

BEFORE THE SUPREME COURT ("S Ct") OF SOUTH CAROLINA ("SC")

City of Columbia

Plaintiff/Respondent,

Number 2021-000047

v.

From Richland County 2010CP4007063

Marie Assa'ad-Faltas, MD, MPH *Defendant/Appellant.*

DEFENDANT/APPELLANT'S *TIMELY* PROVISIONAL SUPPLEMENT TO HER PETITION TO REHEAR THE 31 AUGUST 2022 ORDER AND FOR MISCELLANEOUS *OTHER* RELIEF

[W]hat is already obvious: *Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—“has no place in law under the Constitution.” 323 U. S., at 248 (Jackson, J., dissenting)

Trump v. Hawaii, No. 17-965 582 U.S. ___, slip op. at 38, 138 S. Ct. 2392, at 2423 (2018).

Although I authored *Brand X*, “it is never too late to ‘surrende[r] former views to a better considered position.’” *South Dakota v. Wayfair, Inc.*, 585 U. S. ___, ___ (2018) (THOMAS, J., concurring) (slip op., at 1) (quoting *McGrath v. Kristensen*, 340 U. S. 162, 178 (1950) (Jackson, J., concurring)) Justice Thomas’ dissent from denial of *certiorari* in *Baldwin v. U.S.*, 589 U.S. _ (2020).

Roe was egregiously wrong from the start. Its reasoning was exceptionally weak, and the decision has had damaging consequences. * * * * * The nature of the Court’s error. An erroneous interpretation of the Constitution is always important, but some are more damaging than others. The infamous decision in *Plessy v. Ferguson*, was one such decision. It betrayed our commitment to “equality before the law.” 163 U. S., at 562 (Harlan, J., dissenting). It was “egregiously wrong” on the day it was decided, see *Ramos*, 590 U. S., at ___ (opinion of KAVANAUGH, J.) (slip op., at 7), and as the Solicitor General agreed at oral argument, it should have been overruled at the earliest opportunity, see Tr. of Oral Arg. 92–93. *Roe* was also egregiously wrong and deeply damaging. For reasons already explained, *Roe*’s constitutional analysis was far outside the bounds of any reasonable interpretation of the various constitutional provisions to which it vaguely pointed. *Roe* was on a collision course with the Constitution from the day it was decided, *Casey* perpetuated its errors, and those errors do not concern some arcane corner of the law of little importance to the American people. Rather, wielding nothing but “raw judicial power,” *Roe*, 410 U. S., at 222 (White, J., dissenting), the Court usurped the power to address a question of profound moral and social importance that the Constitution unequivocally leaves for the people.

Dobbs v. Jackson Women’s Health Organization, 597 U. S. ___ (2022), slip opinion at 6 and 44-5.

The majesty of the law is not the tyranny of the robe. Kings act “of their own volition.” U.S. judges may act only on cases or controversies. The “judicial power” *in the republican form of government* guaranteed to every state by the U.S. Constitution, Article IV, Section 4, does not extend beyond the power to decide cases or controversies between/among parties who voluntarily submitted to, or were properly brought within, a court’s jurisdiction. **This Court is neither final nor infallible. And the right to speak for oneself derives from a source even higher than the Constitution.**

No case or controversy of Marie Assa’ad-Faltas, MD, MPH (“Dr. Assa’ad-Faltas” or “Dr. Faltas”) was before this Court on 27 September 2017; nor had there *ever* been any complaint to this Court from lower courts about her conduct or advocacy; e.g., testimony of Former Clerk Dan Shearouse in the 22 March 2022 *quasi*-trial in SC Appellate Case 2021-000815, Tr. pp 47 and 66, respectively:

[17-23] Q: Have you finished? Can I ask a new question which was really my original question? And let’s get a clean answer please, and I’m trying to make the question as clean as possible. **Is there a record from any lower court, be that the Court of Appeals of South Carolina or the circuit court or the summary courts complaining to this Court that I was filing frivolous documents?**

[24-25] A: As I indicated earlier, I’m not aware of any such complaints being filed. * * * * *

[10-11] JUSTICE KITTREDGE: Did you have anything else you want to say in response to the last question?

