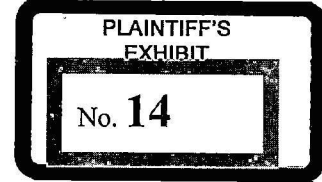


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**JUN 09 2023**

State of South Carolina  
County of Richland

Court of Common Pleas **S.C. SUPREME COURT**



Marie Assa'ad-Faltas )  
 )  
 Applicant, )  
 v. )  
 )  
 State of South Carolina )  
 )  
 Respondent.)

Transcript of Record  
2018-CP-40-01798

December 28, 2018  
Columbia, South Carolina

**B E F O R E:**

The Honorable Clifton Newman, Judge.

**A P P E A R A N C E S:**

Christopher Stephen Truluck, Esquire  
Stand-by Counsel for the Applicant

Megan Jameson, Esquire  
Counsel for the Respondent

Bethanie K. Creppon  
Circuit Court Reporter

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WITNESS

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## P R O C E E D I N G S

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1  
2  
3 THE COURT: Yes, sir.

4 MR. TRULUCK: Your Honor, it's a little  
5 unusual, but with Dr. Faltas' permission, she's  
6 allowing me to address the Court first.

7 THE COURT: Well, you're already addressing the  
8 Court and all the issues regarding this. I'm guided  
9 by the order of the supreme court, so I'm not  
10 certain that I'm following your  
11 with-Dr.-Faltas'-permission statement.

12 MR. TRULUCK: I'll explain, Your Honor.

13 THE COURT: All right.

14 MR. TRULUCK: Your Honor, I was initially  
15 appointed to one of Dr. Faltas' PCRs earlier this  
16 year by Judge Jocelyn Newman. I had never handled a  
17 PCR before. I wasn't on the PCR list; I was on the  
18 608 list as a criminal attorney. It's my  
19 understanding that list was exhausted, so pursuant  
20 to the procedural rules set forth by the supreme  
21 court, Judge Jocelyn Newman elected to appoint me as  
22 Dr. Faltas' PCR attorney.

23 Initially I was surprised considering I've  
24 never handled a case like that before. I spoke with  
25 Judge Newman and she explained that she had hoped

1           that I would be able to work with Dr. Faltas. And  
2           in the interest of assisting Dr. Faltas when, I  
3           believe, that it may be difficult to find other  
4           attorneys to do so, I agreed and did not object to  
5           the appointment.

6           Over the course of the last, approximately, ten  
7           months, Your Honor, I agreed to take two additional  
8           cases for Dr. Faltas, both because there's limited  
9           counsel to assist her, and to further grow a sense  
10          of trust between both of us --

11          THE COURT: But pursuant to being appointed by  
12          the court or based on your own free will?

13          MR. TRULUCK: Court appointment, Your Honor.  
14          But it was also consensual. When she asked that  
15          somebody take her case, I went to, on one occasion,  
16          Judge Jocelyn Newman, and she appointed me to a  
17          second PCR case and Judge Hood appointed me to a  
18          summary court case that she had.

19          In all of these appointments, Your Honor, I was  
20          appointed standby counsel only; specifically only to  
21          assist her with pre- and post-hearing matters, and  
22          that she had her right to represent herself in a  
23          full pro se capacity at the individual hearings for  
24          both her PCRs, and with regard to the summary court  
25          matter, she is actually a defendant in that, so she

1 has full representation ability both -- through the  
2 entire action. I'm only to assist her in the legal  
3 matters, Your Honor.

4 I've represented her, Your Honor, now for  
5 approximately ten months. I know that there's been  
6 a lot of communication between my office and  
7 possibly even Dr. Faltas and the AGs to your office  
8 and to Ms. Reid about the nature of our  
9 representation. There have been mentions of  
10 requests to have me relieved. Dr. Faltas and I have  
11 had those conversations --

12 THE COURT: Requests --

13 MR. TRULUCK: There have been -- I want to say  
14 several, but that might be an exaggeration. But  
15 certainly more than one request to have me relieved  
16 over the course of that ten-month period. It has  
17 never been because Dr. Faltas and I have not worked  
18 well together and do not get along; it has because  
19 of either differences in strategy or possibly that  
20 there are some things I feel differently about and  
21 do not want to do, and I believe, and I believe  
22 Dr. Faltas believes, restricts her from fully  
23 handling her case.

24 So we've dodged that bullet several times and  
25 continue to work together. We have been successful

1 in her first PCR. She had Judge Goldsmith and Judge  
2 Gravely rule for her and grant her PCR. The AG's  
3 office, for a second time, has moved to reconsider  
4 that grant.

5 The other PCR, Your Honor, is about to be  
6 dismissed, is my understanding, by Judge Sprouse  
7 without prejudice because she has issues that are  
8 pending before the supreme court and/or being  
9 considered before the Supreme Court of the United  
10 States and she is supposed to be allowed to re-file  
11 that later.

12 So for those two cases, they are very, very  
13 nearly complete, Your Honor. You can say that one  
14 is already complete and the final case, Your Honor,  
15 is one where Dr. Faltas represents herself as the  
16 defendant in which case she does not require  
17 assistance.

18 THE COURT: So in the cases that you have said  
19 are complete or nearly complete, then what's the  
20 necessity of your being relieved?

21 MR. TRULUCK: Your Honor, and as best I can  
22 characterize it on my end, Dr. Faltas has asked for  
23 the opportunity to address the Court pursuant to my  
24 standby counsel appointment later on this. The  
25 problem is, Your Honor -- before I say this, I do

1 object to having a motion to be relieved in the  
2 presence of opposing counsel, Your Honor. I have  
3 mentioned that to Ms. Reid and I don't think it's  
4 appropriate for her to be here while I have  
5 discussions about conversations with my client that,  
6 arguably, are privileged, Your Honor.

7 THE COURT: All right. Well, without entering  
8 into that realm, because there are a lot of other  
9 procedural aspects of you-all appearing where you  
10 are today, you mention that you are appearing as  
11 standby counsel.

12 MR. TRULUCK: Specifically, Your Honor, yes.

13 THE COURT: And all of your representation with  
14 Dr. Faltas is as standby counsel.

15 MR. TRULUCK: That's correct, Your Honor,  
16 except with regard to the summary court action. I  
17 am standby counsel, but I am even less so because  
18 there are --

19 THE COURT: We're not concerned with summary  
20 court here today. So --

21 MR. TRULUCK: Well, actually, Your Honor, the  
22 circuit court appointed me to the summary court  
23 action, so I would respectfully submit that that is  
24 a part of this as well, Your Honor.

25 THE COURT: Circuit court appointed you to

1 handle a summary court case?

2 MR. TRULUCK: Yes, Your Honor.

3 THE COURT: And as an initial concern, being  
4 aware of the various orders, particularly the order  
5 of the supreme court -- today is September 27th,  
6 2017 -- and the right of Dr. Faltas to appear before  
7 certain courts, mitigate with certain courts, and do  
8 certain things, I want to, first, have that  
9 threshold addressed before anything is addressed to  
10 me including this -- the matters that you said are  
11 privileged.

12 MR. TRULUCK: Thank you, Your Honor.

13 DR. FALTAS: May I add something, if it's okay?  
14 May I add something about that of which Mr. Truluck  
15 may not be aware, if it pleases the Court?

16 THE COURT: Yes, ma'am.

17 DR. FALTAS: Thank you. Good morning, Your  
18 Honor, and thank you for the opportunity to be  
19 heard.

20 THE COURT: Yes, ma'am.

21 DR. FALTAS: First, to Your Honor's -- in  
22 response to Your Honor's surprise that the circuit  
23 court appointed Mr. Truluck to assist me in the  
24 summary court --

25 THE COURT: Yes. I'm surprised by anything

1 that I'm not familiar with.

2 DR. FALTAS: And I'm not blaming. I'm also  
3 saying that, previously, even in the case that is  
4 underlying this PCR in which this current motion to  
5 relieve counsel is filed, it was also the circuit  
6 court Judge Barber who appointed Ted Lupton for the  
7 trial for which I was convicted and I claimed that  
8 he has been ineffective. In fact, in the published  
9 opinion from the state supreme court in City of  
10 Columbia versus myself, it said that the order  
11 appointing Lupton came from the circuit court.

12 So it has been a pattern of the circuit court  
13 appointing counsel for summary court. In fact, in  
14 another case in 2011, it was also summary court, but  
15 the public defender had a conflict, and your very  
16 honor, you were then also chief administrative judge  
17 for general sessions, and you signed an order  
18 authorizing appointment of outside counsel for me.  
19 And at that time, it was also Mr. Lupton.

