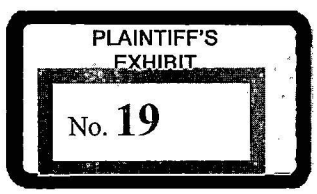
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S.C. SUPREME COURT

State of South Carolina)
) In the Court Of Common Pleas
County of Richland) Case No.: 2019-CP-40-02219
)
Marie Assa'ad Faltas,)
)
Plaintiff,)
)
vs.) Transcript of Proceedings
) Via Webex
State of South Carolina,)
)
Defendant.)



January 27, 2022

Columbia, South Carolina

BEFORE:

The Honorable D. Craig Brown, Judge.

APPEARANCES:

Timothy L. Griffith, Esquire
On behalf of the Plaintiff

Yasmeen E. Klein, Assistant Attorney General
On behalf of the Defendant

Harley Kirkland, Esquire
On behalf of Heather Weiss

ALSO PRESENT:

Marie Assa'ad Faltas

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EXHIBITS

NONE

Thereupon, the following proceedings were had,

THE COURT: Ms. Klein, are you ready to proceed?

MS. KLEIN: Yes, Your Honor. I am currently on the phone with Mr. Lupton. He's having problems still. He can testify via just without his camera, but for some reason he's not able to log on. He's getting some odd messages from the Webex system whenever he's using a certain operating system so I don't know if Your honor would like him to keep trying or if you want to just proceed with him testifying over the phone essentially.

THE COURT: Well, Mr. Griffith, are you there?

MR. GRIFFITH: I am, Your Honor, and I have no objection to him over the phone.

THE COURT: Okay. All right. Before we get started, let me ask this question. All the parties appear to be appearing via Webex today in some capacity. Mr. Griffith and your client had actually requested, Dr. Faltas had requested to participate via Webex as well. Any objection by any of the parties to proceeding via Webex here today? Mr. Griffith?

MR. GRIFFITH: We have no objection, Your Honor. Dr. Faltas had asked me if she could do Webex because she was concerned about communications with covid, et cetera, health concerns.

THE COURT: Is that correct, Dr. Faltas?

DR. FALTAS: Your Honor, am I unmuted yet?

THE COURT: You are. I just unmuted you.

DR. FALTAS: Okay.

THE COURT: Do you consent to proceeding today via Webex?

DR. FALTAS: Yes, sir, but I do not consent to being represented and I need --

THE COURT: I understand your objection to that. I'm sorry. Go ahead.

DR. FALTAS: I needed as a threshold matter to renew and update my motions to relieve Mr. Griffith and I ask that the Court allow me to make a record for appellate purposes and for Federal habeas purposes.

THE COURT: Go ahead and tell me your reason for requesting that he be relieved as your lawyer. We'll address that first.

DR. FALTAS: Thank you. But first may I just as a housekeeping matter ask, I don't think I ever appeared in court to where Mr. Steve LeBlanc was the court reporter and least of all I don't think I ever appeared where he was the court reporter on Webex so as a threshold matter may I ask if Mr. LeBlanc can hear me?

COURT REPORTER: I can hear you.

THE COURT: Yes. He can.

DR. FALTAS: Okay. And if I say something that he

cannot decipher with all the other court reporters they usually take note and at the end ask me what I said when it was fresh in my memory and thank God that always works so with the Court's permission I extend that invitation to him and again on housekeeping, I would like the Court, I remind the Court in case I haven't said it before that I have breathing difficulties and I have a half paralyzed larynx so sometimes I need to stop mid sentence or need word to take my breathe. I hope the Court does not take that as my having ended what I'm going to say.

THE COURT: Okay.

DR. FALTAS: Second, so about updating the motion to relieve Mr. Griffith. I recently came across a direct published opinion from the state of South Carolina Supreme Court that says PCR applicants have a right to proceed pro se. They have a right to remove, to relieve the court appointed lawyer and proceed pro se. What they don't have the right to do is to keep changing court appointed lawyer. That has never been my intent. I have always wanted to proceed pro se on PCR. There is absolutely no reason for me not to do that. That is the law of this state and the law of the United States including the Constitution of the United States guaranteeing equal protection.

Additionally, additionally, I was thank God

permitted to prosecute one PCR pro se in this Judicial Circuit which is 2017-CP-14 - I'm sorry - 14-06831. Thank God I prevailed in that case twice at the Circuit Court level. First Judge Goldsmith granted me PCR, the state sought reconsideration, he vacated his order, not reversed it, and then the Honorable, the truly Honorable, perhaps the only truly Honorable Judge in this state, state Judge in South Carolina, Judge Gravely granted me PCR again. The state sought reconsideration. The truly Honorable Judge Gravely denied reconsideration. The state sought certiorari and delayed the matter for three years, and recently certiorari was denied and the case was remitted.

So, not only do I have no history of being frivolous with PCR applications, I have a history better than lawyers of prevailing on PCR in such a manner that the record I created while prosecuting the PCR pro se with two appeals. That hasn't been the case with the PCR on which a lawyer was forced on me. In another PCR Ms. Leah Moody, whom I like very much, but she was forced on me and Justice, retired Justice Toal sitting as a Circuit Court Judge granted PCR, but the State appealed and the State Supreme Court reversed and now I am in Federal Court and in Federal Court the State is saying I did not preserve this and I did not preserve that when I had no

choice because counsel was forced on me. But that one PCR case where I was allowed to proceed pro se, thank God not only did I win, the record I created I created with two appeals.

