he returned home from the animal shelter, he discovered an uncovered grave of carcasses. (App. Br. p. 11). Appellant also asserts that on March 6, 2013, Jim McGonigal met Appellant at the McBee police station and served a portion of the summons tickets, due to McGonigal being too busy to write out the rest of the summons tickets. (App. Br. pp. 11-12). Appellant mentions that Danielle Bowe sent a list of dogs seized to Jay Lewis for the warrant return on March 4, 2013 that did not list a bag of food nor a pet carrier that housed a mother dog and puppies. (App. Br. p. 12).

Appellant also makes factual assertions regarding factual statements from media outlets allegedly relating to the instant case, including a local news outlet, various animal shelters' FaceBook pages, and a local newspaper. (App. Br. pp. 12-14, 18). Appellant also asserts that Judge Davis added photos of canine carcasses to his return that were not presented at the hearing. (App. Br. p. 15). Appellant also makes the assertion that the anonymous email received by law enforcement leading to a search of his property was based on a possible "torte" by Judge Paul M. Burch due to Judge Burch being contacted regarding a case he allegedly failed to render a decision in from May 25, 2011. (App. Br. p. 14). Appellant also quotes Chesterfield Ordinance 11-12-14 Section 10(B), seemingly asserting that law enforcement officers were not justified in taking his dogs before the disposition of his legal case. (App. Br. pp. 10-11).

The foregoing factual assertions made in Appellant's initial brief are not contained in the trial court record and have not been presented to the trial judge and cannot be included for consideration by this Court. The magistrate's entire return and the transcript of the circuit court appeal are produced in the Supplemental Record on Appeal. The Supplemental Record on Appeal contains the only material appropriate for this Court's consideration. Therefore, those assertions cannot appropriately be embodied in Appellant's brief pursuant to our appellate court rules. See Williamsburg Rural Water & Sewer Co., Inc. v. Williamsburg County Water & Sewer Auth., 367 S.C. 566, 571, 627 S.E.2d 690, 693 (2006) ("Nothing in the appellate court rules permits a party to unilaterally add after-created evidence to the record."); South Carolina State Highway Dep't v. Meredith, 241 S.C. 306, 311, 128 S.E.2d 179, 182 (1962) ("[C]ounsel is prohibited from embodying in their briefs any fact which does not appear in the record."); see also Rule 210(h), SCACR ("[T]he appellate court **will not consider any fact** which does not appear in the Record on Appeal." (emphasis added)). Accordingly, the State asks this Court to

either strike the arguments, statements, of factual assertions from Appellant's brief or decline to consider the factual assertions, arguments and statements included in Appellant's brief that do not appear in the record of the trial court and circuit court proceedings. The magistrate's return lists all documents, photographs, and testimony considered at trial. The circuit court's consideration was necessarily limited to the magistrate's return and information before the magistrate at the time of trial and for the purposes of the trial in **this** case.

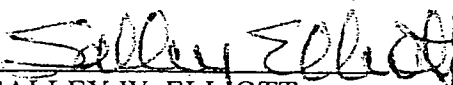
Appellant's brief also argues that the charges against him were civil. (App. Br. p. 17). Appellant also argues that his use of a civil appeal form was permissible. (App. Br. p. 17). The State submits that this argument is not available for appellate review. An argument made in a reply brief cannot present an issue to the appellate court if it was not addressed in the initial brief. Jackson v. Bi-Lo Stores, Inc., 313 S.C. 272, 277, 437 S.E.2d 168, 171 (Ct. App. 1993). Appellant failed to make this argument in his original brief, electing to wait until his reply brief to advance this theory. Appellant's argument should, therefore, be stricken from the reply brief and not considered by this Court.

WHEREFORE, Respondent prays that this Court will strike or disregard the portions of the Appellant's reply brief containing factual assertions not appearing in the record of the trial court proceedings or before the circuit court; strike or disregard the portion of the Appellant's reply brief containing an argument not present in Appellant's initial brief; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

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ATTORNEYS FOR RESPONDENT

July 22, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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.

