THE STATE OF SOUTH CAROLINA **No. 2022-000339**

Before the South Carolina Court of Appeals
(as Transferred from the Supreme Court of South Carolina)

APPEAL from RICHLAND COUNTY Court of COMMON PLEAS
D. Craig Brown, Circuit Judge, Case No. 2019-CP-40-01374,

Which is an Appeal from Richland County (Dentsville) Magistrate Phillip F. Newsom ("DMN")
As transferred to DMN from the City of Columbia's Municipal Court ("CMC")
Summary Court No. L066971

City of Columbia, SC, **Respondent,**

v.

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

APPELLANT'S INITIAL *REPLY* BRIEF

Sincerely submitted and served on 12 June 2023, God willing, by:
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Table of Contents and Authorities

Table of Cases and Authorities

Introduction and Dedication

Exodus 18:14-27 suggests judicial hierarchy was an Egyptian invention:

١٤ فَلَمَّا رَاى حَمُو مُوسَى كُلَّ مَا هُوَ صَانِعٌ لِلشَّعْبِ قَالَ: «مَا هَذَا الامْرُ الَّذِي انْتَ صَانِعٌ لِلشَّعْبِ؟ مَا بَالُكَ جَالِسا وَحْدَكَ وَجَمِيعُ الشَّعْبِ
وَاقِفٌ عِنْدَكَ مِنَ الصَّبَاحِ الَى الْمَسَاءِ؟ «١٥ فَقَالَ مُوسَى لِحَمِيهِ: «انَّ الشَّعْبَ يَاتِي الَيَّ لِيَسْالَ اللهَ .١٦ اذَا كَانَ لَهُمْ دَعْوَى يَاتُونَ الَيَّ
فَاقْضِي بَيْنَ الرَّجُلِ وَصَاحِبِهِ وَاعَرِّفُهُمْ فَرَائِضَ اللهِ وَشَرَائِعَهُ .«١٧ فَقَالَ حَمُو مُوسَى لَهُ: «لَيْسَ جَيِّدا الامْرُ الَّذِي انْتَ صَانِعٌ .١٨ انَّكَ تَكِلُّ
انْتَ وَهَذَا الشَّعْبُ الَّذِي مَعَكَ جَمِيعا لانَّ الامْرَ اعْظَمُ مِنْكَ. لا تَسْتَطِيعُ انْ تَصْنَعَهُ وَحْدَكَ .١٩ الانَ اسْمَعْ لِصَوْتِي فَانْصَحَكَ. فَلْيَكُنِ اللهُ
مَعَكَ. كُنْ انْتَ لِلشَّعْبِ امَامَ اللهِ وَقَدِّمْ انْتَ الدَّعَاوِيَ الَى اللهِ ٢٠ وَعَلِّمْهُمُ الْفَرَائِضَ وَالشَّرَائِعَ وَعَرِّفْهُمُ الطَّرِيقَ الَّذِي يَسْلُكُونَهُ وَالْعَمَلَ الَّذِي
يَعْمَلُونَهُ .٢١ وَانْتَ تَنْظُرُ مِنْ جَمِيعِ الشَّعْبِ ذَوِي قُدْرَةٍ خَائِفِينَ اللهَ امَنَاءَ مُبْغِضِينَ الرَّشْوَةَ وَتُقِيمُهُمْ عَلَيْهِمْ رُؤَسَاءَ الُوفٍ وَرُؤَسَاءَ مِئَاتٍ
وَرُؤَسَاءَ خَمَاسِينَ وَرُؤَسَاءَ عَشَرَاتٍ ٢٢ فَيَقْضُونَ لِلشَّعْبِ كُلَّ حِينٍ. وَيَكُونُ انَّ كُلَّ الدَّعَاوِي الْكَبِيرَةِ يَجِيئُونَ بِهَا الَيْكَ. وَكُلَّ الدَّعَاوِي
الصَّغِيرَةِ يَقْضُونَ هُمْ فِيهَا. وَخَفِّفْ عَنْ نَفْسِكَ فَهُمْ يَحْمِلُونَ مَعَكَ .٢٣ انْ فَعَلْتَ هَذَا الامْرَ وَاوْصَاكَ اللهُ تَسْتَطِيعُ الْقِيَامَ. وَكُلُّ هَذَا الشَّعْبِ
ايْضا يَاتِي الَى مَكَانِهِ بِالسَّلامِ .«٢٤ فَسَمِعَ مُوسَى لِصَوْتِ حَمِيهِ وَفَعَلَ كُلَّ مَا قَالَ .٢٥ وَاخْتَارَ مُوسَى ذَوِي قُدْرَةٍ مِنْ جَمِيعِ اسْرَائِيلَ
وَجَعَلَهُمْ رُؤُوسا عَلَى الشَّعْبِ رُؤَسَاءَ الُوفٍ وَرُؤَسَاءَ مِئَاتٍ وَرُؤَسَاءَ خَمَاسِينَ وَرُؤَسَاءَ عَشَرَاتٍ .٢٦ فَكَانُوا يَقْضُونَ لِلشَّعْبِ كُلَّ حِينٍ.
الدَّعَاوِي الْعَسِرَةُ يَجِيئُونَ بِهَا الَى مُوسَى وَكُلَّ الدَّعَاوِي الصَّغِيرَةِ يَقْضُونَ هُمْ فِيهَا .٢٧ ثُمَّ صَرَفَ مُوسَى حَمَاهُ فَمَضَى الَى ارْضِهِ.