Second, in the process of advocating pro se which I'm allowed to do in Federal Court I was able to scientifically and methodically look at all the cases of lawyers in South Carolina who were sanctioned ranging from public reprimand to disbarment or debarment and none of them, none of them, some have done things so outrageous as to kill a person by driving drunk, some have been stealing from their clients, some have been insulting and sexually harassing to court personnel --

MS. KLEIN: Your Honor, I have to object to the relevance of this. The question was what has Mr. Griffith done specifically for her motion to relieve and I don't believe that this information is relevant at all.

DR. FALTAS: I believe it is relevant to equal protection. The State Supreme Court in the --

THE COURT: Hold on just a minute.

DR. FALTAS: -- in the thousand lawyers that they punished for several ranges of malfeasance, they never --

THE COURT: Dr. Faltas. Dr. Faltas.

DR. FALTAS: When the Court speaks, I - I - I stop

talking so I stopped talking. Yes, sir.

THE COURT: I want to make sure you can hear me. I understand what you're talking about. You're talking about your desire to represent yourself in this matter and you're talking about other lawyers and disciplinary proceedings against other lawyers. Other than your assertion of your right to represent yourself, what allegations, if any, do you have to relieve, against Mr. Griffith to have him relieved as your lawyer?

DR. FALTAS: Several, sir. Several.

THE COURT: Well, let's hear them please.

DR. FALTAS: Yes, sir. Most recently, for example, he filed in this case what he called a reply to the State's motion to dismiss which is the same thing except for the caption of the other three cases. The other three cases the State made a purported motion to dismiss based on untimeliness. In this case it did not make such motion because there is no allegation of untimeliness in this case and yet without any change, without review of the facts, Mr. Griffith filed a reply that now concedes that there is an allegation of untimeliness in this case. He should have been at minimum careful not to willy-nilly stick anything he files in cases in which it does not apply.

His grammar has been horrible, embarrassing really,

and he has not at all availed himself of the facts as I need to tell them to him. In fact, I had provided him with transcripts, official transcripts that I ask that he supplement the Court with, the record with, and he did not do that and I am willing to list even from memory these transcripts.

Now, why if, with leave of the Court, may I say what they are because the record is not complete and now the State Supreme Court after going to instead of paper electronic filing, it says that in PCR cases it will not request an appendix, but instead will look at the public record. The public record, the public index in this case is woefully incomplete. So let me tell you the available transcripts which both the State and Mr. Griffith has colluded, have colluded in not completing the record with.

The first transcript is from November 17, 2009. 2009, sir, which is almost 13 years ago. That transcript was made by the City of Columbia's Municipal Court. They have a retired court reporter who doesn't actually sit in the courtroom, but they make recordings and she makes the recording, the transcripts from that audio. So the 17 November 2009 transcript shows at least three things. Number 1, I was not given sufficient discovery in this case, in this case because that hearing was about this

case and another, and a trespass case brought by my same false accuser in this case. Thank God the jury acquitted me of that trespass case when it was finally tried in 2013. But in this case not only did the city --

(Webex transmission interruption.)

THE COURT: I'm sorry. Your video went blank for a minute.

DR. FALTAS: What was the last thing he --

(Partial last sentence by Dr. Faltas read back by court reporter.)

(Webex transmission interruption.)

COURT REPORTER: Can y'all hear me?

THE COURT: Mr. LeBlanc?

COURT REPORTER: Can you hear me, Judge?

THE COURT: I can hear you. What was the last thing you heard Dr. Faltas say?

COURT REPORTER: "But in this case not only did the city."

THE COURT: And that was it?

COURT REPORTER: Yes, sir.

THE COURT: Dr. Faltas?

DR. FALTAS: Yes. May I resume now?

THE COURT: Yes. Go ahead.

DR. FALTAS: Thank you. So when I say this case, I don't mean this PCR case. I mean the simple assault case

underlying this PCR. Is this shorthand acceptable? Do all understand what I mean when I say this case?

THE COURT: You're talking about the simple assault case.

DR. FALTAS: Yes, sir.

THE COURT: Okay.

DR. FALTAS: So in this case I was not given discovery.

THE COURT: All right. Well, let me ask you this, Dr. Faltas.

DR. FALTAS: Yes, sir.

THE COURT: You're going into issues of not being given discovery. I want you to stay focused on why you want Mr. Griffith removed.

DR. FALTAS: Because he did not include this very important transcript which shows that, so I am listing the transcripts that are missing from the record.

THE COURT: All right. And you talked about the November 17, 2009 transcript.

DR. FALTAS: Yes, sir.

THE COURT: All right. What's the next one?

DR. FALTAS: The next ones would be January 11, the Fourth Circuit, Judge Cooper.

THE COURT: January 11th of what year?

DR. FALTAS: I'm sorry. I'm sorry. I thank the

Court for reminding me of that. 2010.

THE COURT: Okay.

DR. FALTAS: Before Circuit Judge Cooper who was then the chief administrative, the Chief Judge for administrative purposes for General Sessions and that was one where Heather Weiss claimed that she has all the discovery for me. How is that relevant? Because Heather Weiss was trying to frame me for two counts of harassment in the first degree. One of them was pretended by my false, same false accuser in this case Dinah Gale Steele. The discovery I received was not, did not include the statement by my false accuser.

THE COURT: The victim impact statement?

DR. FALTAS: Yes, sir, which admitted that she had no physical effect and did not need medical attention and did not seek medical attention. I am sorry. Before that there is a transcript of 7 January 2010 which was before then Circuit Judge James who is now an Associate Justice of the Supreme Court, it was to reconsider the conditions of the bond.

THE COURT: And that was referenced, or that was brought up to Judge Solomon during your trial on the simple assault charge back on April 25th of 2013.

