

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, Former/Resigned 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.

ABRREVIATED RECORD ON APPEAL in seven volumes

Volume I: Documents Mandated by Rule 210(c), SCACR, in *descending* Chronological Order

Sincerely submitted and served on 11 October 2023, God willing, by:

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SC Court of Appeals

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
City of Columbia,	)	C/A no. 2019-CP-40-01374
	)	
v.	)	
	)	Order denying Appellant's Rule 59(e), SCRCP
Marie-Thérèse Assa'd-Faltas,	)	Motion to Reconsider
	)	
Defendant.	)	

THIS MOTION comes before the Court on appellant's Rule 59(e), SCRCP Motion to Reconsider. A hearing was held on January 28, 2022 on an appeal from Richland County Magistrate Judge Newsom's denial of appellant's motions that he recuse himself and to reopen her case. This court issued an Order on February 9, 2022 affirming the magistrate's denial of appellant's Motions. In light of the law governing Rule 59(e), and in consideration of the facts as stated below, the Motion to Reconsider is DENIED.

I. Legal basis for appellant's rule 59(e) motion.

This court is vested with the authority to decide this matter pursuant to Chief Justice Beatty's September 15, 2020 Order assigning jurisdiction to the Hon. D. Craig Brown over this and other cases involving appellant.

Appellant timely filed her Rule 59(e), SCRCP motion within 10 days of this Court's Order. "Rule 59(e), SCRCP, provides for a motion to alter or amend judgment and preserve the record for appeal." Pelican Building Centers v. Dutton, 311 S.C. 56, 60, 427 S.E.2d 673, 675 (1993). In her motion, appellant asks that this court "rule *in writing* on matters on which he may have ruled orally but did not reduce to writing, to correct errors of the recitations of facts, to require a complete return from [Magistrate Newsom] ... and to reconsider *all* Judge Brown's rulings in this case." (p.1.)

II. Analysis of appellant's grounds for reconsideration.

Appellant's objections and requests are classified into five groups: (1) the request to clarify the court's ruling on her motion to file an Anders brief; (2) an objection to the evidentiary and legal sufficiency of the magistrate's return; (3) the applicable legal standard for determining judicial bias; (4) whether there was a violation of appellant's sixth amendment right to compulsory process; and the relevance of Dinah Gail Steele's mental injury to appellant's case. Each objection and request is addressed in turn below.

1. The court's oral ruling denying appellant's request for leave to file an Anders brief was based on a prior Order of our supreme court.

At the January 28, 2022 hearing, appellant made an oral motion for leave to file an Anders brief, which this court denied. Appellant now requests that the court reduce its ruling to writing and explain the basis for this decision.

Our supreme court's September 27, 2017 Order In the Matter of Marie Assa'ad-Faltas says that "In light of her prior conduct, Respondent's ability to proceed pro se shall end with the service and filing of the notice of appeal, and she shall be represented by counsel in the appeal (including any subsequent appeal to a higher court and any discretionary review under Rule 242 of the South Carolina Appellate Court Rules)." (p. 2.) The court finds that this portion of the supreme court's Order prohibits appellant from proceeding pro se in appellate matters, including filing an Anders brief in an appeal from magistrates court.

2. The February 9, 2022 Order was based on a sufficient return and the correct legal standard.

Appellant made multiple objections concerning the adequacy of the return, both as to its contents and as to the legal standard interpreting it. For the reasons stated below, this court finds

that the return was adequate and that both the magistrate and this court applied the proper legal standard interpreting the evidence contained therein.

A. The magistrate provided an adequate return.

Appellant asks why this court issued its February 9, 2022 Order based on an incomplete return. Upon reviewing the return and the applicable law, the court finds that the magistrate's return was neither incomplete nor defective. See S.C. Code Ann. § 18-7-80.

Judge Newsom filed his notice of return, the record, a statement of all the proceedings in the case, and the testimony taken at trial as required by S.C. Code Ann. § 18-3-40.¹ The return includes, amongst other things, transcripts of both the hearing on the motion to recuse and the motion to reopen, the appellant's 2009 courtesy summons for simple assault, a letter of disposition regarding Charlene Crouch's drunkenness charge, summary court summonses, appellant's motions for a new trial and to reconsider, the Supreme Court Order from the original trial, the Circuit Court Order remanding this case to the magistrates court, and the magistrate's February 27, 2019 Order denying appellant's motion to reconsider his ruling. Judge Newsom's return contains all of the "testimony, proceedings, and judgment" that were before the magistrate at the time of his ruling and is complete. See S.C. Code Ann. § 18-7-60.

B. This court applied the proper standard for after-discovered evidence in reviewing the return.

Appellant asserts that this court applied the wrong standard in reviewing the magistrate's return. She argues the court erred in applying the after-discovered evidence standard found in State v. Irvin, 270 S.C. 539, 243 S.E.2d 195 (1978). Appellant asks why this Court did not apply

¹ This court has previously noted that while the filing of the return was not timely, it was complete and otherwise complied with the laws governing magistrates returns.

the standard used for instances of prosecutorial misconduct for failure to disclose evidence pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and Rule 5, S.C. R. Crim. P. as stated in in Kyles v. Whitley, 514 U.S. 419 (1995) and Riddle v. Ozmint, 369 S.C. 39, 631 S.E.2d 70 (2006).