20 But I want to say that I've had three PCR cases  
21 in this court so far; one was represented by  
22 Ms. Leah Moody, and Retired Chief Justice Toal,  
23 sitting as a circuit judge, granted PCR. The  
24 attorney general appealed to the state supreme  
25 court. And before the state supreme court, the

1 Office of Appellate Defense is nominally  
2 representing me.

3 But I filed the motion requesting leave to  
4 represent myself as the respondent in that case, and  
5 the state supreme court issued an order saying they  
6 defer consideration on it. So they're basically  
7 open to it. The other thing is that on subsequent  
8 research, the state supreme court itself said that  
9 PCRs are not really civil and they quoted the Fourth  
10 Circuit Court of Appeals saying that habeas, which  
11 is the mother -- I like to use the analogy of a  
12 beehive, and the writ of habeas corpus is the queen  
13 bee and then the PCRs are the little worker bees.

14 In fact, the only reason PCR was considered an  
15 acceptable substitute is that it would do everything  
16 that the writ of habeas corpus can do, and, of  
17 course, constitutionally, the writ cannot be  
18 suspended except in war or insurrection. So what  
19 applies to habeas applies to PCR.

20 And the state supreme court itself accepted  
21 that PCR is not exactly civil; it's hybrid between  
22 civil and criminal. And in my very case, they are  
23 open to letting me represent myself in the appellate  
24 court as a respondent. They didn't say yes, but  
25 they didn't say no either. So that's another thing.

1           Now, the case that's in summary court -- and  
2           it's none of my fault -- the summary courts have run  
3           out of judges. And I have filed a motion for that  
4           matter to be transferred here under this Court's  
5           current jurisdiction. So this is a matter -- I'm  
6           still the criminal defendant in that matter. It's  
7           Rule 29(b) to open, based on after-discovered  
8           evidence.

9           And I have filed the motion in this Court's  
10          concurrent jurisdiction for it to be transferred  
11          here. And that's why it was very important for me  
12          appear before Your Honor, before Your Honor takes  
13          even more duties in another circuit. So that's  
14          something that's pending.

15          I have also filed a petition for writ of  
16          certiorari to Your Honor to the summary courts where  
17          I'm still a defendant and there are cases where I  
18          have been convicted and I found a matter -- a  
19          provision in state law that says that whenever  
20          somebody is convicted in summary court, that person  
21          can apply to a circuit judge for certiorari. And I  
22          have done that. As always, I file and I give them a  
23          copy to put in Your Honor's box, and from there I  
24          trust the system.

25          So, Your Honor, this is not the first time I've

1 had this issue. Exactly nine years ago, Mark Sawyer  
2 was my standby counsel in the harassment case over  
3 which Your Honor presided and over which I  
4 represented myself totally pro se. The solicitor  
5 was doing -- playing the same game; not serving me,  
6 and instead serving Mr. Sawyer.

7 We came back before Your Honor. And thank God  
8 that was transcribed. And you said, no, the  
9 defendant has to be served. Here, the attorney  
10 general has taken it to -- I'm sorry, I have to use  
11 the word malicious. They provided the judge with a  
12 judge's packet electronically with a link. They  
13 knew that the only person who can open the link is  
14 if they e-mail it to the person. They e-mailed it  
15 directly to the judge, they e-mailed it to  
16 Mr. Truluck, but they refused to e-mail it directly  
17 to me. When I tried to log in to it, it said, no,  
18 you're prohibited.

19 And we -- Mr. Truluck and I specifically asked  
20 them to send me the e-mail so I can download it.  
21 They said, why don't you, Mr. Truluck, download it  
22 and then copy it to her? Your Honor, this was 94  
23 files with, like, what, a gigabyte. That's really  
24 abusing him. There was absolutely no reason for  
25 them to do that other than -- and, Your Honor, all

1 the stuff about, no, we won't talk to you, we need  
2 to talk to your counsel, is all a racist portrayal  
3 of me as a ghoul like as they did in the harassment  
4 case, falsely presenting that I was photographing  
5 the children and scaring them and I am the Egyptian  
6 witch who needs to go back to where she came from  
7 because of frightening the children.

8 Well, guess what. Those very pictures that  
9 were presented in Your Honor's court, they show that  
10 woman, my false accuser, giving that toddler a key  
11 chain to play with and the toddler putting it in her  
12 mouth, which is a classic choking hazard. Any  
13 prosecutor who has any sense of fairness should have  
14 prosecuted my false accuser for child endangerment,  
15 not prosecuted me for taking a picture to document  
16 that from 30 feet away. And now I have -- it has  
17 gone beyond that.

18 I have documented 378 instances of perjury that  
19 happened in your court. And it's not I say, they  
20 say; it's they say, they say in sworn testimony  
21 before you in your court.

22 My false accuser, Ingram, said she was employed  
23 and unable to go to work because I was blocking her  
24 with my car. In another contemporaneous case, in  
25 both the deposition and the trial, she testified,

1 under oath, that she was unemployed. She pretended  
2 to have been in the Navy for a year and a half. We  
3 FOIA'd her veteran's record. She was only there for  
4 three weeks and not in the Navy.

5 Things objective like that and this -- people  
6 want to be clear from crime, well, perjury is a  
7 crime. And I'm asking you, as the chief  
8 administrative judge for general sessions, to  
9 prosecute the prosecutor who suborn 378 perjuries.  
10 And you can get David Pasco to refer it to you.

11 But it has gone on long enough. The very false  
12 accuser, the very false accuser in that harassment  
13 case, which, thank God, I got dismissed with  
14 prejudice while acting totally pro se, is the same  
15 false accuser in that assault case from which I'm  
16 seeking PCR and from which I'm also seeking my Rule  
17 29(b) motion to be heard. That's nine years ago.  
18 That's too long for -- nine years is way too long  
19 for courts to sit on perjury committed under their  
20 very eye, under their very eye.

21 And the reason they are abusing Mr. Truluck,  
22 the reason they are abusing Mr. Truluck is that they  
23 want him. And the man has been noble and patient  
24 and brilliant. And I cannot say good enough about  
25 him. But I will not sit by and see him abused just

1 so they can escape with perjury. It ends right here  
2 and right now.

3 Either you will tolerate perjury or you will  
4 not. And that, again, Judge, the Honorable Judge  
5 Clifton Newman, it happened in your court. And  
6 that's something that I began researching  
7 immediately after the jury deadlocked. And I think,  
8 I hope, that the clerk gave Your Honor that  
9 annotated transcript.

10 THE COURT: Yes. Well, Dr. Faltas, the Court  
11 does not investigate perjury. The Court does not --

12 DR. FALTAS: Then refer me to another  
13 solicitor, because --

14 THE COURT: The Court does not prosecute  
15 perjury. If -- any person who wished to have anyone  
16 investigated for any crime, can pursue that through  
17 law enforcement channels who initiate warrants. I'm  
18 a judge and not a police officer, and I do not issue  
19 orders of arrest, other than as a result of a court  
20 contempt proceeding or something of that nature.  
21 But --

22 DR. FALTAS: Except, Your Honor, that -- I'm  
23 sorry to interrupt.

24 THE COURT: And, in addition to that, I'm not  
25 here today to entertain any -- your perjury case or

1 case of perjury against anyone else. I'm here  
2 because an emergency motion was filed seeking to  
3 have Mr. Truluck relieved as counsel and seeking to  
4 have you given the right to represent yourself. And  
5 this hearing will be limited to those two things.

6 DR. FALTAS: Correct. I am giving you the  
7 background --

8 THE COURT: Well, I've heard the background  
9 sufficient for me to entertain those two motions.  
10 But to --

11 DR. FALTAS: All right. But --

12 THE COURT: But to expect me to hear evidence  
13 of perjury of a case from years ago, that's beyond  
14 the scope of what I'm willing to entertain this  
15 morning.

16 DR. FALTAS: Correct. I appreciate that. But  
17 I also appreciate that you let me make my record.

18 THE COURT: Yeah. Well, no, you've made your  
19 record, you've interrupted Mr. Truluck to give some  
20 clarification to what he was explaining, and I've  
21 heard what you have to say on that point. I'll now  
22 move to the State's attorney and hear what they have  
23 to say.

24 MR. TRULUCK: Your Honor, I never got a chance  
25 to actually address your question, if I could be

1 allowed to do so.

2 THE COURT: Which question?

3 MR. TRULUCK: Your Honor, your question was how  
4 to deal with the supreme court order with regard to  
5 Dr. Faltas proceeding pro se.

6 THE COURT: Yes, sir.

7 MR. TRULUCK: With your permission, Your Honor,  
8 I've reviewed this order countless times because I  
9 have to rely on it for how to represent Dr. Faltas  
10 as standby counsel. It doesn't give me a lot of  
11 guidance; in fact, it puts me in a very compromised  
12 situation with regard to ethics. And I've had that  
13 conversation with Dean Wilcox at the ethics school  
14 about how to deal with it.