> **14 So when Moses' father-in-law saw all that he did for the people, he said, "What is this thing that you are doing for the people? Why do you alone sit, and all the people stand before you from morning until evening?" 15 And Moses said to his father-in-law, "Because the people come to me to inquire of God. 16 When they have a difficulty, they come to me, and I judge between one and another; and I make known the statutes of God and His laws." 17 So Moses' father-in-law said to him, "The thing that you do is not good. 18 Both you and these people who are with you will surely wear yourselves out. For this thing is too much for you; you are not able to perform it by yourself. 19 Listen now to my voice; I will give you counsel, and God will be with you: Stand before God for the people, so that you may bring the difficulties to God. 20 And you shall teach them the statutes and the laws, and show them the way in which they must walk and the work they must do. 21 Moreover you shall select from all the people able men, such as fear God, men of truth, hating covetousness; and place such over them to be rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens. 22 And let them judge the people at all times. Then it will be that every great matter they shall bring to you, but every small matter they themselves shall judge. So it will be easier for you, for they will bear the burden with you. 23 If you do this thing, and God so commands you, then you will be able to endure, and all this people will also go to their place in peace." 24 So Moses heeded the voice of his father-in-law and did all that he had said. 25 And Moses chose able men out of all Israel, and made them heads over the people: rulers of thousands, rulers of hundreds, rulers of fifties, and rulers of tens. 26 So they judged the people at all times; the hard cases they brought to Moses, but they judged every small case themselves. 27 Then Moses let his father-in-law depart, and he went his way to his own land.**

But **Matthew 9:14–17, Mark 2:18–22 and Luke 5:33–39,** warn against putting new wine (the U.S. Constitution) in old wineskins (the top-down model of sovereignty) as detailed *infra.*

***Maître* Rafiq Maqsood and his Paralegal Tawakkol المحامي رفيق مقصود ووكيل محاميه توكل**

With the Court's leave, this brief is dedicated to Rafiq, Tawakkol, Halim and Soraya, people who knew the difference between courage and arrogance, and taught by example, not by words.

Halim Assa'ad Faltas, Appellant's late father, was a brilliant self-made engineer who, *inter alia,* extended electricity to St. Catherine Monastery and earned Shell Oil's achievement pin for his creativity in mining oil in 1940s and 50s Sinai. But when unfairly insulted, he protested and was fired.

Rafiq represented Halim against one of the world's most powerful companies and won. Two Coptic Christians in majority-Moslem Egypt told the court that a contract is the parties' creed and did not allow firing for protesting an insult. That court appointed an expert to assess Halim's work, went by objective evidence, and awarded him the balance of his contract with Eastern Oil. During their David v. Goliath ordeal, Appellant's parents pondered it in the French their two girls had not yet learned. Appellant protested in Arabic, "I'll quickly learn French in school and understand what you are saying to each other." But "Rafiq Maqsood" and "Tawakkol" were heard among the French words; and as the case progressed and Appellant mastered French, she met Rafiq and Tawakkol and later marveled at how Halim and his wife, Soraya, kept their daughters sheltered from anxiety.

THRESHOLD REPLY ARGUMENT: No Issues Were Waived Below.

I. SC HAS ONLY ONE CIRCUIT COURT SITTING THROUGHOUT THE STATE.

***Dove* v. *Gold Kist, Inc.*, 314 SC 235, 442 SE 2d 598, 600 (1994), held:**

> There is but one Circuit Court in South Carolina, with uniform subject matter jurisdiction *"throughout the State."* State ex rel. Riley v. Martin, 274 S.C. 106, 111, 262 S.E.2d 404, 406 (1980); *see also* S.C. Const. art. V, § 1. The circuit court is made up of the court of common pleas, which hears civil actions, and the court of general sessions, which hears criminal cases. The phrase "court of common pleas" contained in the statute, refers to the South Carolina Court of Common Pleas, and not a particular circuit or county. See State ex rel. Riley v. Martin, 274 S.C. 106, 110, 262 S.E.2d 404 (1980).

Appellant preserved the City-of-Columbia's ("*the* City") non-sovereignty issue by presenting it to various jurists sitting in SC Circuit Court in intimately-related litigation where *the* City was represented. Further, the issue of SC magistrate courts' inability to issue *subpoenae duces tecum* and subpoenas beyond Richland County's ("RC") territory was *specifically* presented to SC Circuit Judge D. Craig Brown ("JDCB") *in this case* in Appellant's Rule 59(e) motion.