DR. FALTAS: I am saying that transcript does not exist in this PCR case and the record needs to be

completed with this transcript. The importance of this transcript is that for the first time Heather Weiss announced that Dinah Gail Steele, my false accuser, was having some difficulties or had to see a doctor. I believe that when you put things together including the fact that the victim impact statement was not given to me in discovery anywhere and that Heather Weiss knew that she sent --

MS. KLEIN: Your Honor, again, I have to object. This information is primarily Dr. Faltas airing her grievances and it's not specifically relevant to Mr. Griffith's representation.

DR. FALTAS: It is relevant to Mr. Griffith to complete the record.

THE COURT: All right. So you have asserted that he didn't complete the PCR record by including these transcripts, correct?

DR. FALTAS: These and many others, sir, and so this has to - and then there is also -- I'm sorry. I need to go back. There is the transcript of 2 December 2009 bond hearing before then Columbia Municipal Judge Jim Burns. That was recorded by audio by the city and I made the transcript from that audio and I told Mr. Griffith several times if the transcript I made from the audio is not acceptable, to please get a finding order from you so

that another court reporter can make a transcript from that audio. The crucial part in that transcript are two things. My false accuser lied provably because she said that I was harassing people by preventing them from going to work. That person was proved to have been unemployed during that period.

The second thing is that Heather Weiss in her own words, in her own voice said that she advised the city to not bring a simple assault case, this case, to trial because basically she said because it was underlying or under something the harassment charges meaning that she was afraid that if I got acquitted of the assault, then the harassment case pretended by Dinah Gale Steele would crumble. So this is prosecutorial misconduct and this transcript is probative of it.

The previous transcript -- And I'm sorry I keep going back -- would be the two transcripts of 1 December 2009 when I stood before Judge Lee and told her there is a conspiracy to get me arrested for the defendants in the civil case, to get unfair advantage in the civil litigation.

MS. KLEIN: Your Honor, objection. This is all hearsay, it's all speculative. This has nothing to do with her motion to relieve Mr. Griffith as counsel.

DR. FALTAS: It cannot be hearsay, ma'am, if there

is court transcripts of it. And all I'm --

THE COURT: Hold on, Dr. Faltas. Hold on, Dr. Faltas.

DR. FALTAS: Yes, sir.

THE COURT: I want you -- You've told me that Mr. Griffith did not include transcripts in this PCR action that's currently before me, several different transcripts. What else or what other reasons do you have for him not, or whatever reason you have to have him relieved?

DR. FALTAS: That shameful thing that he recently filed in this case, it doesn't apply to this case at all and it keeps pushing me backward. Even in it, I told, and previously I told him to please denominate me in the caption as applicant not as plaintiff because I have taken the position and I insist on it that PCR cases are not civil cases but are hybrid cases. He doesn't -- There is nothing wrong with - with - with, uh - with calling me the applicant. This is what I am in PCR parlance, but he still calls me plaintiff and that document which he filed in this case, in the PCR case ending in 112 should be struck because it doesn't apply to this case at all. So he takes positions contrary to my interests.

THE COURT: Okay. All right. What else?

DR. FALTAS: And he has not once, not once let me tell him the facts from person to person. He keeps sending me emails and doesn't read the response to it, my responses to them. He has not subpoenaed five essential people today for the after discovered part of this PCR case, the after discovered evidence part of it.

THE COURT: And who are those people?

DR. FALTAS: Yes, sir. Dinah Gale Steele, Larry Will Mason, Charles Randolph White, Charlene Crouch who also now uses the name Charlene Boyd, and Theresa Felicia Ingram Jackson sometimes known as Nikki Ingram, sometimes known as Theresa Ingram and she has several other names. I provided him with the names and addresses from previous subpoenas to them. He has not subpoenaed them. I also asked him to subpoena Orin Briggs who represented me in the underlying case in the motion for rehearing, he did not subpoena him even though I explained to him that. And even though, even though there is a recent, relatively recent Federal habeas opinion from Federal Judge Gergel that says that the representation and the right to effective appellate representation extends to the rehearing - the rehearing part of an appeal in criminal cases.

THE COURT: All right. Next allegation against Mr. Griffith.

DR. FALTAS: He has been lying to me.

THE COURT: Okay.

DR. FALTAS: He has been lying to me. For example, he said, and I have the emails, he said that he attached the orders to the other, to the reply to the motion to dismiss in the other cases. You can see that there are no exhibits to the...

THE COURT: All right. So he allegedly lied to you. What else?

DR. FALTAS: In his submissions his grammar and syntax --

THE COURT: All right. You've already told me about - you've already told me about the Grammar. What else?

DR. FALTAS: -- and syntax are embarrassing and do not clarify the issues. He does not understand or respect the duty to create a record and to, I don't want to say compel, but to do everything to extract from all levels of state court rulings on PCR issues so that they can be reserved for Federal habeas purposes. He withholds issues because he is afraid that the Court will get upset with him or that the Attorney General will get. Frankly, he's been talking to the Attorney General more than he has been talking to me and he's been conceding to the Attorney General's wishes, not mine. Basically he's working for the Attorney General in effect, not for me.

Also, he does not keep me informed. I understand the Court does not want me to email things to the Court. Even though I object to that I understand it. But whenever the Court sends Mr. Griffith an email, there is nothing that says he cannot forward it to me so I can look at it in its entirety. He has consistently refused to do that so he does not keep me informed and he has categorically, categorically refused to share with me any email he receives from the Attorney General in my cases.

THE COURT: All right. Let me hear from you, Mr. Griffith.

MR. GRIFFITH: Your Honor, I do communicate with her. I have 669 emails passed back and forth between her and I and the Court. Your Honor, I don't pass emails to her right from the Attorney General because she sometimes has been asked by the Court not to communicate and I don't want to contribute to any kind of a problem so I do send her excerpts of communications with the Attorney General and, of course, I send her copies of filing.