15 At the end of the day, Your Honor, the only  
16 thing that's important for the motion here today is  
17 that that order does not prevent her, in my opinion,  
18 from representing herself pro se in a postconviction  
19 relief hearing. And I'll explain why.

20 It restricts her, to the best of my  
21 understanding, from filing and participating in a  
22 case pro se as a plaintiff in a civil action. I  
23 think that's unequivocally clear. It restricts her  
24 from going beyond filing an appeal and handling the  
25 matter pro se in an appellate court. I think that's

1 a fair characterization. It reserves the right for  
2 her to represent herself pro se in a matter where  
3 she is a defendant in a civil capacity or a criminal  
4 capacity.

5 And the criminal capacity can be modified,  
6 subject to McCaskill v. Wiggins, which that case,  
7 U.S. Supreme Court case, all it says is that a  
8 defendant -- you cannot take away their right to  
9 represent themselves, and if you do anything, the  
10 most you can do is appoint standby counsel to help  
11 them get through the procedure so that everything  
12 moves smoothly. That's it. They can't control the  
13 case, they can't tell the client what to do.

14 In this order, Your Honor, there are prongs --  
15 or, I would say, two avenues why she can proceed pro  
16 se. The first is, Your Honor, she's an applicant in  
17 a postconviction relief procedure. There's no  
18 restriction to her as a rule as an applicant,  
19 period. The supreme court did not address it, they  
20 did not restrict it, and if a court is going to take  
21 away your rights in an unusual order, they need to  
22 be specific enough; otherwise, she has all of her  
23 rights that she would have ever had for this order  
24 to proceed as an applicant.

25 And as much as I might anticipate the Attorney

1       General's Office will say, hey, Judge Newman, this  
2       is a civil action, it's in the civil court, that's  
3       partly true. But, also, in the case of Ferguson v.  
4       Gathright, which is a Fourth Circuit decision that  
5       was embraced by the South Carolina Supreme Court in  
6       Washington v. Washington -- and I can get you the  
7       cites and everything on those cases -- they said  
8       that in criminal and quasi-criminal cases, a  
9       defendant has a Sixth Amendment right, which is the  
10      whole issue with McCaskill v. Wiggins.

11             And if Dr. Faltas is in a matter where her  
12      liberty interests are at risk, as they are in a  
13      postconviction relief hearing, it is, at minimum, a  
14      quasi-criminal hearing. And as much as the supreme  
15      court does not say she cannot represent herself as  
16      applicant, one, and, alternatively, if you want to  
17      equate terms in there, which I don't think is  
18      appropriate considering the supreme court can't  
19      strip people's rights by equation, but if you were  
20      to equate it, she would be a defendant, not a  
21      plaintiff in a PCR case because it has  
22      quasi-criminal elements to it, and if she loses, she  
23      runs the risk of having her liberty rights affected.

24             And so, Your Honor, I respectfully submit that  
25      not only does the order not say she cannot represent

1 herself because it doesn't address applicants --

2 THE COURT: If she loses, she has her liberty  
3 rights at stake in which of the cases?

4 MR. TRULUCK: If she loses in PCR and the case  
5 is sent back to the summary court, there is --

6 DR. FALTAS: The sentence -- the sentence is  
7 stayed, pending the PCR. So if I lose the PCR, I  
8 automatically serve the sentence.

9 MR. TRULUCK: And, Your Honor, that would apply  
10 to somebody who is incarcerated as well. They would  
11 have a chance to come back on bond if they got their  
12 PCR overturned.

13 So, Your Honor, she has a liberty interest at  
14 risk, which would put her in the category of a  
15 defendant, if you were to try to read into the  
16 order. But I don't think this order should be read  
17 into because it restricts her rights. It should  
18 only be read as far as it can be read in the black  
19 letter of the writing. And it makes no comment  
20 whatsoever on her ability to represent herself as an  
21 applicant. She's never been identified as a  
22 plaintiff in the PCR action.

23 In addition to that, Your Honor, and this goes  
24 partly to the motion to relieve, so I'll try to keep  
25 it within the barriers of this, over the course of

1           this ten months that Dr. Faltas and I have worked  
2           together, with no reflection on Dr. Faltas, it has  
3           been exhausting. We've worked on this case -- or  
4           these cases every other day, if not every day,  
5           including weekends, for this entire year.

6                     And it's ultimately because I am playing the  
7           role as a courier, as assistant, as a secretary, as  
8           a paralegal, and as standby counsel. Every time I  
9           get an e-mail from Dr. Faltas or every time I get an  
10          e-mail from the Court or every time I get an e-mail  
11          from the Attorney General's Office, I forward it on  
12          to the respective parties. And I --

13                    THE COURT: Do you believe that the role that  
14          you just described is a role sanctioned by the  
15          courts for standby counsel?

16                    MR. TRULUCK: Which courts, Your Honor? You  
17          mean the courts in South Carolina?

18                    THE COURT: Yeah, this court.

19                    MR. TRULUCK: Yes, Your Honor.

20                    THE COURT: When standby counsel is appointed,  
21          do you believe that standby counsel is appointed to  
22          serve as a -- given the names of those things  
23          you just --

24                    MR. TRULUCK: Courier, secretary, paralegal --

25                    THE COURT: Courier, secretary, paralegal, or

1 the role of standby counsel is to advise and be a  
2 resource person to the litigant regarding the  
3 criminal -- the civil or criminal rules and  
4 evidentiary issues, but not to assume the role of  
5 representation or to carry out any of the other  
6 functions that you just described.

7 MR. TRULUCK: I believe Your Honor's second  
8 definition is the appropriate one; however, I do not  
9 have a code of ethics to follow. And, again, I had  
10 this conversation with Dean Wilcox. He seems to  
11 believe I do because we have a code of ethics.  
12 There are no code of ethics for standby counsel,  
13 Your Honor. I have to try to amalgamate every rule  
14 that I have as my responsibility as Dr. Faltas'  
15 standby counsel, and it's a constant puzzle.

16 And I agree with you, Your Honor, that my role  
17 should probably only be for counsel. Frankly, Your  
18 Honor, Dr. Faltas doesn't need counsel at all. She  
19 understands the law. And I say this at a minimum,  
20 she understands it much more, at the minimum of a  
21 new attorney, minimum. She doesn't need my  
22 counsel --

23 THE COURT: I'm sure she'll debate that with  
24 you.

25 MR. TRULUCK: No, no. I'm saying she may

1 understand a great deal more. I'm saying the  
2 minimum is that. And, Your Honor, so I,  
3 essentially, am not sure what my role entirely is.  
4 But I can tell you this: The Attorney General's  
5 Office and anybody else that I deal with, they do  
6 not want to speak to Dr. Faltas directly. And if I  
7 don't forward on correspondence from them to her, I  
8 feel I am remiss in my duties inasmuch as they  
9 refuse to communicate with her directly.

10 THE COURT: Well, after -- well, if you are  
11 relieved, then what status would that relegate  
12 things to?

13 MR. TRULUCK: Well, in the case of the PCR that  
14 she has won twice, right now there's a pending  
15 motion for consideration by the AG's office and she  
16 has filed an opposition to that reconsideration. It  
17 is only for Judge Gravely to rule. If he stays with  
18 granting Dr. Faltas' PCR, my relationship with her  
19 would terminate in that case.

20 In the other PCR where Judge Sprouse has  
21 elected to dismiss without prejudice --

22 DR. FALTAS: But he hasn't.

23 MR. TRULUCK: He has not yet, Your Honor --

24 DR. FALTAS: He might change his mind.

25 MR. TRULUCK: -- but he might change his mind.

1 But inasmuch as Judge Sprouse has indicated that he  
2 is inclined to dismiss the case without prejudice  
3 and asked me to write the order -- which I found  
4 disturbing as her counsel to write an order that  
5 would be to her detriment -- and I initially  
6 objected, Dr. Faltas asked me to reconsider.

7 But if it is dismissed, my relationship with  
8 Dr. Faltas in that case would also be resolved  
9 because I have only been appointed to that case  
10 action number, and if she re-files the future, she  
11 would require new appointment.

12 With regard to the final matter where she is a  
13 full defendant and can represent herself entirely,  
14 which she has a right to do, that matter is  
15 currently on indefinite stay. I believe there are  
16 timelines that will make decisions, but right now we  
17 don't know when that would be able to be heard  
18 because some of the issues are with the supreme  
19 court or either being considered by the supreme  
20 court.

21 And while Dr. Faltas does not agree it stays  
22 that hearing, the Court, Judge Newsom, has  
23 recognized he's not hearing it right now until  
24 that's resolved. So one case is sort of on its own  
25 track, the other two are soon to be resolved, Your

1 Honor.

2 However, Dr. Faltas has indicated that she does  
3 not want me to be her attorney anymore. I have held  
4 off on embracing that request to this Court for ten  
5 months because I have tried to stay with her because  
6 I don't want her to get another attorney, I don't  
7 want to abandon her, I don't want to fail in my  
8 duties to this Court.