APPELLANTS RETURN TO RESPONDENTS MOTION TO STRIKE OR
DISREGARD UNSUPPORTED STATEMENTS IN APPELLANTS INITIAL REPLY
BRIEF

With the Respondent claiming in their initial brief that it is the Appellants obligation to Correct the Record of the Magistrate, therefore, if it were possible to corrected the record of the Magistrate, a more accurate Record had been provided. With a Magistrate that Refused to uphold and has violated the Constitution of the United States, the Constitution of South Carolina, State and Federal Codes, Rules and regulation along with Conspiring with County Agencies, therefore, it would be Futile for the Appellant to

try to correct the Record of the Magistrate. The Magistrate Return is also written by the same Judge that has committed the above said along with the Refusal of this Judge to dismiss this Case for an Unconstitutional and unlawful Search Warrant of which is the same Judge that issued the Warrant.

Without this anonymous E-mail (R. p.2, p.7 L 15-21) that is stated by Jim McGonigal as being used to get the search warrant and the Appellant was **REFUSED** access to this evidence several times, therefore violating Rule 5(1c,d), SCRCrimP (Brady v. Maryland, 373 U.S. 83 (1963), ipso facto, the State has also failed to provide the veterinarian Exams for **ALL** of the Seized dogs that also violate Rule 5(1c,d), SCRCrimP (Brady v. Maryland, 373 U.S. 83 (1963), for each of the charges Therefore committing spoliation of evidence. Suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. **Chesterfield County** of which has violated the Appellants Constitutional Rights. Without this supposedly anonymous E-mail, the Respondent must prove the existence of probable cause to Constitutionally Intrude upon the Appellants property and inside the residency, State v. Weston, 329 S.C. 287, 494 S.E.2d 801 (1997), Illinois v. Gates, 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), Massachusetts v. Upton, 104 S.Ct. 2085 (1984). With Jim McGonigal stating "for more then 30 canines on property"(R. p. 2), referring to the said E-mail, of which, 6 of said canines was one week old at time of the search, therefore, the Respondent must prove that the said E-mail is not Fraud nor Torte.

In reference as to civil and/or criminal charges and appeal form, the Respondent

claims that the issue is not in the Initial Brief, On the Contrary, the issue is in the Initial Brief. On pages 7, 12, and 14 of the **Respondents Initial Brief** and with this as a **REPLY** Brief, the Appellant has Replied to this issue. Of which, the Charges as "CRIMINAL" was solely base upon the word of a dog catcher (CCAC Jim McGonigal) with only the authority of a constable that has charged the Appellant with **STATE CODE** violations on **UNIFORM COUNTY ORDINACE SUMMONS**, thus violating §19-3-10 and §56-7-80A, Ipso facto, contradicting **ATTORNEY GENERAL'S 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.". Not including the Constitutional Rights violations, with the above said, the charges that the Appellant was charged with and convicted of was invalid and unlawful, ipso facto, no valid criminal charges against the Appellant apply in this case.

With the Respondent claims to statements not in the Record, with the Appellants Constitutional Rights being violated at the Magistrate Court and at the Appeal at the Circuit Court, Therefore, without Court Rules providing a proper avenue for the Constitutional Rights Violations by the Lower Court, the Appellant must resolve to outside of the Record, especially with the Same Judge that issued an unconstitutional and unlawful Search Warrant and refused to dismiss the case for the Constitutional Violations has also recorded in writing the Record of the Magistrate Court and in the Judges prospective and without a signed testimony. Ipso facto, the Respondent must prove that:

(A) "1827 Tabernacle Church Rd. McBee" on the Affidavit for the items sought

complies to the particular Requirements of the Fourth Amendment in order to support the Search Warrant for the seized the Appellants dogs.

(B) "Property and Dwelling" on the Affidavit for the description of premises complies to the particular Requirements of the Fourth Amendment in order to support the Search Warrant to search the Appellants residency, barn, and yard although did not search the surrounding woods that is also part of the Appellants property.

(C) "Malnourished and dead animal outside and evidence of worse animals outside. No food or water for animals" on the Affidavit for the Reason for Belief that items sought is on the subject premises complies to the probable cause Requirements of the Fourth Amendment in order to support the Search Warrant.

An Affidavit which fails altogether to state time of occurrence of facts alleged therein is insufficient. State v. Winborne, 273 S.C. 62, 254 S.E.2d 297 (1979).