The reason the Court applied the standard set forth in Irvin is that this is an appeal of a motion to reopen based on after-discovered evidence, Rule 29(b), S.C. R. Crim. P., not a Rule 5/Brady motion concerning the prosecution's disclosure of evidence. Appellant makes multiple allegations that the city attorney's office, the Columbia Police Department, and SLED withheld information in order to convict appellant. The magistrate heard these arguments and deemed them insufficient to grant appellant's motion to reopen. This court agrees with the magistrate.

The magistrate properly applied the after-discovered evidence standard in its ruling, and this Court affirms. While the magistrate did not explicitly rely on Irvin, the standard set forth in that case is still the proper standard for motions based on after-discovered evidence. See, e.g., State v. Adams, 430 S.C. 420, 845 S.E.2d 217 (Ct.App. 2020) (applying the same five elements to motions based on after-discovered evidence as those applied in Irvin). Contrary to appellant's argument, the proper legal standard was applied to this motion.

IV. The Court applied the proper legal standard for determining judicial bias.

Appellant alleges that this Court applied the wrong standard in finding there was no judicial bias, and cites Caperton v. A.T. Massey Coal Co., Inc., et al., 556 U.S. 868 (2009) as the "now-controlling standard." Caperton does not create a new standard, but instead applies existing standards to a specific instance, namely, judicial election contributions. Id. at 881-82. The South Carolina Code of Judicial Conduct and our case law in this area have not been overruled by Caperton, and this Court's decision affirming the magistrate remains the same.

V. Failure to subpoena witnesses did not violate appellant's Sixth Amendment Right to Compulsory Process.

The court agrees with appellant that it made a factual error in saying that witnesses were “subpoenaed” to appear at the February 4, 2019 hearing. The proper term in this case is “summoned.” The return includes thirteen summonses for various witnesses, some of whom appeared, and some of whom did not. However, this error in word choice does change the court’s analysis of the case, nor does it change the court’s decision affirming the magistrate.

Appellant asks this court to address whether the Compulsory Process Clause of the Sixth Amendment applies to a Rule 29(b) hearing. This court finds that it does. See S.C. Code Ann. § 22-3-930; Rule 13, S.C. R. Magis. Ct. However, there has been no violation of the Compulsory Process Clause in this case. “[T]o demonstrate a Compulsory Process Clause violation, an appellant must make some plausible showing of how the testimony of an absent witness would have been both material and favorable to his defense.” State v. Brockmeyer, 406 S.C. 324, 334, 751 S.E.2d 645, 650 (2013). Appellant testified that she wished to subpoena her trial counsel, Mr. Theodore Nichols Lupton (tr.pp. 8-9); Ms. Dinah Gail Steele and her medical records (tr.p. 10); Charlene Crouch² (tr.p.1.); Charles White (tr.pp. 17-22); and Teresa Ingram³ (tr.p. 27). The first fifty-three pages of the transcript of the motion to reopen are filled appellant detailing what she hoped to gain from these witnesses and pieces evidence if they were to appear in court.

Upon reviewing this testimony, and in light of the law regarding Sixth Amendment protections in post-trial motions, this court finds that appellant has failed to make a plausible showing under the Compulsory Process Clause of how the testimony of the absent witnesses and other evidence she wants subpoenaed would be both material and favorable to her defense.

² Ms. Crouch and Ms. Steele were summoned by the magistrate to the hearing on the motion to reopen and examined by Dr. Faltas. See Tr.pp. 78-87, 87-110.

³ Mr. White, Mr. Lupton, and Ms. Ingram were all summoned to the hearing but did not appear.

Therefore, while the Compulsory Process Clause does apply to Rule 29(b) motions generally, there is no violation in this case.

VI. Appellant failed to ask relevant questions when given the opportunity to examine Ms. Steele on her claims of mental injury.

Appellant asks this Court to clarify its ruling regarding Ms. Dinah Gail Steele's alleged mental injury and its relation to her motion to reopen. The court finds that appellant failed to show a sufficient connection between the mental injury Ms. Steele suffered and her case to justify granting the motion. In addition to being allowed to testify herself about the relation between Ms. Steele's mental injury and her case, appellant was allowed to examine Ms. Steele at length. (Tr.pp. 78-87.) While appellant's questions generally related to Ms. Steele's claims of mental injury, there were many diversions and irrelevant questions throughout the examination. The magistrate made multiple attempts to keep appellants questions focused on how Ms. Steele's mental injury related to the trial of her case, but ultimately found that she was not able to produce enough relevant evidence to grant her motion to reopen. This court agrees and upholds the magistrate's ruling.

At the conclusion of the hearing, the magistrate found applicant had failed to present sufficient evidence to support her motion to reopen. This court agrees, and for the foregoing reasons, appellant's Motion to Reconsider is DENIED.