9 But the reality is, is that she can handle this  
10 case herself. I see no restriction in the supreme  
11 court order that says she cannot. I'm merely  
12 holding her back, frankly, if only by  
13 correspondence. And, Your Honor, the cases have  
14 largely been resolved. I'm not abandoning her at a  
15 point where she is not in control of her cases.  
16 Now, again, I'm not going entirely into the motion  
17 to be relieved, but she did ask me about her ability  
18 to represent her pro se.

19 I believe the cases say that her Sixth  
20 Amendment rights are preserved. The only  
21 restrictions they have are for somebody who doesn't  
22 know what they're. She does not have that problem.  
23 And the supreme court order does not restrict her  
24 from representing herself as an advocate or as a  
25 defendant in either civil or criminal matters. And

1           this is, in my opinion, a quasi-criminal matter,  
2           Your Honor. I'll stop at that. I know Dr. Faltas  
3           wants --

4           THE COURT: All right. I'll hear from the  
5           attorney general.

6           DR. FALTAS: I needed to add one --

7           THE COURT: I'll hear from the attorney  
8           general.

9           MS. JAMESON: Thank you, Your Honor. Megan  
10          Jameson on behalf of the State. I do want to note a  
11          couple of things for the record. I do object to us  
12          going forward today without Ms. McCallister present.  
13          She is counsel of record on this 2018 case. She is  
14          out of the state for the holidays. I'm appearing on  
15          her behalf because this emergency motion was  
16          scheduled yesterday. She's in the state of Florida  
17          and could not make it back for this hearing. So I  
18          do object to this hearing going forward without  
19          counsel of record for the State.

20          The State is at a significant disadvantage. As  
21          you can see, this is a very involved case. I'm not  
22          counsel of record, I supervise Ms. McCallister, as I  
23          do over all the other PCR actions that we have,  
24          approximately anywhere from 2,500 to 3,000 cases.  
25          I'm not as intimately familiar with this case as

1 Ms. McCallister is. So I am here on behalf of the  
2 State and do object to going forward today.

3 Additionally, I would note for the record that  
4 we're only here on the 2018 PCR. There's been  
5 arguments by Applicant and her counsel that we're  
6 here on a 2017 PCR motion to be relieved and a  
7 summary judgment action. This motion, which, as of  
8 this morning when I got to the courthouse, remains  
9 un-filed, only references the 2018 PCR action. It  
10 does not reference the 2017 PCR action that I'm also  
11 not counsel of record for and it doesn't reference  
12 the summary court action.

13 Additionally, the State is -- the Attorney  
14 General's Office is not the opposing party to the  
15 summary judgment action, so our position is we're  
16 only here today on the 2018 postconviction relief  
17 action.

18 I want to respond to a few things in  
19 Mr. Truluck's motion. While I agree that the  
20 order -- and, Your Honor, may I approach with a copy  
21 of the 2014 [sic] order signed by Judge Jocelyn  
22 Newman?

23 THE COURT: Yes.

24 MS. JAMESON: It is -- was filed April 24th,  
25 2018. While it does use the word standby counsel,

1       it makes very clear -- I'm referencing Paragraph  
2       No. 2: It is therefore ordered, with the consent of  
3       Applicant and where no conflicts preventing  
4       Appointee from assisting Applicant with these  
5       proceedings are known, that is Appointee is  
6       appointed as standby counsel in this action allowing  
7       Applicant to appear pro se during the evidentiary  
8       hearing and then and there examine witnesses, offer  
9       evidence, and present oral arguments while ordering  
10      Appointee -- which is Mr. Truluck -- to handle all  
11      prehearing and posthearing matters, including  
12      communications of the Court and staff and filing of  
13      any documents.

14                So I take issue with Mr. Truluck's contention  
15      that he's merely standby counsel and all  
16      communication should be done through Dr. Faltas,  
17      because that's clearly not what the order of the  
18      court from April 24th references. Additionally, the  
19      supreme court order from September 27th, 2017 makes  
20      it very clear, in Provision No. 5, that she cannot  
21      appear as a plaintiff in a civil action.

22                This is a civil action. It's filed in common  
23      pleas. She clearly is a plaintiff. Pursuant to  
24      Black's Law Dictionary, a plaintiff is a party who  
25      brings a civil suit in a court of law. That's what

1 we're here for.

2 She brought this PCR action based on her  
3 abusive conduct to the courts of South Carolina, the  
4 United States Supreme Court, the federal courts, and  
5 abuses to counterparties --

6 DR. FALTAS: Objection.

7 MS. JAMESON: -- like the State --

8 DR. FALTAS: Objection.

9 MS. JAMESON: -- these --

10 DR. FALTAS: Objection to her characterizing me  
11 as abusive, Your Honor.

12 MS. JAMESON: These limitations were put in  
13 place by the supreme court because of her conduct.  
14 And that's why we're here today. She is a plaintiff  
15 in a civil action. She cannot appear pro se based  
16 on the supreme court's order, and, therefore, cannot  
17 appear pro se.

18 If Your Honor is inclined to grant  
19 Mr. Truluck's motion, we would request that another  
20 attorney be appointed to represent her. She,  
21 clearly, based on this order, cannot appear pro se.  
22 And this is a civil action based on the black-letter  
23 definitions of the law, and she is the plaintiff.  
24 And I would contend that --

25 THE COURT: Well, do we operate by Black's Law

1 Dictionary or by case precedent?

2 MS. JAMESON: We operate by case precedent.  
3 But I didn't hear anything that Mr. Truluck  
4 mentioned -- I know he wants to interpret this as a  
5 quasi-criminal procedure, but I think the supreme  
6 court's order was trying as hard as it could to  
7 cover all of the various instances that Dr. Faltas  
8 has filed, which are in the -- I don't even want to  
9 guess how many. And so this order tries to  
10 encompass anything that she could possibly file in  
11 the future.

12 They didn't know that we have this 2016, 2017,  
13 or 2018 case going on. This was before the 2018  
14 case was even filed. And so I think it's expansive  
15 to cover all of the actions she has going on at any  
16 time. And Provision No. 5 clearly applies here.  
17 But even if Your Honor --

18 THE COURT: Let me look at Provision No. 5  
19 again.

20 MS. JAMESON: And, Your Honor, do you --  
21 Ms. McCallister e-mailed a copy of the order  
22 yesterday. I have a copy, if you'd like.

23 THE COURT: No. I have the copy by the supreme  
24 court.

25 MS. JAMESON: Provision No. 5 says: Respondent

1 may not represent pro se as a plaintiff in a civil  
2 action in any court of this state. Instead, she  
3 must be represented by counsel before any court in  
4 this state when appearing as a plaintiff.

5 Respondent is advised that she is not precluded from  
6 addressing any non-frivolous grievances she may have  
7 as a plaintiff in the courts of this state, assuming  
8 that she is represented by an attorney licensed to  
9 practice law in South Carolina.

10 So the State's position is that Provision No. 5  
11 in this order from September 27th, 2017 is  
12 controlling here, and she needs to be represented by  
13 counsel. If Your Honor is inclined to relieve  
14 Mr. Truluck, then we would ask that another attorney  
15 be appointed immediately because she is precluded  
16 from appearing pro se.

17 And, additionally, Your Honor, I would note  
18 that the State's position is that this is just a  
19 delay tactic. The 2018 case has been dismissed  
20 without prejudice by --

21 DR. FALTAS: It has not been dismissed. This  
22 is a falsehood. It has not been dismissed. There  
23 is no order saying that and enough is --

24 THE COURT: Dr. Faltas, this is a court of law.  
25 I don't recall counsel for the State objecting -- or

1 interrupting you in any form or fashion. You cannot  
2 interrupt her.

3 DR. FALTAS: Thank you, Your Honor. But I --

4 MS. JAMESON: Your Honor, Ms. McCallister, who,  
5 again, is counsel of record for the State, received  
6 an e-mail from Judge Sprouse's law clerk on December  
7 21st, last Friday evening, indicating he was  
8 granting the State's motion to dismiss without  
9 prejudice. An order has not been drafted yet, which  
10 is referenced in Applicant's emergency motion.

11 Mr. Truluck was asked to draft the order.  
12 Mr. Truluck objected. Again, I'm not privy to any  
13 of these e-mails. I'm operating at a disadvantage  
14 because, again, Ms. McCallister is counsel of  
15 record.

16 THE COURT: The case that Judge Sprouse was  
17 handling, was it the -- is it the 2018 case?

18 MS. JAMESON: Yes, it is, Your Honor. The  
19 State moved to dismiss. And the State filed a  
20 second amended return and motion to dismiss on  
21 December 6th, 2018, seeking dismissal without  
22 prejudice. So she has leave -- Dr. Faltas has leave  
23 to re-file when two conditions were met. She has a  
24 pending United States Supreme Court appeal of this  
25 case. And, also, there was a Rule 29(b) motion that

1 was filed that still has not been heard. So the  
2 State moved to dismiss without prejudice based on  
3 these two things.