But, Your Honor, I think that I don't think that I should be relieved. I believe that she needs representation. Dr. Faltas is very intelligent, very capable, very knowledgeable in the situation, however, in her zeal I'll say towards some of the cases she tends to not make it as easy to move the case forward. By not

making it easy I mean she may - I think that it's in her best interest to have an attorney to put forth some of these things in following all our rules.

In her communications about people I subpoenaed or didn't subpoena, she sent me lists of 25 or so people to subpoena. I went through every one of them. I asked her specifically on each one tell me exactly what this person is gonna contribute to our case so that I will know what to question them and oftentimes it just wasn't relevant to the case and to her PCR. It may be relevant in an appeal type thing or something like that, but so I didn't subpoena every single one of those people. But in the meantime I do think she needs representation. I'm not against representing her and I believe that she and I have talked very pleasantly over the phone at times and I think that we all in all get along. In fact, at one time she had another case going she said she was gonna ask that I get the case because better the devil you know.

But, Your Honor, I would ask that her motion to relieve me be denied but, of course, that's up to the Court.

THE COURT: All right. Well, based upon what I have heard here today and pursuant to the Supreme Court order dated September 20th of 2019 which prohibits Dr. Faltas from representing herself, this Court is bound by the

ruling of the Supreme Court. I am respectfully denying Dr. Faltas' motion to relieve Mr. Griffith as her attorney. That will certainly be an issue that she can appeal if she so desires and she can do that if and when it's necessary.

Now, having made the ruling upon that, I would ask the State at this time to call the case.

MS. KLEIN: Your Honor, if I may, I believe that there has been a motion to quash that has been filed by counsel Kirkland on behalf of Heather Weiss who was subpoenaed to testify and with your permission, Your Honor, I believe that it would be appropriate to have that motion argued first just before we get to the merits of the case. I believe you should have received a copy of that to your chambers.

THE COURT: Hold on just a second. Well, I have reviewed your motion to quash as well as Mr. Griffith's reply that I received this morning. I read it before I took the bench this morning. Let me hear from you on your motion.

MS. KIRKLAND: Thank you, Your Honor. Can you hear me okay?

THE COURT: Yes.

MS. KIRKLAND: So, uhm--

THE COURT: I'm sorry. Tell me your name for the

record.

MS. KIRKLAND: I'm sorry.

THE COURT: Just tell me your name for the record. I see your name but I want it clear on the record please, ma'am.

MS. KIRKLAND: Yes, sir. My name is Harley Kirkland and I represent Heather Weiss in this motion to quash. Essentially we've got kind of two related grounds for quashing the subpoena. First is the allegations against, the allegations that concern Ms. Weiss are subject to dismissal. They're allegations 42 and 43, and I believe the State has moved to dismiss those in their return. And then kind of tied into that, Ms. Weiss didn't prosecute this case so I don't believe that she would have any really relevant testimony to give here so the case that's before the court, the lower court case was a simple assault and my client was involved in two harassment charges, but not in the simple assault so she had nothing to do with charging or prosecuting this case and therefore we would ask the Court to quash the subpoena.

And furthermore, should this hearing continue past today or into another term of court, we would ask for a protective order that she not be subpoenaed again in the future.

THE COURT: All right. Let me hear from you, Mr. Griffith.

MR. GRIFFITH: Your Honor, if it please the Court. I understand Ms. Weiss desired to be left out in this case as her attorney pointed out. She did not prosecute for this underlying case, however, she did for others in which some of the allegations brought forth in this case were also brought out in that case and so in this case Ms. Weiss, I just want to ask her a couple of simple questions. My questioning won't last more than ten minutes I don't believe, but Dr. Faltas has in her PCR application accused her of prosecutorial misconduct.

The State through the Attorney General's Office has declined to call her as a witness and to answer those allegations other than to ask that they be dismissed. They have not been dismissed. Since they have not been dismissed, then we are entitled to argue those allegations in this PCR case. If the State does not wish to answer those allegations, then we are happy to accept that the Court would take Dr. Faltas' word and with no rebuttal because, of course, her being the only witness, then there would be no answer. But we would give the State an opportunity for Ms. Weiss to answer those allegations and I don't believe it would take very long. In fact, I have informed the Court that I would plan to,

and in my reply, that I would plan to call those persons first so that they can go on with their work and just get them out of the way before we move on to others that would be called.

THE COURT: Well, let me ask you this, Ms. Kirkland. Or excuse me, Mr. Griffith. The allegations that Dr. Faltas, that you have asserted, or Dr. Faltas has asserted in this PCR, those issues of, as it relates to Ms. Weiss were brought up in her trial before Judge Solomon on April 25, 2013, more specifically on pages 76, excuse me, 74, 75, and 76, so those issues were certainly before Judge Solomon at that time. Were the issues of alleged prosecutorial misconduct appealed pursuant to her conviction on this simple assault?

MR. GRIFFITH: Dr. Faltas has appealed the simple assault. Those allegations I believe were brought up as well, but in the meantime in this PCR we have alleged prosecutorial misconduct and it's quite a simple question really. I think we can clear it up if Ms. Weiss would testify. And this case I do believe that it is in the best interest of finding of the fact to have this heard.

THE COURT: Ms. Klein, do you have anything to add?

MS. KLEIN: Yes, Your Honor. The allegations that do reference Ms. Weiss, the State not only moved to

dismiss them, but those allegations are also included in the State's motion to strike those supplemented allegations in their entirety. We would assert that it is not related to the underlying conviction of the simple assault which is the subject of this PCR and it would be unnecessary to elicit testimony from a witness who is not directly involved in that case.