With photos of food and water on Record, ipso facto, perjury. How was "MALNOURISHED" determined other then by Assumption. A mere hunch, suspicion, guess or unfounded opinion that evidence or contraband will be produced by the search is not probable cause. State Code §47-1-10(1) establishes the meaning of an animal, "Animal" means a living vertebrate creature except a homo sapien, Therefore include all wildlife.

(D) "1827 Tabernacle Church Rd. McBee" on the Search Warrant for the description of premises to be searched complies to the particular Requirements of the Fourth Amendment in order to be a valid Search Warrant.

(E) "Abandoned or neglected animals" on the Search Warrant for the items sought

complies to the particular Requirements of the Fourth Amendment in order to be a valid Search Warrant, ipso facto, was the Search Warrant intended for neglected animals or for abandoned animals. Therefore the Respondent must prove that the Appellants **give up ABSOLUTELY** the canines in the Appellants residency, yard and property (§47-1-70). The Respondent must also prove Neglect under State Code §47-1-70 as stated on Uniform County Ordinance Summons.

(F) With the Return Dated as March 5, 2013, and signed by Judge John Davis and Deputy Jay Louis, along with the List Dated as March 7, 2013, violating Ipso facto, Perjury and Conspiracy of Both.

The primary principle is that if evidence is unconstitutionally obtained, it may not be used against the defendant. This is the so-called exclusionary rule. Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

Generally, 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]).

Rule 208(b4), SCACR does not require that **ALL** facts alleged to contain citations. To remove said would be an **obstruction of justice** due to the Constitutional Violations of the Lower Courts. Therefore, under Rule 208(b)(1)(C). SCACR, The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal.

The Respondent claims as to statements in the Appellants Initial Brief can not be included for consideration by this Court. If true, then this Motion can not be considered by this Court for the Counsels for this Motion is not a party nor a representative of the

State in this case. The Counsels withdrew from this case two days prior to the deadline for the Respondents Initial Brief. The Counsels then Motioned to relax rules 208, 209, 210, 211 and extension of time in which to file Respondents Initial Brief, Designation of Matter, Supplemental Record and Final Brief of Respondents WITHOUT petitioning nor motioning this Court for Reinstatement nor Substitution violating Rule 264, SCACR.

The South Carolina Appellate Court Rules are not mere Technicalities but provides the parties and this Court with a tool as an orderly guide through the Appeals Process. This tool is used by this Court to correct the Err of the Lower Courts. This tool is not to be used by Prosecutioners to obstruct Justice when the Lower Courts has committed Constitutional Rights Violations and/or consist of or be a part of corruption. This in turn Violates the Rights to Due Process.

With the Respondent Constantly trying to have this Court to Enforce Court Rules upon a Pro Se after the Respondent has already violated Rules 208, 209, 211, 212, 264, 407, and now 269 with this motion along with the willful violation of Order of April 18, 2014 with the failure to serve the Respondent Final Brief.

Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233 - Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

Picking v. Pennsylvania Railway, 151 F.2d. 240 - Third Circuit Court of Appeals The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard

to technicalities."

Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA) - It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per Justice Black in Conley v. Gibson.

Sherar v. Cullen, 481 F. 2d 946 (1973) - "There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights."

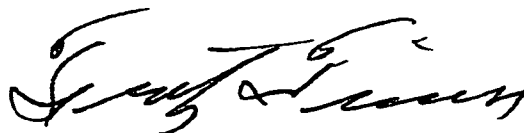
Haines v. Keaner, et al. 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 - a pro se complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers"

Rabin v. Dep't of State, No. 95-4310, 1997 U.S. Dist. LEXIS 15718 - "The court noted that pro se plaintiffs should be afforded "special solicitude."

Summary Court Judges Bench Book GENERAL A(2)(f) states "Unlike circuit courts and probate courts, magistrate courts are not courts of record. Proceedings in magistrates courts are summary. (S.C. Code Ann. § 22-3-730).", Therefore, there is no Record to be confined to as Respondent Claims. This case also was prosecuted by ACO Jim McGonigal in the magistrate court and not a County Attorney, Summary Court Judges Bench Book GENERAL A(5)) states "Prosecution of misdemeanor traffic violations in the summary courts may be made by the arresting officer or a supervisory officer assisting the arresting officer. County attorneys may prosecute violations of county ordinances in magistrates courts.", Ipso facto. Chesterfield Animal Control Officer Jim McGonigal was practicing law.