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[12-15] **MR. SHEAROUSE:** Your Honor, only that if her question is was I aware, am I aware of what caused the September 2017 order to come, **I do not remember what caused that order to be issued by the Court.**

Rather, as early as 18 February 1994, at hearing transcript pp 22, lines 2-4, and 25, lines 19-22, respectively, now-Senior U.S. District Judge (DSC) Anderson complimented Dr. Assa'ad-Faltas:

THE COURT: You'll get no argument from me that you are a very bright individual. That is quite apparent. *****
How long have you been studying the law? It's amazing to me that you can sit here and discuss these concepts.
How long have you been reading law?

On 29 September 1995 at another hearing transcript page 107, lines 13-22, Judge Anderson added:

Doctor Faltas, I said several times in this litigation you impressed me to a significant extent with your knowledge of the law. Indeed you handle yourself better than a lot of lawyers who come into this court. On this issue I do think you are confusing some concepts. Subject matter jurisdiction is one thing, personal jurisdiction is something else. Your brief at times seems to squash those two together. The question of personal jurisdiction is a question of whether this court has the power to require these defendants to answer here in this court.

And on 22 February 2022, in the *Faretta* hearing in SC Appellate Case 2021-000815, at transcript pp 18-19, SC Associate Justice Few had similar compliments for Dr. Assa'ad-Faltas:

I am aware that you are highly educated. In fact, you have multiple degrees including a Master's in Public Health from the University of North Carolina. You have a graduate degree in medicine from a university in Cairo. You have, in fact, practiced medicine professionally, and you actually taught preventative medicine at the University of South Carolina School of Medicine. This educational background indicates that you are a highly intelligent woman. And I will note that you have listed that you are self-employed as a consultant in medical legal issues. And you have told the Court before that you speak four languages. Your understanding of legal principles and procedures is important to this question. We are aware that you have been involved in extensive litigation over many years at all levels of Court here in South Carolina, both federal and state. From my review of those cases over the years, and from my review of the motions and the returns and the other documents that you have filed in this case, it is my impression that you have a broad and deep understanding of legal principles and procedures.

SC Circuit Judge Clifton Newman, before whom Dr. Assa'ad-Faltas advocated *pro se* for a five-day trial preceded by an *impromptu* hearing and followed by two scheduled others, complimented her conduct *during the trial* as "most pleasant and gracious" and her advocacy as "not frivolous[] at all."

At *revised* (but not *fully* corrected) transcript of the 21 August 2017 hearing, which engendered the orders appealed herein (attached), p 39, lines 22-25, SC Circuit Judge Clifton Newman confirmed:

DR. FALTAS: Yes, sir. I was a litigant in your court. You complimented me when you saw all this –

THE COURT: You did a very fine job. I thought you were as worthy as your adversaries, and the jury agreed.

"There is no intellectually honest way" to reconcile those compliments (bracketing others) over three decades in South Carolina {"SC"} alone) with false portraits of Dr. Assa'ad-Faltas as a "prolific frivolous filer," a leprous ogre on a craze of vex and frivolity for no discerned purpose other than to maximize her contacts with SC jurists and court staff.

Nor can there be justice for Dr. Assa'ad-Faltas unless this Court follows the U.S. Supreme Court in recognizing the error of its precedents that denied the very humanity of a class of people (the unborn in *Roe*, Japanese Americans in *Korematsu*, African Americans in *Plessy*), rationalized denial to them of the right to life itself and of equal protection of the laws, and criminalized their normal travel.