THE COURT: Well, let me ask you this, Ms. Klein. I mean, it appears in my review of everything in this simple assault, when you go back to I guess the settings somewhat of these trials by Judge Solomon back in March of 2013, it's apparent that all of these cases in some way, shape or form are intertwined and while Ms. Weiss didn't directly prosecute this particular case, if there is documentation or evidence as it relates to, say, the harassment charge and which has been asserted here as a, that a victim impact statement, for instance, was not provided in discovery, a victim impact statement from Ms. Steele that in some way is interrelated with the simple assault and that was not provided to Mr. Fernandez who actually prosecuted this case, how would that, if at all, I guess play into the whole scenario? Does that make sense?

MS. KLEIN: Your Honor, I don't know it makes sense. I agree that there are several cases around this time

period that are somewhat related because the same defendant was the individual involved in all of those cases, but with regards to the allegations for post conviction relief, the underlying charge is the simple assault charge and Ms. Weiss was not involved directly in that case.

Now, if there is any ancillary component, that is more properly addressed through talking to Mr. Lupton about his representation of Dr. Faltas for that offense. Getting testimony from Ms. Weiss I don't believe would be relevant. I don't believe it would be necessary. I think that there are questions that would be more appropriate for Mr. Lupton, but I would also refer to Ms. Kirkland if she wants to elaborate on the time frame of how Ms. Weiss was involved or not involved in these cases as well to support the contention that she should not be required to testify.

THE COURT: All right. Ms. Kirkland.

MS. KIRKLAND: Thank you, Your Honor. So I believe that the simple assault charge came first and then the harassment charges followed and those charges as far as Ms. Weiss was concerned were resolved I think in 2010 and so really I think that that should have been the end of her involvement in this. Like everybody else has said, she didn't prosecute this case so I'm just struggling to

see how prosecutorial misconduct against someone who wasn't her prosecutor would be relevant here today.

THE COURT: Hold on just a minute. Go ahead, Mr. Griffith.

MR. GRIFFITH: If it please the Court. Your Honor, this document has to do, and we will, of course, get into that, but with the initial assault which the victim claimed caused her to have ongoing emotional distress and problems in the future and what Dr. Faltas was trying to ascertain and receive was a copy of statements whether they existed or not. I don't know that. That's why I want to ask Ms. Weiss if those documents actually existed. If they existed, then they would have had an impact on this case, Your Honor, and underlying cases, so would have also affected the other cases and so the simple question is, did documents exist, were they withheld from Dr. Faltas.

THE COURT: Well, this is what I'm gonna do, okay? I'm gonna reserve ruling on the motion to quash at this point. I'm going to hear testimony from Dr. Faltas, Mr. Fernandez, Mr. Lupton and then I'll make a determination as to whether or not I think any input or testimony from Ms. Weiss is pertinent or relevant to what we have here before us, okay?

MR. GRIFFITH: Thank you, Your Honor.

MS. KIRKLAND: Thank you, Your Honor.

THE COURT: All right. Having said that, now, Ms. Klein, will you call the case please, ma'am.

MS. KLEIN: Yes, Your Honor. Your Honor, would you like me to do a full procedural history or a truncated version?

THE COURT: I do so the record's clear please, ma'am.

MS. KLEIN: Certainly. Thank you, Your Honor. May it please the Court. This is the matter of Marie Assa'ad Faltas versus the State of South Carolina. Docket number 2019-CP-40-0112. Dr. Faltas was charged with simple assault by the City of Columbia via warrant number L066971 in September of 2009. She was represented by Theodore Lupton and proceeded to a bench trial before the Honorable Carl Solomon on April 25th of 2013. She was eventually convicted and sentenced by Judge Solomon to a period of confinement of 20 days for the simple assault.

She filed a notice of appeal in the Circuit Court and a hearing regarding that matter was held before Judge Alison Lee on December 13th of 2013. She appeared pro se after having her appellate counsel relieved and on April 17th of 2015 the Circuit Court affirmed her conviction by written order.

Applicant had additionally at that point filed a

motion for a new trial based on after discovered evidence on December 23rd of 2013. The Honorable Jocelyn Newman denied applicant's motion for a new trial by written order which was filed January 4th of 2018 and the case was remanded to the City of Columbia Municipal Court where Magistrate Judge Phillip Newsom heard the matter at a hearing on February 4th of 2019 where he orally denied the pending motion. Applicant submitted a motion to reconsider and Judge Newsom additionally denied that motion by written order on February 27th of 2019.

Following the direct appeal of the simple assault charge, applicant filed an appeal to the South Carolina Supreme Court wherein she was represented by John Strom, Esquire. Following the submissions of briefs, the South Carolina Supreme Court affirmed the conviction. She then filed a petition for writ of certiorari to the United States Supreme Court which was denied on October 1st of 2018. Applicant then filed a petition for rehearing to the Supreme Court which was denied on January 7th of 2019.

While her appeal was pending in the United States Supreme Court, applicant filed her first application for post conviction relief which was then titled 2018-CP-40-1798. Respondent filed a return and moved to dismiss the application due to the pendency of the direct

appeal. Following the conclusion of the direct appeal, applicant refiled and resubmitted the same PCR. There were several various -- With regards to the first PCR, there were several pending appeals and motions that were ultimately denied by Judge Sprouse due to the fact that her first PCR was dismissed without prejudice due to the pendency of the appeal. The remittitur from all of those appellate actions was issued November 20th of 2019. This application was then filed and the State has since submitted a original return, amended return and second amended return with regards to various supplemental allegations that have been filed by counsel and, Your Honor, at this time the State would renew its motion to strike supplemented allegations 31 through 45 as impermissible hybrid representation under Rule 11 and would additionally move to renew all of its partial motions and motions to dismiss various allegations that have been listed as part of this action.