II. JDCB *MADE HIMSELF* AWARE OF *ALL* APPELLANT'S RELATED LITIGATION.

This case, **along with all other five of Appellant's then-open SC Circuit Court cases,** was *assigned* to JDCB **by special order of SC Chief Justice Beatty** dated 15 September 2020 and filed 14

October 2020 (RA _). **JDCD had sought that assignment** *and* knew it would entail review of *all* Dr. Faltas' other cases. Specifically, in the 10 August 2020 hearing on Dr. Faltas' PCRs 2019-CP-40-00112, 02217, 02218, and 02219, JDCB had specifically inquired about SC Appellate Case 2019-000708 at Tr. pp 23:19 to 25:24, then said at Tr. pp 27:3 to 28:10, respectively:

> **THE COURT:** What was the case number on the one he appointed * * * What's the appellate case number?
> **MR. KEY:** That is 2019-000708 -- 708.
> **APPLICANT ASSA'AD-FALTAS:** That is the case that became the PCR case after he appointed a lawyer on. But as it turned out, I initiated that case *pro se*. And later Judge Jocelyn Newman allowed me to prosecute it pro se. **[¶]** And the current appeal which Mr. Key gave you the number is the State's appeal[,] not my appeal. But the underlying case on which Judge Clifton Newman granted the appointment of counsel is 2011-3[...] And that is City of Columbia vs. Marie Assa'ad-Faltas. [... W]hile I have the microphone, Mr. Keys said that I cannot represent myself in any civil action in South Carolina state court. That's not correct. The State Supreme Court said specifically I can represent myself in all civil cases in which I am a defendant.
> **THE COURT:** [....] I'm going to review those orders, and I'll make a ruling on it from there. * * * * * * *
> **THE COURT:** [T]he State has provided me with a substantial amount of documentation and information pertaining to these cases of Dr. Faltas**. I am going to meticulously go through every bit of what has been provided to me.** And as I go through this information in making a determination on the State's motion to dismiss, I may have some questions. And if I do, Mr. Griffith, I will email you and Mr. Key, both of you, based upon what questions I may have in reviewing this information. **[¶]** With regards to the State's motion to dismiss as to each of these pending postconviction matters, I am going to take them under advisement, and I will let you all know. I may -- Judge Lee, I believe, is the chief administrative judge currently in the Fifth Judicial Circuit. What I may do is -- I don't want -- you know, we as Circuit Court judges have traditionally traveled in and out of circuits, okay, and that has somewhat been affected by what's going on with the pandemic. What I don't want to have happen to Dr. Faltas is I'm going to get up to speed on everything that's going on on all of these cases. And what I may do is, if Judge Lee wants me to, I'm going to at least volunteer to see these matters through to their conclusion, at least at the Circuit Court level **so that there's not a potential of some other judge coming in here and not having an opportunity get up to speed on everything that's going on in these cases**[,] unless, of course, you all have an objection to that**.** * * *
> **MR. KEY:** No objection from the State, Your Honor. * * *
> **MR. GRIFFITH:** Your Honor, absolutely no objection. I'm sorry. Absolutely no objection. I'm sorry.

Again, in his 8 July 2021 "**Order Restricting Applicant's Ability to Make Pro Se Filings and Directing the Richland County Clerk of Court to Refuse any Filings from Dr. Faltas unless They are Filed on her Behalf by Counsel of Record**" JDCB wrote in relevant part at p 2 [with emphasis added]:

> *2019-CP-40-0112 arises from a conviction of simple assault that occurred in the City of Columbia Municipal Court on April 25, 2013*, Summons Number L-066971. Dr. Faltas was found guilty and sentenced to serve 20 days. Dr. Faltas appealed her conviction and sentence, which were eventually upheld by the Supreme Court of South Carolina in City of Columbia v. Assa'ad-Faltas, 800 S.E.2d 782, 420 S.C. 28 (2017). In her application for post-conviction relief, filed January 7, 2019, Dr. Faltas alleges (a) ineffective assistance of trial counsel; (b) ineffective assistance of appellate counsel; and ***(c) unconstitutionality of the trial and sentencing court*** *and other constitutional violations.*

And when JDCB heard motions in 2019-CP-40-00112 on **27 January 2022**, *the day before hearing <u>this case</u>*, this colloquy occurred at **27 January 2022** Tr. pp 24:8 to 26:25:

> **THE COURT: [I]n 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?
>
> **MS. KLEIN:** [....] 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.
>
> **MS. KIRKLAND:** [.... T]he 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 [...] that should have been the end of her involvement in this. [S]he 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.
>
> **MR. GRIFFITH:** [... T]his 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: [....]** 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?

JDCB heard *this* case on **28 January 2022**, after having "**meticulously go[ne] through every bit of what has been provided to [him]**" in the **18 months** between 10 August 2020 and 27 January 2022. "**Every bit**" included: (1) 3 September 2015 hearing 26-page transcript devoted *entirely* to *the* City's non-sovereignty (filed on 12 October 2018 in *City of Columbia* v. *Marie Therese Assa'ad Faltas,* **2013-CP-40-03525** (R _)); (2) the 25 April 2013 CMC trial and sentencing transcript

where Dr. Faltas argued the point to the predicable hostility of then-CMC's Karl Solomon:

> **All that I hear from Dr. Faltas is *we don't have the authority to be here, it's unconstitutional.***

(3) transcript of Dr. Faltas' 13 December 2013 appeal argument to Judge Lee in **2013-CP-40-03525** and **2013-CP-40-03522** combined (R _):