4 THE COURT: What is the 29(b) motion?

5 MS. JAMESON: It was filed, I believe, in 2013,  
6 and has just kind of languished. It's not something  
7 our office is handling --

8 THE COURT: I'm not --

9 MR. TRULUCK: Your Honor, it's a motion to  
10 reopen the case after after-discovered evidence.  
11 It's the magistrate provision.

12 THE COURT: All right.

13 MS. JAMESON: And Judge Sprouse did not,  
14 according to this e-mail -- and, again, it's been a  
15 holiday week, so we have -- I don't believe we've  
16 had a response. I'd probably defer to Mr. Truluck  
17 because he's copied on those e-mails. But  
18 Ms. McCallister did ask for clarification if it was  
19 being dismissed without prejudice based on both of  
20 those grounds or just the ground as indicated in  
21 this e-mail from last Friday.

22 THE COURT: So this motion before me -- and I  
23 see the -- an e-mail that was handed up that  
24 references PCR No. 2018-40-01798, emergency motion  
25 to relieve counsel. Was that the case that Judge

1 Sprouse has under advisement?

2 MS. JAMESON: Well, Your Honor --

3 THE COURT: Or referred by Judge Sprouse?

4 MS. JAMESON: And provisionally granted the  
5 State's motion to dismiss via e-mail and we're just  
6 waiting for the order to be drafted by a party.  
7 Once Mr. Truluck objected to drafting,  
8 traditionally, when the State's motion to dismiss is  
9 granted, the State does draft those orders.

10 Ms. McCallister offered to draft that e-mail  
11 because Dr. Faltas is represented by counsel, and  
12 our position is she shouldn't be drafting her own  
13 orders. And we've not heard back from Judge Sprouse  
14 as of this morning. Again, I'm not counsel of  
15 record, I'm not copied on any of these e-mail  
16 chains --

17 THE COURT: Well, if I were to relieve  
18 Mr. Truluck and he is, I guess -- I don't know if  
19 he's under orders by Judge Sprouse to draft an order  
20 or -- would he be abandoning ship when it's about to  
21 dock or -- or, jurisdictionally, would I be  
22 interfering with a case under advisement by Judge  
23 Sprouse?

24 MS. JAMESON: With all due respect to another  
25 member of the bar, yes, I do see this as a delay

1           tactic and jumping ship near the end of the case.

2           It's been --

3           MR. TRULUCK:  Objection, Your Honor.  I take  
4           that as a personal --

5           THE COURT:  Your objection is noted, but don't  
6           object and then argue.  She has the floor.

7           MS. JAMESON:  The case is all but over.  This  
8           is a delay tactic, so an order cannot be entered.  
9           This is a repeated pattern where we get called in to  
10          court for these emergency motions.  The case is  
11          almost over.  There is no emergency here.  An order  
12          of dismissal without prejudice needs to be entered  
13          once the case is concluded, then she can re-file her  
14          PCR action.  But there doesn't appear to be, at  
15          least on the State's position, an emergency, because  
16          we do have a ruling, we're just waiting on an order  
17          at this point, Your Honor.

18          THE COURT:  All right.

19          MS. JAMESON:  And so the State respectfully  
20          would ask you to deny the motion because she cannot  
21          appear pro se, based on the supreme court's order.  
22          Based on Judge Newman's order, it's clear that while  
23          the word standby is used, Dr. Faltas should not be  
24          communicating with the Court or the State for any  
25          pre- or post-hearing matters, which she has

1 repeatedly done.

2 One other thing I did want to point out:  
3 Dr. Faltas mentioned, when she was arguing her  
4 motion, and also in her written motion, she says the  
5 State is denying her access to materials. The State  
6 uses a Kiteworks file-sharing software, and we have  
7 e-mail confirmation that that was accessed by her  
8 counsel of record, Mr. Truluck, on the 19th and the  
9 materials were downloaded.

10 Additionally, because there was this concern  
11 that Dr. Faltas couldn't download these materials, a  
12 CD was provided for her. So she's been provided  
13 this in multiple avenues. And all of these  
14 materials are a compilation of a judge's packet of  
15 previously filed materials. But I did want to note  
16 that for the record too.

17 And, additionally, the emergency motion to  
18 relieve counsel discusses the State's manipulation  
19 of the PCR docket. I did want to note for the  
20 record that in the Fifth Judicial Circuit, all of  
21 the postconviction relief hearings for the entire  
22 calendar year have been set by Judge Hood in his  
23 capacity as chief administrative judge. We've had  
24 no manipulation or role in setting of the dockets  
25 this year, and that is a gross mischaracterization

1 of how the dockets were set in Richland County this  
2 year.

3 THE COURT: All right.

4 I'm going to take a few minutes' break and then  
5 I'll come back to Mr. Truluck and Dr. Faltas.

6 MR. TRULUCK: Thank you, Your Honor.

7 DR. FALTAS: Thank you, Your Honor.

8 (Brief recess.)

9 THE COURT: All right. Thank you.  
10 Mr. Truluck?

11 MR. TRULUCK: May it please the Court, Your  
12 Honor. I apologize for speaking on an objection in  
13 the middle of Ms. Jameson's response. Your Honor, I  
14 get a little upset when I get allegations of delay  
15 upon me when Dr. Faltas has tried to have these  
16 matters heard for such a long period of time. And I  
17 think Ms. Reid, your law clerk, can attest to that.  
18 Additionally, Your Honor, just to clarify,  
19 Dr. Faltas filed this motion. I endorse this  
20 motion. This is Dr. Faltas' filed motion.

21 Finally, Your Honor, inasmuch as I've just been  
22 accused of delay, whether directly or indirectly,  
23 Your Honor, the final straw of all this came when  
24 after ten months of relaying all this information as  
25 Dr. Faltas' go-between, the State sent, as

1 Dr. Faltas told you, an encrypted file folder with  
2 94 .pdf files. And in response to that, because she  
3 could not open it, because she is in control of her  
4 case, I wrote to Ms. McCallister, and Ms. Jameson  
5 responded: I would really appreciate it if you  
6 forward the e-mail to Dr. Faltas as the person in  
7 control of this case. If you simply refuse, I will  
8 do my best to provide her with the documents. But I  
9 am of the opinion that, in this case, it's simply  
10 unreasonable to refuse to forward her an e-mail so  
11 that she can get the information in preparing for  
12 her case. If so required, I would happy to  
13 facilitate communication. But if you cannot  
14 accommodate this request, I will speak to Dr. Faltas  
15 about seeking an order of court directing you or  
16 your office to identify her as the proper party of  
17 correspondence and disclosure of discovery in all  
18 matters. And her response --

19 THE COURT: Are you still talking about this  
20 2018-40-01798 matter?

21 MR. TRULUCK: Yes, Your Honor.

22 THE COURT: All right.

23 MR. TRULUCK: And in response to that, they  
24 declined. In fact, they even sent back my own order  
25 of appointment by Judge Jocelyn Newman. And,

1           essentially, Your Honor, when I finally got a chance  
2           to look at it, it was 94 files and, I think, as  
3           Dr. Faltas said, a gigabyte.

4           Ms. McCallister did send me the CDs, but it  
5           puts me, as her standby counsel, in a very awkward  
6           position that I have to filter through and deliver  
7           this information to her. And so that's part of the  
8           frustration that we are going through, Your Honor,  
9           with the AG's office.

10          And to put this in better context, whenever I  
11          send them a message from Dr. Faltas to them at her  
12          request, when they respond, they scrape her e-mail  
13          address off. They go through more trouble in  
14          responding to me than they do if they had just  
15          replied all and copied her.

16          And, Your Honor, I think it's frustrating for  
17          the State to take the position that we're causing  
18          delay when Dr. Faltas is zealously committed to  
19          having these matters heard.

20          THE COURT: She's speaking, I believe, in the  
21          context that the matter has been heard and the judge  
22          has his final order -- issuance of his final order  
23          under advisement.

24          MR. TRULUCK: I agree with that, Your Honor --  
25          or, well, I'm sorry, I don't disagree with what

1       you're saying. But I don't see as to how that's  
2       delay on our part, because they're refusing to  
3       communicate with her directly on massive amounts of  
4       information and, essentially, frustrating her  
5       ability to review what they did with them by having  
6       me be a go-between.