I would be happy to number those for you if you would like, but other than that the State is ready to proceed.

THE COURT: Go ahead and number those motions.

MS. KLEIN: Your Honor, to my knowledge the State has moved to dismiss allegations number 1 through 8, 10 through 14. We have additionally moved to dismiss

allegation 30, allegations 34, 35, and 38 through 45.

THE COURT: All right. Anything else at this time?

MS. KLEIN: No, Your Honor.

THE COURT: All right. Mr. Griffith.

MR. GRIFFITH: Please the Court. Your Honor, Dr. Faltas submitted her applications some time back. At that time she was permitted to represent herself. The allegations that she submitted, 1 through 8, 10 through 14, 30, 34, 35, et cetera, were all included in that application. She also herself submitted an application which included the other following one, the 38 through 45. I looked at those and also submitted it, Your Honor. It's not a hybrid. I looked at them and, in fact, I thought, well, you know, she had decided that this is what she wanted to submit. I as her attorney am obliged to do what she would like to do.

I did change the wording on some of them and she yelled at me for it, but we got past that and, in fact, so after I had submitted them, the State wanted to, of course, say they didn't have to do those because they had not replied to them, but we would say that, Your Honor, those were submitted as an amended complaint in PCR. An amended complaint in PCR is the complaint and so the Court is obligated, that is the State is obligated to answer that complaint and to be held accountable for

those allegations and if they can't give answer to those allegations, then they should be, a PCR should be granted on those allegations.

THE COURT: All right. Well, based upon prior rulings of the Supreme Court, and I'm paraphrasing here, not specifically setting out the language, I know that the Supreme Court in a previous order indicated that any filings would have to go through an attorney, go through an attorney and while Dr. Faltas initially submitted those, I do recognize here that on or about August 24, 2021 they were subsequently resubmitted by Mr. Griffith on her behalf or at least that's what it appears to me and so at this time I'm gonna respectfully deny the State's motion to dismiss those allegations and I am prepared to at this time proceed with testimony, all right? Mr. Griffith.

MR. GRIFFITH: If it please the Court, Your Honor, I would call, if the Court would allow, I would call Dr. Marie Faltas.

THE COURT: All right. Dr. Faltas, can you hear me?

DR. FALTAS: Yes, sir. Can you hear me?

THE COURT: I can hear you. Let me remind everyone involved here that the Chief Justice has previously issued an order concerning the recording of these proceedings and no one, no one other than the Court or

the court reporter is permitted to record any of these proceedings. If there is a violation of such, there will be penalties which could be contempt which could be fine and/or incarceration, so I would advise all parties that no one other than the Court and the court reporter is to be recording any of these proceedings. Any questions about that?

DR. FALTAS: Yes, sir. May I ask a question?

THE COURT: Yes, ma'am.

DR. FALTAS: Thank you. I have never actively recorded anything from the Webex, but sometimes when I am silently observing other cases, I see something on the panel that says recording in progress.

THE COURT: Well, I am recording and the judges are supposed to and required to record the proceedings and I'm recording the proceedings and that's what you may see. So I'm just telling you that no one -- I can't speak for what may be going on in other Webex hearings, I'm speaking as to what is expected and required in my hearing and that is pursuant to a prior order of the Chief Justice concerning other parties other than a Judge or court reporter recording the proceedings, okay?

DR. FALTAS: So because I have been falsely accused too many times, I don't want the red light if and when it comes up to be misused to pretend that I'm recording.

I'm not recording and I never recorded from Webex.

THE COURT: Okay.

DR. FALTAS: So, the other thing is, I want transactional immunity because I think that anything I say will be twisted and try to set me up for contempt of court. If I try to be audible, someone is going to lie and say that I yelled. There is no end to the false accusations that have been made against me and so I would like transactional immunity.

Second, before I even testify, I want leave to take interlocutory appeal from the denial of my motion to represent myself.

Third, I affirm and do not, I do not swear. I affirm for religious reasons and affirmation would be to tell the whole truth and I take that very seriously. So there are factual misstatements that Ms. Klein made and if I'm going to affirm to tell the whole truth, I need leave to correct those without being held in contempt of court. So I need transactional immunity for my testimony and if I'm not given that, there is no reason for me to testify because I'm also objecting to this case proceeding by counsel.

THE COURT: Mr. Griffith.

MR. GRIFFITH: Your Honor, we're ready to proceed.

THE COURT: Ms. Klein.

MS. KLEIN: Yes, Your Honor. We can go ahead and proceed.

MR. GRIFFITH: Dr. Faltas, Dr. Marie Assa'ad Faltas, please state your name and maybe spell it.

THE COURT: Hold on a minute, Mr. Griffith. All right. The Supreme Court has already ruled and issued an order concerning Dr. Faltas' right to proceed pro se. I've referenced that pursuant to a September 20th, 2019 order of the Supreme Court. The State is ready to proceed, applicant's counsel is ready to proceed and, therefore, we are going to proceed at this time.

Dr. Faltas, do you affirm to tell the truth, the whole truth and nothing but the truth?

DR. FALTAS: Sir, I would like before that to assert my right to object to that ruling and there are too many cases that says, for example, if a motion to suppress is denied, you still need to object again when the evidence is being introduced, so I am objecting again to being forced to testify under examination by counsel who is forced on me.