> [10-11] ***DR. FALTAS:*** So what I'm saying is the City of Columbia cannot have a court.
> [12] **THE COURT**: Cannot what?
> [13] ***DR. FALTAS:*** Cannot have a court.
> [14-17] **THE COURT**: And let's move beyond that, Dr. Faltas. I'm looking for the substantive -- as it relates to the charge and the evidence that was presented in the trial.
> [18 to page 15, line 14] ***DR. FALTAS:*** But could I just put on the record that the federal constitution, what makes the United States the United States is that it is the unity of only two levels of sovereignty: federal and state. It is not the United Townships of America, it is not the United Citizens of America, it is not the United People of America, it is the United States of America. [¶] And in *Arizona* v. *United States*, that immigration case, it was clearly stated that there are only two sovereigns. So municipalities may not legislate, may not have court, may not do – a municipality or a county. [¶] And along with that was also Justice Scalia's unanimous Supreme Court in *Jinks* v. *Richland County, South Carolina*, from the State of South Carolina, which said No, no, no, only states have sovereignty, counties are not sovereign, any political subdivision is not sovereign. [¶] That gets us to the issue, since only a sovereign may legislate -- also, a sovereign may prosecute for crime. **And that is in the South Carolina Constitution that the criminal laws shall be uniform throughout the state.** [¶] Also, in the case of Barney Giese with the Richland County magistrate, it was decided that only the state may prosecute crimes. And this is not anything novel. So I shouldn't even be tried, not because of bias, no one should be tried there. [¶] What I was charged with under a city ordinance was for simple assault. The city may not legislate, and even if it did, that issue was preempted by the Crime Omnibus Act. There is a state assault charge. [¶] And to show you how ineffective counsel was that was forced on me, Mr. Fernandez himself opened by saying that he thinks the issue -- that the charge is preempted by state law. And Mr. Lupton said, Yes, I know that Dr. Faltas thinks so as well, but I'm not going to make that argument. [¶] So it was insane. Even the opposing counsel was conceding that it was preempted, but my own counsel, over my own objection, was saying No, it is not preempted. But I'm saying beyond preempted, it could not be legislated *ab initio*.

and (4) the entire transcript of Dr. Faltas winning 22-23 March 2018 *pro se* advocacy before Retired-Active SC Circuit Judge Goldsmith in 2017-CP-40-06831 (which *the State* appealed *sub numero* SC Appellate Case 2019-000708 *and lost again*) which includes this at Tr. pp 11-14:

> **DR. FALTAS:** My other constitutional argument is that the Columbia Municipal Court violates the Federal Constitution because only a sovereign can have a court, can promulgate criminal laws and can prosecute for crime. **[¶]** And the United States Constitution, our federal, recognized as only two levels of sovereignty, the federal sovereign and the State sovereign. **[¶]** And specifically, in a case arising from South Carolina, that is *Jinks* vs. *Richland County*, and that's Richland County, South Carolina, 538 -- 538 U.S. 456, 2003. Justice Scalia writing for a unanimous court reversed the Supreme Court of South Carolina and said that municipality and counties do not partake of the State's sovereignty. **[¶]** Also, if it pleases the Court, Article 4, Section 3, Clause 1 of the United States Constitution says, "New states may be admitted by the Congress into this union,

> but no new states shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states or parts of states without the consent of the legislatures of the states concerned as well as of Congress." [¶] That -- that doesn't just mean that that can't be a state called the State of the City of South Carolina without the consent of Congress and without the consent of the legislature of South Carolina. It also means that no part of the state can exercise the sovereign power of a state without becoming a state, and that is exactly what Justice Scalia wrote for the unanimous court in Jinks vs. Richland County. It's a whole different ball game when it's the state or when it's a municipality or a county. [¶] So, you know, they -- they -- they were trying to split California into six states and that can be done, but -- under the constitution, but Legislature had to consent and Congress had to consent, and that hasn't happened. And they're trying to make District of Columbia, so -- so because the City of Columbia is not a sovereign, it cannot hold court. * * *
>
> **THE COURT**: All right. I understand your constitutional arguments[.]

III. EVEN IF APPELLANT HAD *ARGUENDO* NOT ARGUED NON-SOVEREIGNTY BELOW, JURISDICTIONAL ISSUES MAY BE RAISED FOR THE FIRST TIME OF APPEAL.

An entity (even if it calls itself a court) cannot have judicial jurisdiction if it is not a court at all. So, whether an entity is permitted to be a court is a fundamental jurisdictional issue which may be raised for the first time on appeal. And Respondent must be deemed to have conceded the issue in Appellant's favor by failing to answer it, even as a contingency, in Respondent's brief.

