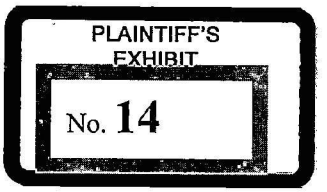
RECEIVED
JUN 09 2023
S.C. SUPREME COURT

State of South Carolina

County of Richland

Court of Common Pleas



Marie Assa'ad-Faltas	)	
	)	
Applicant,	)	Transcript of Record
v.	)	2018-CP-40-01798
	)	
State of South Carolina	)	
	)	
Respondent.	)	

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

I N D E X

WITNESS	PAGE

(No Witnesses.)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.

(No Exhibits.)

P R O C E E D I N G S

* * *

THE COURT: Yes, sir.

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

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

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

THE COURT: All right.

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

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

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

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

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

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

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

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

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

THE COURT: Requests --

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

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

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

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

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

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

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

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

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

MR. TRULUCK: Specifically, Your Honor, yes.

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

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

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

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

THE COURT: Circuit court appointed you to

handle a summary court case?

MR. TRULUCK: Yes, Your Honor.

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

MR. TRULUCK: Thank you, Your Honor.

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

THE COURT: Yes, ma'am.

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

THE COURT: Yes, ma'am.

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

THE COURT: Yes. I'm surprised by anything

that I'm not familiar with.

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

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

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

Office of Appellate Defense is nominally representing me.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DR. FALTAS: All right. But --

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

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

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

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

allowed to do so.

THE COURT: Which question?

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

THE COURT: Yes, sir.

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

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

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

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

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

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

And as much as I might anticipate the Attorney

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

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

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

herself because it doesn't address applicants --

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

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

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

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

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

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

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

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

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

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

THE COURT: Yeah, this court.

MR. TRULUCK: Yes, Your Honor.

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

MR. TRULUCK: Courier, secretary, paralegal --

THE COURT: Courier, secretary, paralegal, or

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

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

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

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

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

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

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

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

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

DR. FALTAS: But he hasn't.

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

DR. FALTAS: He might change his mind.

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

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

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

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

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

Honor.

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

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

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

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

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

DR. FALTAS: I needed to add one --

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

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

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

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

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

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

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

THE COURT: Yes.

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

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

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

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

we're here for.

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

DR. FALTAS: Objection.

MS. JAMESON: -- like the State --

DR. FALTAS: Objection.

MS. JAMESON: -- these --

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

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

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

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

Dictionary or by case precedent?

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

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

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

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

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

MS. JAMESON: Provision No. 5 says: Respondent

may not represent pro se as a plaintiff in a civil action in any court of this state. Instead, she must be represented by counsel before any court in this state when appearing as a plaintiff. Respondent is advised that she is not precluded from addressing any non-frivolous grievances she may have as a plaintiff in the courts of this state, assuming that she is represented by an attorney licensed to practice law in South Carolina.

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

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: I'm not --

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

THE COURT: All right.

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

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

Sprouse has under advisement?

MS. JAMESON: Well, Your Honor --

THE COURT: Or referred by Judge Sprouse?

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

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

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

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

tactic and jumping ship near the end of the case. It's been --

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

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

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

THE COURT: All right.

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

repeatedly done.

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

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

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

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

THE COURT: All right.

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

MR. TRULUCK: Thank you, Your Honor.

DR. FALTAS: Thank you, Your Honor.

(Brief recess.)

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

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

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

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

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

MR. TRULUCK: Yes, Your Honor.

THE COURT: All right.

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

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

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

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

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

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

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

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

THE COURT: What --

DR. FALTAS: Sir --

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: All right.

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

THE COURT: Yes.

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

THE COURT: All right.

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

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

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

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

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

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

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

DR. FALTAS: Okay. Thank you.

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

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

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

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

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

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

THE COURT: All right.

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

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

makes him a courier.

THE COURT: Okay.

DR. FALTAS: So -- so --

THE COURT: Yes, ma'am.

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

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

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

THE COURT: All right. Well --

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

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

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

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

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

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

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

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

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

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

THE COURT: What year was that case?

MS. JAMESON: 2008, Your Honor.

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

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

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

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

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

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

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

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

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

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

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

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

THE COURT: All right. And --

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

THE COURT: Okay.

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

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

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

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

(Ms. Jameson exits the courtroom.)

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

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

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

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

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

her case.

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

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

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

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

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

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

THE COURT: -- let's hear that.

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

conduct or the law or the lawyer is discharged.

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

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

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

MR. TRULUCK: Yes, Your Honor.

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

hearing to that case.

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

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

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

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

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

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

THE COURT: Yes.

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

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

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

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

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

THE COURT: For the next 12 hours.

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

THE COURT: Technically, until midnight tomorrow night.

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

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

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

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

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

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

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

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

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

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

DR. FALTAS: Yes, yes, yes --

THE COURT: -- to be relieved --

DR. FALTAS: -- yes, yes --

THE COURT: -- or your motion --

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

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

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

THE COURT: All right.

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

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

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

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

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

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

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

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

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

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

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

I agree with Mr. Truluck's argument that the

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

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

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

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

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

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

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

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

DR. FALTAS: And I --

THE COURT: -- on the 2018.

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

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

DR. FALTAS: Thank you.

THE COURT: Thank you all.

MR. TRULUCK: Would you like proposed orders?

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

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

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

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

THE COURT: All right.

-- END OF TRANSCRIPT OF RECORD --

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