No one else in the entire state is required to have PCR counsel if they do not want it and I would like leave to interlocutory appeal your recent decision because under the logic of the State Supreme Court itself in other cases, it says that the party who has a claim needs

to renew it at the most recent opportunity because the Judge may change his mind. I need to appeal that interlocutory because the State Supreme Court may change its mind especially after the evidence I compiled that shows shameful, shameful, blatant discrimination based on my national origin.

A thousand lawyers have been publicly reprimanded, suspended, disbarred or debarred and not one of them, not one of them has lost the right to speak for him or herself. Not one of them. Also, there are murderers, rapists, in fact, there is a case of one rapist who raped the victim three times to where she needed surgery and he still is allowed to prosecute his PCR pro se. I cannot as a matter of conscious cooperate with a system so discriminatory.

THE COURT: Hold on just a second. I want to look at something. Ms. Klein, let me ask you this: I was looking back through these prior orders issued by the Supreme Court pertaining to her filings. Is there anything in any of those prior orders pertaining to her filing of appeals?

MS. KLEIN: Your Honor, are you asking if she's prohibited from filing appeals?

THE COURT: Yeah. Pro se.

MS. KLEIN: To my knowledge I believe that the

orders from the Supreme Court apply to all courts in this state and I do know that the 2019 order specifically like does include PCR as an action.

THE COURT: Right.

MS. KLEIN: So to my knowledge it is pretty much at every level that she is required to have counsel. I apologize that I am not able to point to one more specifically which would articulate that but that is my understanding.

THE COURT: That's what --

DR. FALTAS: That's not correct.

THE COURT: That's what I was looking at.

DR. FALTAS: That's not -- Judge, that's not correct. Under the latest alteration I am allowed to file an initial appeal pro se and then either seek appointment of counsel or something. And, in fact, that's what's going on with the other three cases that you got assigned to yourself. The three cases, 2019-CP-40-02217, 2218 and 2219 are now before the State Supreme Court on my pro se appeal.

So it's not correct. I am allowed to file an initial appeal pro se. What happens after that depends frankly on the Supreme Court's latest whim that they have. I have absolutely, absolutely no confidence and no admiration of the whimsical nature to put it charitably

in which - and baseless, baseless, totally baseless, the way in which the State Supreme Court discriminated against me.

So I would like this to be the point where they have to say yes, we have all those horrible lawyers and all the horrible criminals that we let appeal, proceed pro se but, Dr. Faltas, because she is a Coptic Orthodox Christian and is not a citizen and cannot vote for the state representatives who elect us, we're going to treat her differently. I want them on the record. You know, I --

THE COURT: Dr. Faltas, I think the record has been clear or at least the orders previously issued by the Supreme Court have been clear as to why they have restricted you from representing yourself pro se.

DR. FALTAS: They have been lying. They have been lying. I never stood in - in - in oral argument and said how the case should be and once more, there is a video of that that shows not, my not having stood up or anything and they are lying. And - and - and then they are saying that the five frivolous things. If they were frivolous, how come did I win? Are all the judges before whom I won idiots?

In fact, I orally argued pro se before now Chief Justice Beatty who was then a Court of Appeals Judge and

I prevailed unanimously.

THE COURT: All right. Listen, Dr. Faltas.

DR. FALTAS: But I am allowed to file a pro se appeal as it stands now so what Ms. Klein represented to the Court was false.

MS. KLEIN: Your Honor, if I may clarify, I do have a copy of the Supreme Court order that's dated January 30th of 2014 and this order is clarifying the previous orders of the Court and the first point says that applicant may not represent herself pro se in any court of the state. She must be represented by counsel before any court of this state. And with regards to whether she can file a pro se appeal, she has to have counsel of record so it's a bit of logical inaccuracy --

DR. FALTAS: No. No.

MS. KLEIN: -- to say that she --

DR. FALTAS: No. No. The most - the most --

MS. KLEIN: -- has the ability to --

THE COURT: Go ahead, Ms. Klein. I'm not gonna let her interrupt you while you're talking.

MS. KLEIN: Thank you, Your Honor. So with regards to what the orders of the Supreme Court and the state have said, Dr. Faltas is not allowed to represent herself pro se and that is in any court of the state presumably also including appellate courts because she is required

to have counsel and she is specifically required to have counsel for post conviction relief hearings. As of the 2019 order it's my understanding that she may not appeal pro se.

THE COURT: Let me ask you this now. She's certainly entitled to file under those orders a pro se PCR application. Would you agree with that?

MS. KLEIN: Yes, Your Honor. She is allowed to file a pro se initial application, but then must be represented by counsel.

THE COURT: Well, what would be the difference in filing a pro se appeal and then having to be represented by counsel?

MS. KLEIN: Well, counsel would have to be - that would be up to, I guess, the discretion of the Court. My understanding is that initiating an action is very different than proceeding in the action full-time, so there's no right to hybrid representation. When it comes to the actual litigation of action, she has to have counsel either retained or appointed in the courts of this state.

THE COURT: Well, and once she filed an appeal, then the Appellate Court could determine how or if she could proceed and in what manner she could proceed in that appeal; is that correct?

MS. KLEIN: Yes, Your Honor, but assuming that she would be appealing from a lower court where she is already required to have counsel, it would be her counsel who would file the appeal on her behalf and not her herself and then it would be the Appellate Courts who would determine whether, you know, who would require her to either retain or would appoint counsel for her.

And, Your Honor, if I may, at this point it seems fairly obvious to at least the State that Dr. Faltas is refusing to have counsel for this hearing, she's refusing to participate in the hearing or be sworn to testify. It's the applicant's burden of proof for a post conviction relief action and at this point it seems that there's reason for the State to move at least tentatively for failure to prosecute under Rule 41(B). If she's not willing to testify, if she's not willing to participate in the hearing because of these beliefs that she has, these grievances against the judicial system, it's her burden to raise these allegations. It's her burden of proof under post conviction relief and so the State would move for failure to prosecute.