IV. NON-SOVEREIGNTY OF POLITICAL SUBDIVISIONS IS NOT TO BE AVOIDED.

A. On Important Issues, Courts May Avoid the Avoidance Principle.

Though limited *in holding* to the U.S. Supreme Court's ("SCOTUS") own jurisdictional rules, *the language* of *Camreta* v. *Greene,* 563 U.S. 692, 131 S.Ct. 2020, 2031-32 (2011), is inspiring:

> **And if our usual bar on review applied, it would undermine the very purpose served by the two-step process, "which is to clarify constitutional rights without undue delay." *Bunting*, 541 U.S., at 1024, 124 S.Ct. 1750 (SCALIA, J., dissenting from denial of certiorari). This Court, needless to say, also plays a role in clarifying rights. Just as that purpose may justify an appellate court in reaching beyond an immunity defense to decide a constitutional issue, so too that purpose may support this Court in reviewing the correctness of the lower court's decision. * * * For this reason, we have permitted lower courts to avoid avoidance—that is, to determine whether a right exists before examining whether it was clearly established. See, *e.g., ibid.; Lewis*, 523 U.S., at 841, n. 5, 118 S.Ct. 1708. Indeed, for some time we *required* courts considering qualified immunity claims to first address the constitutional question, so as to promote "the law's elaboration from case to case." *Saucier v. Katz*, 533 U.S. 194, 201, 121 S.Ct. 2151, 150 L.Ed.2d 272 .**

B. The Most Important Constitutional Issue is the Constitution' *very* Purpose: A More *Perfect* Union.

The Preamble to the U.S. Constitution is unambiguous and emphatic:

> ***We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common***

defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Letting countless counties, municipalities, townships, and perhaps neighborhoods, make their own laws, arrogate sovereignty and police powers to themselves, deputize their own posses, *etc.* **is the *very* opposite of "union."** It is a nightmare of disunion. So, this question which goes to the very essence of the Constitution's stated purpose should no longer be avoided although this case may be resolved in Appellant's favor on other grounds.

C. Issue Preservation has NO Benefit where a Circuit Court is hearing an appeal from summary court on a *Pure* Question of Law.

Issue preservation and exhaustion are beneficial *solely* where the lower tribunal sits as a trier of fact or presides over a trier of fact or applies facts to the law because the appellate court would otherwise be deprived of facts that could have been offered to the lower tribunal or of knowledge of what the trier of fact would have decided had inadmissible facts been excluded or had proper charges been given or improper charges or comments excluded. **None of that obtains here on this *totally* non-fact bound question:** Does the U.S. Constitution allow a sovereign state or native tribe to balkanize its own sovereignty and hand it down in little pieces to entities the Constitution cannot possibly recognize as sovereigns?

Just as the avoidance principle's purpose supersedes its language and allows exceptions for the judicial department to say what the law is, the preservation principle is not to be invoked as if it were a talisman. Rather, the preservation principle's purpose must limit its application.

IN SUM: Appellant does NOT shrug, "If I said it to one SC circuit, I said it to all other circuit judges who must metaphysically channel each other's knowledge." Rather, *the* judge hearing this case *on first-tier appeal from summary court,* had volunteered to read "every bit" of what Appellant had presented to other judges; and at the eve of hearing *this case,* that circuit judge had read every relevant bit. So, Appellant did NOT waive the first issue. Rather, Respondent conceded it.

Corrections of Respondent's Initial Brief's ("RIB") Factual and Legal Misstatements

Sentencing occurred later than the Tr. p 90 that RIB at p 1 incorrectly claims. At p 2, RIB suggests the magistrate issued a 27 February 2018 order denying Appellant's motion to reopen. In fact, the magistrate never issued a written order denying the motion to reopen itself. What

he issued on 27 February 2018 was a one-sentence unexplained denial of Appellant's very detailed motion to reconsider the magistrate denial of the motion to reopen.

Still on p 2, RIB omits that Appellant filed a timely Rule 59 motion for JDCB to reconsider.

The events scence is NOT a "complex" but two adjacent rental quadriplexes with a common parking lot with unmarked parking spaces. Steele had not given Appellant notice of inspection "as a result of these disputes," but in a scheme to enter Appellant's apartment in her absence and violate her belongings or in her presence and harm her. Appellant did not object to the inspection itself but to the date chosen by Steele and merely wanted it rescheduled.

RIB pp 2-3 read "documents" and "them." Undisputed: on 11 September 2008, Steele was handed a one-page letter which could not have *physically* or mentally harmed her in any way.

Nor was Dr. Faltas "arrested for assault on warrant" as RIB p 3 claims but was issued Courtesy Summons L-066971. Steele testified she was "livid" Appellant did not get arrested. The police who arrived saw no evidence of assault or battery on Steele's body as she testified she had no physical injuries or marks whatsoever. SC officers are by law prohibited from arresting on misdemeanors they did not witness and of which there is no evidence of fresh commission.

RIB's statement on p 9 is misleadingly incomplete. Dr. Faltas testified that "no reasonable physician would prescribe Paxil" to one who shows up pretending to be sleepless and sobbing uncontrollably because her tenant handed her a one-page innocuous letter 4 months earlier.

Appellant objects to RIB's failure to distinguish the *procedural* standards of an SC Crim. R 29(b) from the due-process-driven *Brady-Kyles* standards. After-discovered evidence due to, *e.g.*, advancements in science or technology, or the appearance of a critical witness whose existence was previously unknown to both sides, is not the same as after-discovery of evidence withheld in violation of *Brady-Kyles*. **In the latter case, the jurist simply had no "discretion" to suspend due process; and review is NOT for "abuse of discretion" but for due-process errors.**

DMN's Treatment of Appellant Should Shock the Conscience of Decent Jurists; and DMN should have Disclosed his Son's Employment by Richland County's Sheriff's Department.