THEREFORE, this motion should be Denied in order for this Court to uphold the Constitution of the United States and the Constitution of South Carolina and to uphold Justice.

July 31, 2014



Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

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,

Respondent,

vs.

FRITZ A. TIMMONS,

Appellant.

**MOTION TO REQUIRE COMPLIANCE WITH COURT ORDER
AND MOTION TO STRIKE OR DISREGARD**

Respondent ("the State"), through its undersigned counsel, would respectfully show unto the Court as follows:

Procedural History

On March 18, 2013, the Honorable John A. Davis, of the Magistrate Court of Chesterfield County, held a bench trial in the case of Chesterfield County v. Fritz Timmons. Appellant Fritz Timmons attended to defend against the charges against him. Prior to the bench trial, Appellant raised two motions to dismiss. The magistrate judge denied each of the motions.

Following the bench trial, Judge Davis found Appellant guilty 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 with scheduled payments.

Thereafter, Appellant appealed the magistrate judge's ruling to the circuit court.

On May 8, 2013, the Honorable J. Michael Baxley held a hearing in circuit court regarding Appellant's appeal from the magistrate court. Judge Baxley ruled the appeal inartfully pled because Appellant filled out a civil appeal form, as opposed to a criminal appeal form, and Appellant did not appropriately state his exceptions to the magistrate court's judgment. Also, the court construed Appellant's arguments at the hearing to raise an issue of probable cause. However, the court determined there was sufficient probable cause based on the facts and the law presented.

Motion to Require Compliance with July 7th Court Order

The South Carolina Appellate Court Rules govern the form and content of appellate briefs. See Rule 208, SCACR (establishing the required format for initial briefs); Rule 211, SCACR (establishing the required format for final briefs). Pursuant to Rule 208(b) (4), SCACR, appellate briefs must contain references to transcripts or other matter supporting the facts alleged. "In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced[.]" Rule 208(b) (4), SCACR.

In his original brief, Appellant repeatedly cited to facts, testimony, and other documents allegedly presented during the trial court proceedings in his summary of the facts and in support of his appellate arguments. However, aside from a few occasions in the thirty-three page brief, Appellant did not include any identifying references to the transcripts or other materials supporting those factual allegations. ("[T]he South Carolina Appellate Court Rules are not mere

technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.”). Accordingly, the State asked this Court to either decline to consider the matters included in Appellant’s brief that are outside the Record on Appeal or Supplemental Record on Appeal and that are not supported by specific citations to the Record or require Appellant to file and serve an amended brief omitting the facts and statements that are not found in the Record before this Court and containing identifiable references to the transcripts or materials being referred to in support of Appellant’s factual allegations in a manner consistent with the requirements of our appellate court rules. In response to the State’s motion, this Court submitted an order on July 7, 2014, that required Appellant to file an amended brief complying with Rule 208(b)(4), SCACR, within fifteen days of the order. Appellant subsequently submitted an amended initial brief on July 16, 2014. Appellant’s amended brief utterly fails to comply with the aforementioned court order. Appellant’s amended brief is identical to the original brief. The only changes Appellant made was to change the form of citations in the argument section. For example, a citation to “(R. p. 9, line 2)” was changed to “(CT p. 12, line 2).” Other than this change in citation form, there were no substantive changes in citations in the amended brief. There are substantial blocs of information in the amended brief that contain no citing references where citing references are needed. The section entitled “STATEMENT OF THE CASE” in Appellant’s brief contains a long line of factual assertions without citing references. The State would like to note that Appellant’s assumed reasoning for excluding citing references was because the facts at issue are outside the Record on Appeal, therefore, it is impossible for Appellant to include citing references. Appellant, nonetheless, has failed to comply with the July 7th Court Order. The State asks this Court to either decline to consider the

requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. Due to the above said, the said letter (January 2013) was the bases for Torte accusations due to Judge Paul M. Burch violating the Appellants Rights to Due Process in the Circuit Court case number 2009-CP-16540 of which is now Appeal Case number 2013-002356 from under the same Circuit judge as this case but from another County. Judge Paul M. Burch happens to reside in same **Chesterfield County** of which has violated the Appellants Constitutional Rights. Without this supposedly anonymous E-mail, the Respondent must prove the existence of probable cause to Constitutionally Intrude upon the Appellants property and inside the residency, State v. Weston, 329 S.C. 287, 494 S.E.2d 801 (1997), Illinois v. Gates, 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), Massachusetts v. Upton, 104 S.Ct. 2085 (1984). With Jim McGonigal stating “for more then 30 canines on property”(R. p. 2), referring to the said E-mail, of which, 6 of said canines was one week old at time of the search, therefore, the Respondent must prove that the said E-mail is not Fraud nor Torte.