This Court denied Dr. Assa'ad-Faltas' *basic human right* to speak for herself, ignored her *medical prediction* that a six-month incarceration sentence is "a death sentence" (transcript of 22 March 2022 *quasi*-trial in SC Appellate Case 2021-000815 at p 50, lines 14-16) and criminalizes her access to the courts just as *Plessy's* purchase of a first-class train ticket was ruled a crime. The falsity of the *Plessy* pretext that whites need insulation from blacks is mirrored by the falsity of the pretexts that SC's state courts need a lawyer layer of insulation from Dr. Assa'ad-Faltas, the leper, the ogre, the *etc.*

The 31 August 2022 ORDER's pretext for dismissing this appeal ("circuit court did not rule on the tardy motion at the time, apparently because the matter was final,") is debunked by law and many facts.

First fact: the circuit court did not rule *for four years because the motion was not scheduled by the circuit court's clerk for four years*. First law: SC's state courts' clerks' role is **ministerial only**; e.g., this Court's 3 June 2021 ORDER in *Barnes v. State* (attached), 859 S.E.260 (SC 2021), also SC Advance Sheets ("SCAS") No. 182021, pp 53-56. Just as the circuit court clerk is required to file the papers regardless of their merits, (s)he is required to schedule the filed motions for hearing **in the order they were received, again without opining on their merits or timeliness**. That is for the circuit judges *alone* to do. **This Court's having given Michael T. Barnes, a murder convict, better treatment than Dr. Assa'ad-Faltas, a ten-times exonerated quadrilingual MD, MPH, continuously complimented by when-disinterested federal and state jurists is glaring.**

Second fact: when scheduled before him four years late, SC Circuit Judge Clifton Newman *did* rule on the motions to appoint counsel **and granted one** for 2011-CP-40-03527. SC Circuit Judge Jocelyn Newman shortly thereafter *correctly and courageously* ruled that the *only* reading of this Court's 27 September 2017 ORDER consistent with equal protection allows Dr. Assa'ad-Faltas to prosecute *pro se* her PCR 2017-CP-40-06831. **Thank God, she won it pro se twice and created a record so strong it withstood the State's certiorari petition, SC Appellate Case 2019-000708.**

Second law: In SC, PCRs may grant belated appeals and may be equitably tolled. *Barnes, supra*, and citations therein. *Vide etiam* this Court's 7 January and 28 March 2016 ORDERS in SC Appellate Case 2016-001972 (attached), tolling time to file PCR by pendency of motion to appoint counsel.

Third fact: Dr. Assa'ad-Faltas filed her motions to appoint counsel **within 30 days** of this Court's 28 June 2013 ORDER in SC Appellate Case 2013-000862 (attached) allowing her to do so and implicitly modifying this Court's bizarre 8 April 2011 ORDER (attached) issued **the right after this very Court's 7 April 2011 ORDER "appreciate[ing] Dr. Faltas' good faith" (also attached).**

Third law: declarations of *substantive* rights are **always** retro-active. *Edwards v. Vannoy*, 593 U.S. _ slip opinion at 19-20 (2021). From 8 April 2011, Dr. Assa'ad-Faltas could have been held in contempt had she tried to file anything *pro se*. (Indeed, any lawyer who tried to file anything on her behalf without first obtaining this Court's approval, could have been held in contempt of court although the 8 April 2011's wording is directed **only to clerks**). This Court's 28 June 2013 ORDER declared Dr. Assa'ad-Faltas' *substantive* right to not be prosecuted for contempt of court for filing a *pro se* motion to relieve counsel or a *pro se* motion to appoint counsel. **It is perforce retroactive at least in making the July 2013 motions to appoint count retroactively timely.**