DMN's son is a Richland County Sheriff's Department ("RCSD") canine deputy. Appellant sued RCSD in U.S. District Court-DSC for two separate false arrests/false detentions: 3:13-cv-01629-TLW-SVH and 3:18-cv-00578-MGL-SVH. The latter case, later tried to a jury, was reassigned to Judge Lewis after Dr. Faltas discovered the long-standing friendship between now-Senior U.S.

District Judge Wooten's second wife, Susie Jones Wooten, and Sharon ("Sherry") Bonner Koon, Appellant's 2002-2008 landlady at the 436 Byron Road, Columbia, SC 29209, house. Koon had fully mortgaged that house, subject to a "4-rider," with $700.^{00}$ monthly mortgage payments then leased it to Dr. Faltas and her mother in July 2002 for $700.^{00}$/month terminable at the tenants' will after the first year. In 2006, Koon and her late husband concocted a scheme to default on the mortgage yet avoid foreclosure by falsely pretending the house is their primary residence and thus access HAMP federal funds meant for owner-occupied homes.

Koon's first steps were to demand an unjustified rent increase and to cause *the* City to harass Dr. Faltas about front-yard parking at 436 Byron Road. When Dr. Faltas insisted on paying only the contractual rent, Koon started eviction proceedings which were assigned to DMN.

It is not known whether DMN's ruling for Koon was influenced by Judge Wooten; but what the latter *implicitly* admitted by his recusal from, 3:18-cv-00578-MGL-SVH is that the certification of Dr. Faltas' and her mother's appeal from SC Circuit Judge Barber's affirmance of DMN's eviction ruling from SC's Court of Appeals ("SC CoA") to SC's Supreme Court ("SC S Ct") a favor to Judge Wooten's wife's friend to expedite a predetermined affirmance of Judge Barber, and a brutal set out of Dr. Faltas from 436 Byron Road to enable the Koons' occupancy fraud scheme.

Koon had RCSD brutally set Dr. Faltas out of 436 Byron on 30 September 2008 even though her rent for part of October 2008 was prepaid and even though RCSD had not given Dr. Faltas the statutory 24-hour notice and the discretionary extension for the elderly/disabled tenants. Koon then defaulted on her mortgage on 1 October 2008 and started dual occupancy of it and of the large Lower Richland house which the Koons owned and had lived in for 28 years.

These inferences are detailed in Dr. Faltas' last-amended complaint in 2009-CP-40-02219, which amendments were allowed by then-SC-Circuit-Judge now-U.S.-Circuit-Judge J. Michelle Childs on 5 May 2010. A motion to reconsider in that case is currently pending before SC Circuit Judge Hold. The records of that case and of Steele's appeal from a 22 December 2009 ORDER FOR PRELIMINARY INJUNCTION in Dr. Faltas' partial favor by SC Circuit Judge Lee are available to this Court from Richland County's Public Index and this Court's own C-Track.

DMN's involvement in facilitating Koon's mortgage/occupancy fraud (perhaps in hope of favorable treatment by Judge Wooten in the many federal lawsuits against RCSD by different civil rights plaintiffs) is the least of DMN's acts undermining public confidence in the judiciary.

Relevant here is U.S. Circuit Judge Quattlebaum (4th Cir) discontinuation of participation in Dr. Faltas' federal appeals after she brought out the fact that one of Judge Quattlebaum's three sons is also a RCSD deputy. Judge Quattlebaum's quiet recusal is precedent requiring DMN's recusal.

More shocking, however, are DMN's having ordered Dr. Faltas *completely* denuded in front of two non-medical strangers in then-Richland-County-Central-Courthouse on Huger Street in Columbia, SC, on 17 March 2011 during a jury trial against Charlene Crouch, Teresa Ingram (both then-former Steele tenants) and Mitch Jones, then-current, now-former Steele tenant.

Long after Dr. Faltas had cleared the scanner of that courthouse, she was ordered denuded by DMN under a false pretext of their wanting to know if Dr. Faltas carried "a bomb or what" then justified it by a false pretense that Dr. Faltas "secreted" a recording device on her person to the courthouse. After that too was refuted, DMN belittled his shocking invasion of Dr. Faltas' basic privacy and dignity by saying, "the deputies were females I might add," to which Dr. Faltas retorted, "they could have been lesbians," to emphasize that forced exposure of one's body to non-medical strangers can no longer be justified by same biological gender of those involved.

DMN's shocking abuse of Dr. Faltas continued *in this case* by DMN's outburst, **"you like the chase more than the capture,"** audio-recorded in the 25 April 2018 hearing before him. Those abuses cannot be countervailed by a bottle of water. Public confidence in the judiciary cannot be bought with a bottle of water, nor can it be worded away with frankly stupid excuses.