7               THE COURT: What --

8               DR. FALTAS: Sir --

9               THE COURT: What would a review of these  
10       documents have to do with the matter already heard  
11       by the judge who he's --

12              DR. FALTAS: It wasn't a -- it wasn't heard on  
13       the merits at all, Your Honor. It wasn't heard on  
14       the merits at all. In fact, even my motion for the  
15       State's default was not heard. The only thing he  
16       took under advisement was -- was that -- so, no, the  
17       merits were not reached. And, in fact, before  
18       that --

19              THE COURT: I'm not in a position of reviewing  
20       that judge's matter. If the -- you know, the -- for  
21       weeks, you-all were seeking to have me schedule this  
22       case for hearing before some judge. And I scheduled  
23       it before Judge McLeod, that didn't work out; so we  
24       had it scheduled before Judge Sprouse, and Judge  
25       Sprouse heard the case. To whatever extent he heard

1       it, I'm not here to second-guess or anything. But  
2       you-all have indicated that he is in the process of  
3       issuing an order subsequent to that hearing.

4               And here you've -- and in that same case,  
5       you've filed for an emergency motion for counsel to  
6       be relieved in a case where the order subsequent to  
7       the hearing is being anticipated. In fact, he asked  
8       you to -- I don't know. Did you draft the order?

9               MR. TRULUCK: No, Your Honor. I immediately  
10       responded and asked that the judge not instruct me  
11       to write an order to Dr. Faltas' detriment.

12              THE COURT: And the judge probably respected  
13       that, so he'll probably issue it himself or have  
14       someone else draw it. If any drafting needs to be  
15       done -- I mean, while you've been here, we've heard  
16       a case from the attorney general, he submitted an  
17       order, we signed it, and he's gone. So it's not --  
18       it's not an insurmountable task by a judge.

19              MR. TRULUCK: I just want to say one more  
20       thing, and then I'll sit down and let Dr. Faltas  
21       address you, if you'll allow her.

22              Your Honor, I agree with everything that you've  
23       said. The problem is, is that I believe the AG's  
24       office is taking advantage of the relationship that  
25       I have with Dr. Faltas, and I find that to be a

1           problem. I similarly find to be a problem that I in  
2           no way believe that they should be here as part of a  
3           motion to determine whether or not I continue to  
4           represent her as counsel and whether or not you  
5           would allow her to change her representation status  
6           going forward, because they have no standing to  
7           argue with how her case is presented.

8           That being said, Your Honor, I do reserve the  
9           opportunity to address you with regard to the motion  
10          to be relieved, which I have not fully touched on at  
11          all yet, Your Honor. Thank you.

12          DR. FALTAS: Your Honor, I need to correct a  
13          couple of things.

14          THE COURT: All right.

15          DR. FALTAS: First of all, Your Honor knows  
16          that until and unless an order is signed, it may be  
17          changed and reconsidered by the judge.

18          THE COURT: Yes.

19          DR. FALTAS: And even if he does sign one  
20          dismissing without prejudice, I still have the right  
21          to ask for reconsideration.

22          THE COURT: All right.

23          DR. FALTAS: But they're saying that it's a  
24          delay. That is totally false. They asked for  
25          dismissal without prejudice back in May. And they

1        tried to sneak an order for the judge to sign it  
2        without even a hearing. They wrote a letter for  
3        Judge Hood to go ahead and sign it without a  
4        hearing. And I gave Your Honor a motion saying if  
5        this is an open question of state law, please  
6        certify it to the state supreme court.

7                So back in May, seven months ago, I asked Your  
8        Honor, specifically, to make your ruling on the  
9        issue of whether an application for certiorari to  
10       the U.S. Supreme Court stays a PCR, because the  
11       statute, the PCR act in South Carolina, is quite  
12       clear: It has to be filed within one year from the  
13       remittitur.

14               And there is the case of Green v. State where  
15       somebody had a federal case pending and said that  
16       tolls the PCR time. And the state supreme courts  
17       unanimously said, no, the act says one year from the  
18       remittitur.

19               So I think that is a false argument. I did not  
20       delay. I immediately asked for you to either make a  
21       ruling or certify it to the state supreme court.  
22       The attorney general refused to schedule my case for  
23       a hearing until December 7th of this year. And  
24       then, even after it was assigned to December 7th,  
25       they crowded me out. They said, no, we have to

1 change it. And they fully have half of the PCR  
2 cases --

3 THE COURT: Well, I'm going to remove from  
4 consideration the argument by the attorney general  
5 that this is intended for delay. So that's -- I'm  
6 not going to consider that argument.

7 DR. FALTAS: Okay. Thank you.

8 THE COURT: So let's move to some other point.

9 DR. FALTAS: The other thing is that she says  
10 the state supreme court did not know that I may have  
11 PCRs. That is totally false. The reason it is  
12 totally false is that, first of all, the reason  
13 behind an order or a law or a statute supersedes its  
14 language. They are claiming, the state supreme  
15 court, which I take issue, that I have been  
16 frivolous.

17 Okay. The two PCR cases that I have filed out  
18 of the three pending, the two that have been  
19 resolved have been ruled in my favor. So I could  
20 not have been frivolous in PCRs, and so they could  
21 not have any interest in my not filing PCR pro se.

22 In addition, for heaven's sake, convicted  
23 serial murderers get to file their own PCRs pro se  
24 in this state. What did Dr. Faltas do to be denied  
25 that right except defend herself ably pro se before

1 Your Honor and prevail? Now, the other thing is,  
2 that PCR, the first one, number 16 -- 16-CP-40- --  
3 2016-CP-40-1444, was filed March 2016. Retired  
4 Chief Justice Toal heard the first part of it in  
5 December 2016. And at the end of that hearing, she  
6 said, we're not finished, I will ask Chief Justice  
7 Beatty to assign me to another special term to  
8 continue this case.

9 So when Ms. Megan Jameson stands up and says  
10 the supreme court did not, in September of 2017,  
11 know that I had PCR cases, that is totally false.  
12 The state supreme court knew it because it was  
13 retired Chief Justice Toal who sat on one and asked  
14 for a special term to continue it. And by June  
15 2017, she had issued that order from the bench.

16 THE COURT: All right.

17 DR. FALTAS: So before September, the order of  
18 September 2017, the state supreme court knew that  
19 I'm filing PCR cases and knew that I'm filing  
20 meritorious ones. And if they had any suspicion  
21 that I was filing any frivolous ones, they would  
22 have, by name, removed my right from filing that.

23 Additionally, Your Honor, again, she said that  
24 they provided me a CD. They did not provide me a  
25 CD. They mailed a CD to Mr. Truluck, which, again,

1 makes him a courier.

2 THE COURT: Okay.

3 DR. FALTAS: So -- so --

4 THE COURT: Yes, ma'am.

5 DR. FALTAS: May I show you this, please?

6 THE COURT: I accept what you're saying as  
7 true.

8 DR. FALTAS: Yeah. So, as Mr. Truluck said,  
9 they go out of their way to burden Mr. Truluck. And  
10 the reason it's an emergency is that we don't know  
11 what Judge Sprouse is going to do, but it's an  
12 emergency because Mr. Truluck has been -- on my  
13 account, been put in the dilemma of refusing a court  
14 order -- to draft an order or filing -- or filing --  
15 or drafting an order to detriment to me. So that's  
16 the emergency.

17 THE COURT: All right. Well --

18 MS. JAMESON: May I be briefly heard in reply,  
19 Your Honor?

20 I do want to start off by saying Mr. Truluck  
21 said we were taking advantage of the situation and  
22 Dr. Faltas said we are going out of our way to  
23 obstruct the case. The State has gone out of their  
24 way to comply with the order signed by Circuit Court  
25 Judge Jocelyn Newman from April 24th, 2014. It's

1 clear all communications need to come through  
2 Mr. Truluck. So I take great objection to saying  
3 that the attorneys in my office and myself have gone  
4 out of our way to delay this case or unreasonable or  
5 take advantage in any way. We've gone out of our  
6 way to comply with a valid court order, which is the  
7 last court order we have on record regarding this  
8 case.

9 Additionally, I would like to note for the  
10 record, what's unreasonable is the conduct of  
11 Dr. Faltas towards our office, the attorneys, and  
12 our legal assistants. I just counted up quickly,  
13 and just since the courts have been closed, as of  
14 close of business on Friday, I personally have  
15 received over 14 e-mails from Dr. Faltas. And this  
16 is the reason why this supreme court order needs to  
17 be enforced. She's abusive to members of our staff  
18 and she needs to have counsel to prohibit things  
19 like this from happening. This is why it's clear  
20 that she --

21 DR. FALTAS: Your Honor, I ask her to produce  
22 those e-mails. This is false. I ask her to produce  
23 those e-mails.

24 MS. JAMESON: Additionally, Your Honor, that is  
25 why we think counsel should be appointed. If

1 Mr. Truluck wishes to be relieved and Your Honor  
2 wishes to relieve him, new counsel needs to be  
3 appointed.

4 Additionally, I did want to note for the record  
5 Richardson v. State, which is a 2008 case from our  
6 supreme court. The cite is 377 S.C. 103, and the  
7 Southeast Reporter is 659 S.E. 2d 493. And that  
8 case addresses the situation at hand where counsel  
9 moved to be relieved -- or the attorney moved to be  
10 relieved from a PCR case.