Fourth and foremost set of facts and law: **Without science, what calls itself "the law" is glorified witchcraft.** Due to the time and printing expense limitations, Dr. Assa'ad-Faltas incorporates herein by reference: (1) her 7 October 2022 Motions for extension of time in this case and in SC Appellate Case 2021-000049; (2) the attachments to the latter (though, for mysterious reasons, they are not uploaded to C-Track); (3) the exhibits to her 21 October 2021 formal inquiry into the disappearance of this case and two others from C-Track; (4) her 28 May 2021 motion to reopen denial of intervention in 10-cv-132-JFA (USDC, DSC) (attached) and the attachments thereto (not attached); (5) all attachments to her *pro se* motions and appeals in SC Appellate Case 2019-000708; and (6) the records returned from Richland County Circuit Court of Common Pleas ("RCCCCP") in this case and in SC Appellate Cases 2021-000048 and 2021-000049 **including particularly the audio of the 28 March 2011 event in Columbia's Municipal Court ("CMC") before Marion Oneida Hanna though, as of this morning, the link still returns an error message.** Even if it were as accessible *to this Court* as it was to SC's Commission on Judicial Conduct, **the public is still entitled to hear for itself how some robe-wearers acted when not observed by the public.**

The attachments hereto are numbered *seriatim* to the attachments to the ten exhibits uploaded in this cases and thus start from 11. **But the motion for extension to further supplement this supplement and to file the further supplement by e-mail are hereby reiterated.**

On reading *Rampey*, Dr. Assa'ad-Faltas took time and effort to read the antecedent cases and watch the oral arguments *before this Court* in *Rampey* and in *Taylor* (DIGed by SC S Ct Opinion 27985 on 24 June 2020), read the last third of *Rampey's* trial transcript, and look up Mr. Rampey's incarcerated inmate page and realized he has about completed his sentence on a conviction that was unconstitutionally procured and that could have been prevented *or vacated much earlier* had this Court, SC Court of Appeals ("SC CoA"), SC's Judiciary not been hostile to Dr. Assa'ad-Faltas' scientific ideas.

With no offense intended, the same SC Judiciary who insists Dr. Assa'ad-Faltas can *inter alia* be "appreciate[d for her] good faith" on 7 April 2011 can *magically* become frivolous and vexatious on 8 April 2011 and be "most pleasant and gracious" on 24 February 2010 then *magically* become "rude and obstructive" on 31 March 2010, believes that it can bestow on the jury *magical* powers to find the truth by instructing it to stare at witnesses.

That judiciary thinks talismanic "model" charges, if fully read, *magically* become due process of law. SC CoA's Opinion 5655, at advance slip p 9, astutely notes "Also, telling the jury the case will "have" to be retried is misleading. A hung jury often acts as an alarm bell to all but the unthinking, awakening one side (sometimes both) to weaknesses in their case, which can lead to a plea deal rather than a retrial." But it is impossible to believe SC's (or the U.S.'s) judiciary was unaware of that till then.

Also, the coxing "no 12 people who are smarter and more conscientious than you can be assembled" is a biostatistical unlikelihood, if not impossibility: **if jurors are random samples of their communities, it is unlikely, if not impossible, that every time a jury deadlocks, that jury was drawn from the extreme (not average) end of the intelligence Bell curve of the county.**

This Court reacted to Dr. Assa'ad-Faltas' scientific ideas and studies by denying her *basic human right* to speak for herself and her civil right to equal access to the courts, and by incarcerating her in a facility *pre-known ahead* unsafe for her. **Does this Court want its *City of Columbia v. Assa'ad-Faltas* Opinion 27723 to be categorized with *Plessy, Korematsu, and Roe*?**

WHEREFORE, the 31 August 2022 dismissal of this appeal should be reheard and reversed; and plenary *pro se* briefing and oral arguments should be allowed.

Sincerely submitted on 11 October 2022.



s/ Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant pro se
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Certificate of Service Satisfying the Substance of Form 7 and of all Relevant Rules, SCACR

On 11 October 2022, I served Ms. Amye Rushing and Mr. Marshall James, Counsel for the City of Columbia and sole opposing counsel in this case, with a true and complete copy of this document **by personally hand-delivering a paper copy of it** to the location of the City of Columbia's Legal Department's office on Washington and Main Streets, Columbia, SC 29201, and there and then hand-delivering it to a person long known to me to be approved and entrusted to deliver it to Ms. Rushing and Mr. Marshall, all with an additional copy served by e-mail, **solely as a courtesy**, all God so willing.

s/Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant/Movant and here server pro se
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