

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 Marie Assa'ad-Faltas,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2019-CP-40-0112

**ORDER DENYING APPLICANT'S
 MOTION TO RECONSIDER OR
 MOTION FOR A NEW TRIAL**

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 RICHLAND COUNTY
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This matter is before the Court by way of Applicant's "Motion to Reconsider or in the Alternative New Trial," filed on March 7, 2023. After consideration, the motion is **DENIED**.

Procedural History

This PCR application arises from a simple assault conviction in the City of Columbia Municipal Court; the warrant (L-66971) was issued September 11, 2009. On April 25, 2013, Applicant proceeded to a bench trial before the Honorable Carl L. Solomon. Theodore N. Lupton represented Applicant and David Fernandez prosecuted the case. Judge Solomon found Applicant guilty of simple assault and sentenced her to twenty days' detention.

Applicant appealed to the circuit court (2013-CP-40-3522), and the Honorable Allison Lee held a hearing on December 13, 2013. Applicant appeared pro se. On April 17, 2015, Judge Lee issued an order affirming Applicant's conviction.

Applicant appealed Judge Lee's order, and then-Appellate Defender John H. Strom filed a brief arguing the municipal court violated Applicant's right to proceed pro se. The South Carolina Supreme Court affirmed. See City of Columbia v. Assa'ad-Faltas, 429 S.C. 28, 800 S.E.2d 782 (2017). Applicant filed a petition for writ of certiorari with the United States Supreme Court, which denied certiorari on October 1, 2018, and denied Applicant's petition for rehearing on

January 7, 2019.¹

Current Application

Applicant filed the current PCR application on January 7, 2019, and an amended application on August 25, 2021, raising a total of forty-five allegations.² Respondent filed a return requesting an evidentiary hearing; an amended return; and a second amended return.

On November 16-17, 2022, an evidentiary hearing convened before the Honorable D. Craig Brown. Applicant was represented by Timothy L. Griffith, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. Despite being notified by this Court on November 2, 2022, that she would be required to appear in-person at this hearing, Applicant failed to attend.³ In her absence, Mr. Griffith did not have any witnesses to call or any other evidence to present. Based on Applicant's failure to attend and submit any evidence or testimony to support the allegations in her application, this Court found Applicant failed to meet her burden of proof, denied relief, and dismissed her Application with prejudice. On February 8, 2023, this Court issued an order of dismissal. On March 3, 2023, Applicant served a copy of her "Motion to Reconsider or in the Alternative New Trial" on Respondent.

¹ While Applicant's appeal in the circuit court was pending, Applicant filed a motion for a new trial based on after-discovered evidence. On February 27, 2019, the Honorable Phillip Newsom issued an order denying Applicant's motion for a new trial. Applicant timely appealed to the circuit court (2019-CP-40-1374), and the Honorable D. Craig Brown held a hearing on January 28, 2022. On February 9, 2022, Judge Brown issued an order affirming the magistrate's denial of Applicant's motion for a new trial. This order is currently pending on appeal in the South Carolina Court of Appeals (2022-000339).

² The allegations are set forth in this Court's February 8, 2023 order dismissing this application.

³ Applicant likewise did not attend her other PCR hearing scheduled for November 16, 2022 (2019-CP-40-2217) or either of her PCR hearings scheduled for November 17, 2022 (2019-CP-40-2218, -2219). She did, however, attend the November 18, 2022 hearing in Austin Woods Apartments v. Marie Assa'ad-Faltas (2018-CP-40-963), in which she was permitted to proceed pro se. The Undersigned, who was vested with exclusive jurisdiction of all these cases pursuant to a September 15, 2020 order issued by the Supreme Court of South Carolina, finds Applicant did not have an apparent health condition that prevented her from attending court on November 18, 2022.

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Denial of Applicant's Motion

In her Motion to Reconsider, Applicant contends this Court “had and should have considered a Judgment on the voluminous Pleadings.” After reviewing Applicant’s motion and this Court’s order of dismissal, this Court finds Applicant’s argument is without merit. This Court’s order of dismissal found Applicant failed to present any evidence to support the allegations in her application and amendment, and thus failed to meet her burden of proof. Applicant has not alleged any argument was overlooked or misapprehended by this Court. Further, Applicant is not requesting an alteration or amendment to the Order; rather, Applicant is asking this Court to reconsider its ruling and grant Applicant post-conviction relief. This Court sees no basis to reconsider its ruling; thus, this Court finds this motion should be denied in full.

AND IT IS SO ORDERED THIS 6 day of April, 2023.



D. CRAIG BROWN
Presiding Judge
Fifth Judicial Circuit

Florence, South Carolina