11 In Richardson v. State, it's clear that there's  
12 no constitutional right to PCR counsel, it's a  
13 statutory right in South Carolina. And that case  
14 cautions that counsel shouldn't be relieved just for  
15 delay. And here, I know Your Honor said he doesn't  
16 want to entertain that argument, but the State's  
17 argument is this is a delay at this point.

18 We do have the e-mail ruling from Judge Sprouse  
19 provisionally dismissing without prejudice with  
20 leave to re-file. And at this point, this emergency  
21 motion is merely a delay tactic.

22 THE COURT: What year was that case?

23 MS. JAMESON: 2008, Your Honor.

24 I do just want to say, just to clarify, there  
25 isn't a constitutional right to counsel in a

1 postconviction relief proceeding; it is a statutory  
2 right, in that case, as instructed, when dealing  
3 with when counsel should be relieved in  
4 postconviction relief matters.

5 DR. FALTAS: Your Honor, 2008 precedes the U.S.  
6 Supreme Court's rulings in the right to effective  
7 PCR counsel when PCR is the first collateral review.  
8 And I think it's the Ryan case. So to the extent  
9 it's 208, it definitely was superseded by the U.S.  
10 Supreme Court because the U.S. Supreme Court said  
11 that states that provide PCR have -- have to provide  
12 effective PCR counsel in the first collateral  
13 review. I'm sorry. I may be blocking on the name  
14 of the case, but I think it's Ryan or something.

15 MR. TRULUCK: Your Honor, if I also might  
16 briefly add, Ms. Jameson may not be aware of this,  
17 but to say that they've gone out of their way to  
18 respect Judge Jocelyn Newman's order and that that  
19 is -- they take great objection to that, is  
20 categorically untrue, Your Honor.

21 On at least two occasions -- and I'm trying to  
22 pull up the e-mail right now -- they have tried to  
23 refuse to accept me as standby counsel saying that  
24 hybridized counsel is not accepted in South  
25 Carolina. And Judge Jocelyn Newman herself had to

1 chime in by e-mail and correct that misunderstanding  
2 and say that she specifically appointed me as  
3 hybridized counsel, and for them, essentially, to  
4 recognize that.

5 So, Your Honor, inasmuch as they might take  
6 great objection to it, Judge Jocelyn Newman would  
7 disagree that they have been recognizing her order  
8 for the purposes it was intended initially.

9 MS. JAMESON: Again, for the record, I'm at  
10 great disadvantage here on behalf of the State  
11 because I am not counsel of record. Lindsey  
12 McCallister is counsel of record for the 2018 case.  
13 The 2016 and 2017 cases are handled by assistant  
14 attorney general Johnny James who is also on  
15 preplanned vacation. I'm here on behalf of the  
16 State because this was an emergency hearing that was  
17 called.

18 Additionally, I was copied on some of those  
19 e-mails. Sometimes I'm copied, sometimes I'm not.  
20 But our position has consistently been that all  
21 communications need to come from Mr. Truluck and go  
22 to Mr. Truluck. That's consistently been our  
23 position, and I vehemently object to any position  
24 that we've wanted to communicate with Dr. Faltas.  
25 We were trying to keep in align with this order.

1           And, again, we're only here for this 2018 case.  
2           I believe what Mr. Truluck is referring to is the  
3           2017 case. Again, her motion only references the  
4           2018 case, and the State's position is that we're  
5           only here on the 2018 case.

6           DR. FALTAS: No. The e-mail from Judge Jocelyn  
7           Newman was in this case. She said, specifically,  
8           hybrid. And then also, Your Honor, when she says  
9           she's received 14 e-mails from me, that is also a  
10          falsehood, and I ask her to produce them.

11          Additionally, this same Ms. McCallister who  
12          claims to be away, as soon as Mr. Truluck said that  
13          he cannot file something to my detriment, draft  
14          something, she chimed in and said, can I file it  
15          myself, it can be filed before the weekend. And the  
16          reason --

17          THE COURT: All right. And --

18          DR. FALTAS: And the reason -- sorry. The  
19          reason they are doing that is that the U.S. Supreme  
20          Court is supposed to rule next Friday.

21          THE COURT: Okay.

22          I'm going to have you leave while I hear the  
23          issues of Mr. Truluck regarding being anything that  
24          might be considered privileged as far as -- on the  
25          issue of being relieved as counsel.

1 MS. JAMESON: Would Your Honor prefer me to  
2 remain at the courthouse or --

3 THE COURT: Yes, if you would. Hopefully this  
4 won't take more than ten minutes.

5 MS. JAMESON: Thank you, Your Honor. I'll wait  
6 outside. Thank you.

7 (Ms. Jameson exits the courtroom.)

8 THE COURT: All right. Ma'am on the front row,  
9 you are?

10 MR. TRULUCK: Your Honor, this is Desiree Rest.  
11 She's my paralegal.

12 THE COURT: Okay. All right. Yes, sir?

13 MR. TRULUCK: May it please the Court, Your  
14 Honor. I'll try not to repeat too much of some of  
15 what we've already addressed. But, essentially,  
16 Your Honor, I've been Dr. Faltas' counsel for ten  
17 months. Dr. Faltas' cases and Dr. Faltas, being a  
18 client different than any others, have a lot going  
19 on with them all the time.

20 Over the course of that time, I think I have  
21 dutifully assisted Dr. Faltas -- I certainly hope I  
22 have -- and at times she's asked to have me  
23 relieved. It's never been any sort of animosity;  
24 it's only been because we feel like we can't quite  
25 go in the same direction and I don't want to inhibit

1 her case.

2 It's come to a point, Your Honor, where -- and  
3 I'm not going to attack the AG's office too much  
4 because I know she's not here to defend herself --  
5 where I feel that they are essentially -- I do feel  
6 they are using me to frustrate her case. I've said  
7 that before.

8 And this last instance of them refusing to so  
9 much as send a courtesy e-mail to her so that she  
10 could review documents, for what reason, I have no  
11 idea why they would not --

12 THE COURT: You've said all of that that you've  
13 said thus far.

14 MR. TRULUCK: Yes, Your Honor. Pursuant to  
15 rule --

16 THE COURT: So whatever is -- whatever is  
17 privileged that the AG shouldn't be allowed to hear  
18 and anything else bearing on your being relieved  
19 that you haven't already said --

20 MR. TRULUCK: Your Honor, pursuant to rule --

21 THE COURT: -- let's hear that.

22 MR. TRULUCK: Pursuant to Rule 1.6, Your Honor,  
23 it requires that an attorney, by mandate, shall be  
24 relieved in a case where the representation will  
25 result in a violation of the rules of professional

1           conduct or the law or the lawyer is discharged.

2           Your Honor, Dr. Faltas has indicated, on many  
3 occasions before, but this is -- this occasion  
4 appears to be more sincere than ever, such that I'm  
5 here before you asking to be relieved. My client,  
6 inasmuch as I'm standby counsel, is discharging me.  
7 I endorse her request to have me discharged for many  
8 reasons, but mostly because I do not believe I'm  
9 assisting her in this case. In fact, I feel like I  
10 am holding her back by having to perform duties that  
11 are duplicate. And, otherwise, she's essentially in  
12 control of her case entirely.

13           Similarly, Your Honor, I -- and I've already  
14 made the argument about, you know, I think she can  
15 represent herself pro se in this PCR case. But  
16 because of that, I don't feel I'm giving her the  
17 service an attorney should give when all I'm doing  
18 is --

19           THE COURT: I'm addressing at this hearing only  
20 the questions raised in this motion as it relates to  
21 2018-CP-0798 --

22           MR. TRULUCK: Yes, Your Honor.

23           THE COURT: -- which is the motion to relieve  
24 you in that case. I'm not going to address other  
25 cases, other issues. I'm restricting it to this

1 hearing to that case.

2 MR. TRULUCK: Well, Your Honor, I'll be  
3 specific to that as well. When Judge Sprouse asked  
4 me to draft the order essentially ruling against my  
5 client, I respectfully asked the law clerk to ask  
6 the judge not to ask me to do that.

7 I believe Judge Sprouse was actually trying to  
8 create an opportunity to craft it the way that  
9 Dr. Faltas might want me to, but my knee-jerk  
10 reaction was that I'm going to do something to the  
11 detriment of my client. And I believe, as you do,  
12 that that is being considered, but we have not  
13 received any communication from Judge Sprouse.