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(A) "1827 Tabernacle Church Rd. McBee" on the Affidavit for the items sought complies to the particular Requirements of the Fourth Amendment in order to support the Search Warrant for the seized the Appellants dogs.

(B) "Property and Dwelling" on the Affidavit for the description of premises complies to the particular Requirements of the Fourth Amendment in order to support the Search Warrant to search the Appellants residency, barn, and yard although did not search the surrounding woods that is also part of the Appellants property.

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(D) "1827 Tabernacle Church Rd. McBee" on the Search Warrant for the description of premises to be searched complies to the particular Requirements of the Fourth Amendment in order to be a valid Search Warrant.

(E) "Abandoned or neglected animals" on the Search Warrant for the items sought complies to the particular Requirements of the Fourth Amendment in order to be a valid Search Warrant, ipso facto, was the Search Warrant intended for neglected animals or for abandoned animals. Therefore the Respondent must prove that the Appellants **give up ABSOLUTELY** the canines in the Appellants residency, yard and property (§47-1-70). The Respondent must also prove Neglect under State Code §47-1-70 as stated on Uniform County Ordinance Summons.

(F) With the Return Dated as March 5, 2013, and signed by Judge John Davis and Deputy Jay Louis, along with the List Dated as March 7, 2013, violating Ipso facto, Perjury and Conspiracy of Both.

The primary principle is that if evidence is unconstitutionally obtained, it may not be used against the defendant. This is the so-called exclusionary rule. Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

Generally, 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]).

With the **previous Motion to strike Factual Assertions, Statements, Arguments from Initial Brief of Appellant** being "**DENIED**" (order of July 7, 2014) (B.Platsky v. CIA, 953 F.2d 25, 26 28 (2nd Cir. 1991), "Court errs if court dismisses pro se litigant without instruction of how pleadings are deficient and how to repair pleadings."), Therefore, this is a **FRIVOLOUS APPEAL** (Rule 269, SCACR). Rule 208(b4), SCACR does not require that **ALL** facts alleged to contain citations. To remove said would be an **obstruction of justice** due to the Constitutional Violations of the Lower Courts.

Therefore, under Rule 208(b)(1)(C). SCACR, The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal.

With the Respondent Constantly trying to have this Court to Enforce Court Rules upon a Pro Se after the Respondent has already violated Rules 208, 209, 211, 212, 264, 407, and now 269 with this motion along with the willful violation of Order of April 18, 2014 with the failure to serve the Respondent Final Brief.

Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240; Pucket v. Cox, 456 2nd 233 - Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

Picking v. Pennsylvania Railway, 151 F.2d. 240 - Third Circuit Court of Appeals The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities."

Puckett v. Cox, 456 F. 2d 233 (1972) (6th Cir. USCA) - It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per Justice Black in Conley v. Gibson.

Sherar v. Cullen, 481 F. 2d 946 (1973) - "There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights."

Haines v. Keaner, et al. 404 U.S. 519, 92 s. Ct. 594, 30 L. Ed. 2d 652 - a pro se complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers"

Rabin v. Dep't of State, No. 95-4310, 1997 U.S. Dist. LEXIS 15718 - "The court noted that pro se plaintiffs should be afforded "special solicitude."

With the Respondent Constantly trying to have this Court to Enforce Court Rules upon a Pro Se after the Respondent has already violated Rules 208, 209, 211, 212, 264, 407, and now 269 with this motion along with the willful violation of Order of April 18, 2014 with the failure to serve the Respondent Final Brief.