No judicial-economy required DMN to sit on the after-discovered evidence motion hearing despite his bias. DMN was not the original trial judge. The original trial had not been in magistrate court at all but had been in CMC and was transferred to RC magistrate court because all CMC so-called judges were recused. CMC never even sent DMN the complete original trial record and he did not bother to seek it but delayed for two years his own return to the circuit court.

Human frailties are enabled and exacerbated by lack or sovereign control as detailed *infra.*

***Brady-Kyles* Violations Are Egregious, On-going, AND Backed-up with Threats and Lies.**

On 17 November 2009 (CMC transcript at R _), Dr. Faltas **was *thrice* threatened with contempt** for protesting that no discovery *at all* had been given to her. The few papers later that day handed to her at *id* included *neither* then-CPD-Investigator Blanton's 7-page 17 November 2009 "case summary" (R _) nor CMC's searches into Charlene Crouch's criminal history (R _).

Dr. Faltas' 2 December 2009 **false arrest on *related* harassment charge** *also fabricated by Steele* **and** then-Assistant-5th-Circuit-Solicitor, now-SCAG-Senior-Assistant Heather Weiss' admission at the bond he hearing later that day that *Weiss* was "wary" of trying the assault charge lest an acquittal of Dr. Faltas causes the harassment charge to crumble **prove that efforts to withhold discovery were NOT inadvertent** but part of a wider and more vicious scheme to *physically* eliminate Dr. Faltas whenever she gets close to discovering facts on her own. CACA-Fernandez' 17 November 2009 acts and omissions are of-a-piece with Weiss' 2 December 2009 words.

After Dr. Faltas, thank God, *pro se* avoided a conviction in the 22-26 February 2010 GS jury trial on the harassment charge, and then-CMC, now-U.S.-Circuit (4th Cir.) Judge Benjamin on 3 March 2010 (R _) ordered Crim. R. 5 compliance in 30 days (R _), CACA-Fernandez pretended that hearing had never occurred (R _). And when Dr. Faltas demanded speedy trial/retrial of all then-pending CMC charges, the 6 October 2010 hearing (transcript available on RC Public Index and on SC C-Track of other cases) was diverted to imposing strange limitations on her access to CMC and to CACA-Fernandez himself; and Dr. Faltas was hit with a contempt fine.

A hearing was set before then-CMC-judge Jenkins for 28 March 2011, for which Dr. Faltas had caused Heather Weiss and Amanda Blanton *inter alia* to be subpoenaed; but Dr. Faltas was diverted to a new contempt hearing before Hanna and from there taken to ASGDC to serve new contempt sentences. **After her release, Dr. Faltas learned that *Blanton* had herself been arrested for disorderly conduct on 27 March 2011 (R _) and was still in jail on 28 March 2011.**

The conclusion presses itself: Dr. Faltas' 28 March to 12 April 2011 incarceration was a vicious scheme to conceal Blanton's own 27-28 March 2011 incarceration.

That conduct continues *to this day.* Before the 27 January 2022 PCR hearing in 2019-40-2219 for which Heather Weiss was subpoenaed to testify about that still-undisclosed "victim impact statement" by Steele, *supra,* and the 28 January 2022 hearing *in this case* before the same JDCB, Dr. Faltas had been on 22 January 2022 served with notice of a new contempt case *sub numero* SC Appellate Case 2021-000815, which should be visible to this Court on C-Track but is still shielded from public and Dr. Faltas' view. Dr. Faltas' June-July 2022 incarceration at the fearsome ASGDC as a result of that latest contempt caused her atrial fibrillation ("A-fib") which has now become incurable and which prevented her *physical presence* at the reset 16 November 2022 hearing before JDCB, who unjustifiably dismissed said case. **Deliberate physical damage *to person* of a criminal defendant *still* seeking *Brady/Kyle* material is Dr. Faltas' new reality.**

Global Solution: Return to the Constitution.

Moses could hand sovereignty down in pieces to lower judges because he was the only person *ever* to be handed sovereignty from the ultimate sovereign of the universe. *Exodus*, p 3, *supra.*

In King Charles III's May 2023 coronation, the British monarch *continued to claim* God-given sovereignty. **That is *precisely* what the American Colonies revolted against *and* replaced with *the opposite model:*** Sovereignty from down up. All the People of the United States elect the President and Vice-President and *they* exercise the sovereignty of the U.S.A. including treaties with foreign sovereigns for the "common" defense and "general" welfare of *all* the U.S. people.

A U.S. senator (elected by *all* his/her state's people) or a U.S. representative (elected by *all* his-her congressional district) has no *individual* sovereignty. Only the *entire* U.S. Senate (because *in sum* elected by *all* the U.S. people) and the *entire* U.S. House of Representatives (also *in sum* elected by *all* the U.S. people), subject to bicameralism, exercise U.S. legislative, oversight, appointment and impeachment sovereignty. Only the governor, lieutenant governor, and such other constitutional officer as elected by *all* his/her state's people, exercise the respective state's sovereign executive powers. A state senator or representative, though elected by all his/her *district's* people, has no *individual* legislative sovereignty, only the *entire* legislative chamber (because *in sum* elected by *all* the state's people), subject to any applicable bicameralism, exercises the respective state's sovereign legislative powers and functions.