14 In those circumstances, Your Honor, I feel that  
15 I am put into a position of conflict that may not be  
16 in Dr. Faltas' best interest. And, again, she has  
17 asked that I be discharged. I agree with that. I  
18 feel that I have done all that I can for her. And I  
19 feel that, going forward, she is her best counsel.

20 Your Honor, inasmuch as you want me to restrict  
21 it to that, I'll stop there. I don't know that I  
22 can comment further outside of that. And  
23 Dr. Faltas would like to address you with regard to  
24 that as well.

25 THE COURT: All right. Yes, ma'am?

1 DR. FALTAS: If it pleases the Court, may I  
2 remain seated because --

3 THE COURT: Yes.

4 DR. FALTAS: -- of my knee and breath issues?

5 Thank you, Your Honor. And I'm not addressing  
6 the other case, but in the Case No. 17-CP-40-06831,  
7 because I won the first time and then the attorney  
8 general asked for reconsideration and we had to try  
9 it over again, we asked -- and Judge Hood was  
10 handling the administrative issues at that time --  
11 found that that's basically doing the work twice.  
12 And he allowed Mr. Truluck an additional flat fee.  
13 And Mr. Herbert Young and Mr. Hugh Ryan from the  
14 indigent -- commission on indigent defense, they  
15 appeared and they consented to that.

16 I think, in this case, even though there has  
17 not been a trial on the merits so far, there is very  
18 good grounds to allow, at the very least, an  
19 additional flat fee for Mr. Truluck. Number one,  
20 he's not a PCR lawyer, he doesn't have a PCR  
21 contract --

22 THE COURT: The issue of lawyer fees is not  
23 before me.

24 DR. FALTAS: Well, I guess since Your Honor is  
25 the administrative --

1 THE COURT: For the next 12 hours.

2 DR. FALTAS: Yes, for the next 12 hours. And  
3 that's why I'm --

4 THE COURT: Technically, until midnight  
5 tomorrow night.

6 DR. FALTAS: Yes, Your Honor, 36 hours. A lot  
7 can happen in 36 hours.

8 THE COURT: Well, there won't be a lot  
9 happening at the courthouse, I can assure you that.

10 DR. FALTAS: But Your Honor has seen that the  
11 attorney general has said that they interpret it as  
12 such to make him do duplicate work, and so I'm  
13 making this request. And when Ms. Leah Moody was --

14 THE COURT: Well, I don't think there's an  
15 issue or -- I don't think anyone in the judicial  
16 system would disagree with the fact that Mr. Truluck  
17 has gone beyond the call of duty, he's done a  
18 yeoman's job, he has gone beyond, perhaps, what any  
19 other lawyer who has ever been in any of these cases  
20 has done in attempting to fulfill his  
21 responsibility, and he needs to be commended for  
22 that. I don't think that's an issue, not for this  
23 Court. I mean, I --

24 DR. FALTAS: I'm saying the other cases, even  
25 Your Honor has sometimes allowed additional fees for

1 lawyers. And I'm saying this is such a case.

2 THE COURT: But I'm not going to deal with the  
3 issue of lawyer fees today. I'm dealing with the  
4 issue of this motion which is entitled emergency  
5 motion to relieve counsel.

6 DR. FALTAS: Okay. And, again, just at the  
7 risk of repeating myself, the emergency is  
8 Mr. Truluck's dilemma. But if you would, please,  
9 take under advisement for the next 36 hours the  
10 motion for fees.

11 And, otherwise, my other cases that are pending  
12 in a hearing before Your Honor, I had brought that  
13 up before and then filed another reminder and also a  
14 motion for certiorari for Your Honor. And I -- I,  
15 again, gave the clerk a copy for Your Honor, but if  
16 you'd like one, I have it. Does that help?

17 THE COURT: No. None of this -- none of what  
18 you're currently saying addresses the issue of his  
19 motion --

20 DR. FALTAS: Yes, yes, yes --

21 THE COURT: -- to be relieved --

22 DR. FALTAS: -- yes, yes --

23 THE COURT: -- or your motion --

24 DR. FALTAS: I realize that, but it's other  
25 matters before Your Honor and I --

1 THE COURT: Well, there are many matters before  
2 Your Honor, thousands of matters before me.

3 DR. FALTAS: There is, Your Honor, but it's  
4 been several thousands of days of my life --

5 THE COURT: All right.

6 DR. FALTAS: -- that have been taken away with  
7 the false criminal charges.

8 THE COURT: Okay. We can have the attorney  
9 general come back, because I think we've addressed  
10 the issues regarding the motion to relieve counsel.

11 DR. FALTAS: Really, when you count the nine  
12 years times 365 days a year, I have suffered  
13 thousands of days for false criminal charges.  
14 There's no question about that. And my life is  
15 worth something and my years are worth something.

16 THE COURT: Dr. Faltas, do you have any other  
17 matters pending before the South Carolina Supreme  
18 Court?

19 DR. FALTAS: The attorney general appealed  
20 judge -- Retired Chief Justice Toal's grant of PCR  
21 to me.

22 THE COURT: And, Attorney General, is that  
23 before the South Carolina Supreme Court?

24 MS. JAMESON: Yes, I believe that's the 2016  
25 postconviction relief action. And we're waiting

1 on -- I'm not counsel of record for that, so I don't  
2 want to advise. But we've not filed a petition for  
3 certiorari yet.

4 THE COURT: I've heard and considered all of  
5 the presentation this morning concerning this issue  
6 of Mr. Truluck being relieved as counsel in  
7 2018-CP-40-01798. That is the style action that  
8 notices the request for emergency hearing is granted  
9 on.

10 As stated, there's a -- pending before Judge  
11 Sprouse, the case where he's about to issue an order  
12 in this case. I'm granting Mr. Truluck's motion to  
13 be relieved, and he is relieved upon receipt of  
14 Judge Sprouse's order. Regarding the question of  
15 whether or not Dr. Faltas can proceed pro se after  
16 or upon the release of Mr. Truluck, that -- it  
17 presents an interesting question.

18 I believe that the Supreme Court intended to  
19 include matters similar to Dr. Faltas', these cases,  
20 and the court's order, but the court did not say  
21 that in this order. So I believe the supreme court  
22 should clarify their position as to the limits in  
23 which Dr. Faltas can appear in these court  
24 proceedings.

25 I agree with Mr. Truluck's argument that the

1 court's interpretation of the supreme court order  
2 should not be limiting -- should not be interpreted  
3 beyond what is clearly stated in the order.  
4 However, because this is an order issued by the  
5 supreme court, the supreme court has the ability to  
6 clarify its own orders. This is not a case  
7 decision, this is a court order, so the court has to  
8 make its own order.

9 I don't know how many times they've amended and  
10 revised similar orders in relation -- in regard to  
11 Dr. Faltas. And they should clarify whether this --  
12 their intent is that she be prohibited from handling  
13 PCR matters. But, until such time as that is done,  
14 I am going to permit her to proceed pro se upon  
15 Mr. Truluck being relieved in this 2018 case.

16 DR. FALTAS: Your Honor, I will be allowed to  
17 proceed pro se once Mr. Truluck is relieved? I  
18 just --

19 THE COURT: On the 2018 case, unless or until  
20 the supreme court further clarifies its order to  
21 incorporate or not incorporate the PCR, I request  
22 the parties or any desiring party to request that  
23 clarification from the supreme court since this is  
24 an order. This is not a case that was argued and  
25 where the court issues an opinion, this is a supreme

1 court order which they can amend, modify, or  
2 clarify, if they so desire.

3 And that addresses the only issue that the  
4 Court is entertaining today on this emergency basis.  
5 To go beyond this limited issue in the absence of  
6 primary counsel for the State upon less than 24  
7 hours' notice will not be just.

8 DR. FALTAS: Thank you, Your Honor. Just to  
9 reiterate, he's relieved once Mr. -- Judge Sprouse  
10 issues --

11 THE COURT: Upon receipt of Judge Sprouse's  
12 order, he's done --

13 DR. FALTAS: And I --

14 THE COURT: -- on the 2018.

15 DR. FALTAS: And I represent myself unless the  
16 state supreme court says otherwise?

17 THE COURT: Yes. That's it, in a nutshell.

18 DR. FALTAS: Thank you.

19 THE COURT: Thank you all.

20 MR. TRULUCK: Would you like proposed orders?

21 THE COURT: No. We'll issue an order saying  
22 that.

23 DR. FALTAS: Thank you, Your Honor. And happy  
24 new year.

25 THE COURT: All right. Same to you-all.

1 DR. FALTAS: And just so you know, I wrote a  
2 request for Ms. Weiss for special counsel to  
3 investigate the perjury --

4 THE COURT: All right.

5 -- END OF TRANSCRIPT OF RECORD --

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## C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Richland County, South Carolina, on the 28th of December, 2018.

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

February 11, 2019

s/Bethanie K. Creppon

Bethanie K. Creppon  
Circuit Court Reporter