MR. GRIFFITH: Your Honor, I would argue that she is not saying that she does not wish to participate. She is saying that she wanted to just make sure that the record was clear that she objects to being represented by

counsel. She would definitely be willing to participate and I believe that we could move forward with the case, but she is not failing to prosecute - she's not unwilling to get up and take the stand, Your Honor. We're prepared to go forward.

THE COURT: All right. I'm gonna stand down for just a second, okay?

(Short break.)

THE COURT: All right. We are back on the record now. Mr. Griffith, are you there?

MR. GRIFFITH: I am here, Your Honor.

THE COURT: Dr. Faltas, are you there?

DR. FALTAS: Yes, sir, and I want to say that if I get over zealous, don't anyone ever forget that I love you all, but loving you doesn't mean acquiescing to wrongdoing.

THE COURT: Well, I know you're passionate about your cases and I understand that. You don't need to apologize to me. If I think you're getting too loud, you got a little loud last time, but if I think you're getting too loud, I'll let you know, okay?

DR. FALTAS: Thank you. And I also wanted to say that if a PCR applicant dies before the hearing, the hearing can still go forward and the burden of proof can be met without the applicant's testimony.

THE COURT: All right.

DR. FALTAS: Additionally, for example, in the case of Judge Hayes the uncle and Judge Hayes the nephew, they granted PCR after 15 years or somehow revoked the conviction after 15 years and many of those people were already deceased. I think only one previous defendant was still alive.

So, sir, you have in me a very rare person and I take my very unique talents, not bragging, but with a sense of responsibility and the first time I appeared before you, I told you that I feel responsibility towards all the falsely accused and the falsely incarcerated who were -- sorry -- who were not given the intellectual gifts and the gift of strength of character that I have. So I'm not acting just out of responsibility for myself, but for all the others that I know to be falsely incarcerated.

THE COURT: Well, this is what I'm gonna do, okay? I'm gonna let you file your interlocutory appeal on this. I'm hesitant to but by the same - because all of the parties are here, all of the parties are ready to go forward, but I don't think based upon my review of these orders that you are prohibited from filing an appeal. However, and therefore I'm gonna let you do it.

Now, what the Appellate Court decides on that issue,

I'll let them decide from there and this issue will be resolved by allowing you to do that. I'm not sure how long it may take them to make a ruling on it. I will ask for another PCR term in this circuit the end of this year and we'll see what happens.

DR. FALTAS: Sir, thank you. May I just ask you as a housekeeping matter, you're gracious allowing me to appear by Webex tomorrow is for the two cases, the Austin Woods case and the magistrate's appeal case?

THE COURT: Yes.

DR. FALTAS: Okay. And just as a courtesy because I told you I'm a loving person, may I tell the Austin Woods people first they cannot prosecute or represent the corporation not being lawyers in Circuit Court anyway, but may I tell them that if they want to, they can appear by Webex as well?

THE COURT: Well, let me say this: My law clerk received an email from them yesterday about asking for a continuance. I'm telling my -- Because they need to get representation. I've told my law clerk to respond to them that they need to appear tomorrow via Webex to address that issue because both of you are entitled to be heard on it.

DR. FALTAS: Well, I thank you. So both of us can be there on Webex tomorrow, right?

THE COURT: Yes.

DR. FALTAS: God willing. And then also on the other case that Mr. - that Mr. - Mr. Dan Addison is forced on me on that case. I - I -- There is the motion to relieve him as well and I think if you granted that, that would be great. I could go forward. If you deny it, I will ask for the same leave to interlocutorally appeal, that I'm not allowed to prosecute my appeals pro se.

THE COURT: All right. Very well. We'll take that up tomorrow morning.

DR. FALTAS: At what time?

THE COURT: 9:30.

DR. FALTAS: Thank you very much, sir.

THE COURT: All right. That will conclude this matter for today.

MR. GRIFFITH: Thank you, Your Honor.

THE COURT: Ms. Klein, anything else? I can't hear you.

DR. FALTAS: I can't hear her. I can't hear her.

MS. KLEIN: Sorry. Can you hear me now, Your Honor?

THE COURT: Yes, ma'am. I think I unmuted you and then you inadvertently maybe muted yourself thinking you were unmuted.

MS. KLEIN: I apologize.

THE COURT: That's okay.

MS. KLEIN: I just want to, I guess, get clarification. So with regards to your granting the interlocutory appeal, is that specifically just with regards to Dr. Faltas' issues of her pro se representation?

THE COURT: Yeah. I guess in my failure to relieve Mr. Griffith.

MS. KLEIN: Okay.

THE COURT: Yes.

MS. KLEIN: Thank you for clarifying.

THE COURT: All right. All right. That will conclude this matter for today.

MR. GRIFFITH: Thank you, Your Honor.

THE COURT: Thank you.

WHEREUPON, THE HEARING WAS CONCLUDED.

CERTIFICATE OF REPORTER

(STATE OF SOUTH CAROLINA)

(COUNTY OF LEXINGTON)

I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R., and Official Circuit Court Reporter for the Eleventh Judicial Circuit in and for the State of South Carolina, do hereby certify that I reported the proceedings in the before captioned case in the Court of Common Pleas in and for the State of South Carolina on the 27th day of January, 2022.

I FURTHER CERTIFY that the forgoing 45 pages constitute a true and accurate record of said proceedings.

I FURTHER CERTIFY that I am neither related, counsel to, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand at Lexington County, this 24th day of February, 2022.

By:s/Steven E. LeBlanc

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.