Summary Court Judges Bench Book GENERAL A(2)(f) states "Unlike circuit courts and probate courts, magistrate courts are not courts of record. Proceedings in magistrates courts are summary. (S.C. Code Ann. § 22-3-730).", Therefore, there is no Record to be confined to as Respondent Claims. This case also was prosecuted by ACO Jim McGonigal in the magistrate court and not a County Attorney, Summary Court Judges Bench Book GENERAL A(5)) states "Prosecution of misdemeanor traffic violations in the summary courts may be made by the arresting officer or a supervisory officer assisting the arresting officer. County attorneys may prosecute violations of county ordinances in magistrates courts.", Ipso facto. Chesterfield Animal Control Officer Jim McGonigal was practicing law.

THEREFORE, this motion should be Denied in order for this Court to uphold the **Constitution of the United States** and the **Constitution of South Carolina** and to uphold **Justice**.

July 31, 2014

Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

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

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 on of 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 crimmminal?
- (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.

416

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

(327 TREEMACLE CHURCH RD. NEEBEDESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHEDPROPERTY AND DWELLINGREASON 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 14th day of March, 2013.

Signature of Judge

(LS.)

COPY

[Signature]

Affiant

Address SCOTCH RD.

24

WESTERFIELD, SC.Phone 623-2101

SEARCH WARRANT

March 15, 1978

JUDGE OR CLERK OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY

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

1817 TARRANCE OVERSEA RD. N. W. 1817

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
DOINARS

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 - 845-625-9009

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.

Chesler L. L.

, S.C.

March 4

2013

25

COPY

Signature of Judge

(L.S.)

418**RETURN**

I received the attached Search Warrant 35-13, 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 PEARL - PRESENT
1 RED PEARL - POOR (1 RED TANK 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] (L.S.)
 Signature of Judge

[Signature]
 (Signature of Officer Executing Warrant)

419

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

A rectangular stamp with the word "COPY" in a bold, sans-serif font. The stamp is slightly tilted and has a thin border.

Danielle N. Bowe, Director



57
420

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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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

Danielle N. Bowe, Director

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

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.

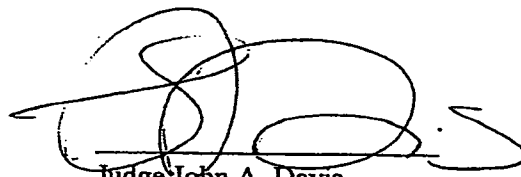
County animal control and deputies testified the conditions of the property were not suitable conditions for the numerous animals on the property. Officers testified there was half a bag of dog food on the property, puppies being housed inside a partially dilapidated mobile home with feces covering interior 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,

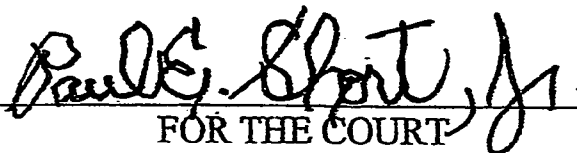
v.

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
10/17/14

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.

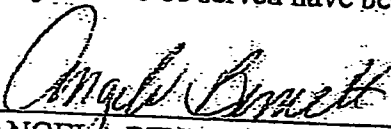
Appellant.

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)

IN THE CIRCUIT COURT

COUNTY OF CHESTERFIELD)

Chesterfield County)

Vs.)

RETURN OF THE CRIMINAL APPEAL

Fritz Allen Timmons)

1827 Tabernacle Church Road)

McBee, SC 29101)

Defendant.)

APPEAL FROM THE
MAGISTRATE COURT
OF CHESTERFIELD COUNTY, S.C.
JUDGE JOHN A. DAVIS

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

2013 CP 13-150

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.

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

5426

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.

CLERK OF COURT C.F. & C.S.
CHESTERFIELD COUNTY, SC

[Handwritten signature]

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

2013 MAR 28 PM 4 02

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 lacked 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 mats 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 was 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 whes 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, whish each carry a penalty of \$200 in fines.

Conley said she had no intention of hiring an attorney untill Jan. 16 when officers retuned 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 they 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', written in a cursive style.

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

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Case No.2013-001415

Opinion No. 2016-UP-039

The State

Respondent,

v.

Fritz Allen Timmons

Appellant.

CERTIFICATE OF COUNSEL

The Appellant certifies that the APPENDIX complies to Rule 242 SCACR.



Respectfully Submitted
Fritz A. Timmons, Pro Se
P. O. Box 367
Hartsville, SC 29551

April 22, 2016