Here is Dr. Faltas' today's contribution to constitutional law, a contribution as revolutionary as the American Revolution itself: no county sheriff, no circuit solicitor, no city council or mayor, no county coroner, no dog catcher, may exercise a sovereign function, or have any state police power if elected by less than *all* the state's people but may exercise only corporate powers.

What is sovereign power? Power to do to a person or thing what would be a crime if done by a private person. That awesome power can come only from *all* the *indivisibly* sovereign people of the *only two* constitutionally-accepted sovereigns: national and state or tribe governments.

What? No county sheriff? No mayor? No council? Not necessarily. Mayor and council for *corporate* powers, which can be great specially in large cities, owners of universities and hospitals.

But the *sovereign* power to detain an unwilling person (which would be kidnapping if done by a private entity) **or appropriate a thing belonging to another** (which would be stealing if done by a private entity) has to come *up* from *all* the people of the state or tribal nation.

How do Oconee County's people know who is a good sheriff for Beaufort County? How would Dillon County's people know who is a good solicitor for Aiken County? Two *possible* answers.

First, the federal model of the Chief Executive appointing all those *sovereignty-exercising* officers *with the advice and consent* of the Legislature. OR *all* the state's people electing *a slate* of 16 solicitors and *a slate* of 46 sheriffs, *etc.* against competing slates if such were offered. The elected slate could then assign its members to rotate among respective circuits or counties.

Why all this upheaval? First, because the Constitution accepts nothing less than *all* the *sovereign* people in universal suffrage handing *up* their sovereignty to an official to exercise it. Second, because of the results of unconstitutional balkanization of sovereignty: a county coroner claiming to pin the time of death by his hand in the deceased's armpit; a one-man township police "force" untrained in taser use; a generation of solicitors forming fiefdom; a county sheriff serving longer than Türkiye's Ordogan and draining other counties for his own. A state-wide elected slate of sheriffs or solicitors would rotate the officials and ensure they do not harm other localities to benefit themselves or their local connections. **After all, if SC requires its *sworn* circuit judges to travel the circuits lest they gain improper powers in one, why should solicitors and sheriffs be trusted with that with which *sworn* judges are not.** Third, for uniformity of rules, expertise, and resources throughout the state. That is what the Fourteenth Amendment calls the equal protection of the laws and what the Preamble calls *general* welfare.

A tiny piece of sovereignty (tiny city-owned-and-operated court) might be excused if that court were entitled to only a tiny piece of Dr. Faltas' body; *e.g.,* a strand of her hair or clippings of her nails. But CMC and DMN were so-called courts empowered to put Dr. Faltas' *whole* person in the fearsome and equally unconstitutional ASGDC without the power to first provide her with compulsory process for her defense by subpoenaing things *at all* or persons in other localities.

CONCLUSION

What was, and continues to be, done to Dr. Faltas gives her *standing* to attack the *structural* constitutionality of the entities that did it to her. Her medical qualifications and commitment to prevention give her unique abilities to problem-solve in law as in medicine: First, study the *normal* human body and psyche, how they are supposed to *work* for health, productivity, and happiness. Next, examine disease as detailed deviations from the normal plan. Last, propose solutions to restore the normal plan. **In the courage, not arrogance, of the dedicatees of this**

brief, Dr. Faltas presents her approach as better than rote recitation of words of the judges of the very King against whom the American Colonies revolted and against the inequities of whom the Founders resorted to "the decency of mankind" in their Declaration of Independence.

Since her initial Appellant's brief, *more* inmate deaths and stabbings were reported in the very ASGDC to which Dr. Faltas was *repeatedly* taken to thwart her exoneration of false *harassment* charges by the same false accuser herein: Dinah Gail Steele, who pretends to have been prescribed Paxil for 4 years because, on 11 September 2009, Dr. Faltas handed Steele a one-page letter asking her to reschedule a pretend inspection of Dr. Faltas' then-rented apartment.

To this day, courts protected Steele from disclosing the name of that mysterious Paxil prescriber if (s)he exists at all. Courts protected Steele at the price of *continuing* brutalization Dr. Faltas, who is *already* the proven victim of Steele's false harassment and trespass charges, of which Dr. Faltas, was, thank God, repeatedly and separately exonerated by different fact-finders.

Human frailties aside, that could not have continued to happen absent an unconstitutional system which allows a locality to own a court *totally* outside the control of the state sovereign and operate that court in such manner as to extort a lawful immigrant for the profit of local people.

With faith in God, Dr. Faltas appeals to the decency of the humankind of this Court.

Marie Assa'ad-Faltas, MD, MPH's 25 April 2013 conviction and sentence in CMC should be vacated. CMC should be ordered to cease operations forthwith with trials of petty state crimes to be transferred for trial by a court *fully* owned and operated by the State sovereign alone.

Sincerely submitted on 12 June 2023.

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

On 12 June 2023, I served Mr. Marshall James, sole Counsel for sole Respondent in this case, with a true copy of this document by personally going to the City of Columbia's Legal Department's office location on Washington and Main Streets, Columbia, SC 29201, and there and then hand-delivering the true copy of this document to a person long known to me to be approved and entrusted to deliver it to Mr. Marshall, all God so willing.

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