[Signature Page to Follow]



Richland Common Pleas

Case Caption: City Of Columbia , defendant, et al VS Marie Assaad Faltas

Case Number: 2019CP4001374

Type: Order/Other

IT IS SO ORDERED

s/D. Craig Brown (2160)

STATE OF SOUTH CAROLINA ("SC")
COUNTY OF RICHLAND

IN THE CIRCUIT COURT OF COMMON PLEAS
No. 2019-CP-40-01374

Appeal from Magistrate Court, Summary Court No.L066971 (Transferred from Columbia's Municipal Court)

CITY OF COLUMBIA, Plaintiff

Defendant/Appellant's TIMLEY Rule 59(e) Motion to Reconsider,

v.

To Reverse ALL the Magistrate's Oral and Written Rulings,

Marie Assa'ad-Faltas, MD, MPH

AND to Reopen the Case for Evidence-Taking

On the tenth (10th) day which is not a Saturday, Sunday, or holiday from SC Circuit Judge Brown's ("Judge Brown") 9 February 2022 ORDER affirming *basically all Dentsville Magistrate Phillip F. Newsom's ("DMN")* actions and rulings below, Defendant-Appellant Marie Assa'ad-Faltas, MD, MPH ("Dr. Assa'ad-Faltas" or "Dr. Faltas"), *via* conduit of her appointed counsel Dan Addison, moves Judge Brown to reconsider, to rule *in writing* on matters on which he may have ruled orally but did not reduce his ruling into writing, to correct errors of the recitations of fact, to require a complete return from DMN, which return is *still* unavailable in the records of *this* case, and to reconsider *all* Judge Brown's rulings in this case as they were controlled by errors of law as to the applicable standards as were DMN's ruling below.

At the threshold, at the 28 January 2022 hearing, after Judge Brown denied Dr. Faltas' motion to relieve Mr. Addison, which motion was NOT opposed by the latter who nonetheless refused to argue that DMN erred in denying Dr. Faltas' Crim.R. 29(b) motion to reopen based on after-discovered evidence of actual innocence, Dr. Faltas asserted her right to *pro se* brief the issues her counsel refused to argue under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Williams*, 305 S.C. 116, 406 S.E.2d 357 (1991), which implemented *Anders* in South Carolina.

Dr. Faltas renewed her request for leave to file her *pro se Anders/Williams* brief on the points Mr. Addison refused/failed to argue before the end of the 28 January 2022 hearing, citing her duty to bring the issue to the circuit court attention and seek a ruling at both the earliest possible chance and the last possible chance. Judge Brown *orally* admitted that Dr. Faltas did so but denied her request without oral explanation. The 9 February 2022 ORDER makes no reference whatsoever to that issue. Dr. Faltas therefore seeks a ruling under *On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 421, 526 S.E.2d 716, 724 (2000), and *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 602 SE 2d 772 (2004), with footnote 4 explaining:

[4] In discussing the need for a Rule 59(e) motion, we explained that

[t]he losing party must first try to convince the lower court it has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred. This principle underlies the

long-established preservation requirement that the losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments....

If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.... Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments. The requirement also serves as a keen incentive for a party to prepare a case thoroughly. It prevents a party from keeping an ace card up his sleeve intentionally or by chance in the hope that an appellate court will accept that ace card and, via a reversal, give him another opportunity to prove his case.

I'On, 338 S.C. at 422, 526 S.E.2d at 724.

Judge Brown also labeled DMN's *two-year delay* in providing a *partial* return "concerning" but did not rule, *and is hereby asked to rule*, on why it was proper to dispose of the case on an incomplete return against the clear mandate of §§ 18-7-50 to 90, SC Code of Laws:

SECTION 18-7-60. Return; when and how made.

The court below shall thereupon, after ten days and within thirty days after service of the notice of appeal, make a return to the appellate court of the testimony, proceedings and judgment and file it in the appellate court.

SECTION 18-7-70. Return; how made if magistrate is out of office.

When a magistrate by whom a judgment appealed from was rendered shall have gone out of office before a return is ordered, he shall, nevertheless, make a return in the same manner and with the like effect as if he were still in office.

SECTION 18-7-80. Return; further return when original is defective.

If the return be defective the appellate court may direct a further or amended return as often as may be necessary and may compel a compliance with its order. And the court shall always be deemed open for this purpose.

SECTION 18-7-90. Return; effect of dead, insane, or absent magistrate.

If a magistrate whose judgment is appealed from shall die, become insane or remove from the State before having made a return, the appellate court may examine witnesses on oath as to the facts and circumstances of the trial or judgment and determine the appeal as if the facts had been returned by the magistrate. If he shall have removed to another county within the State the appellate court may compel him to make the return as if he were still within the county where the judgment was rendered.

Before and during the 4 February 2019 hearing, Dr. Faltas had alerted DMN that the record sent to him from Columbia's Municipal Court ("CMC") was *extremely* inadequate, not even including Dr. Faltas' Rule 29(b) motion itself, or the CMC-made transcripts of the hearings in that matter, *including the 17 November 2009 hearing where, after having thrice threatened Dr. Faltas with contempt of court for correctly asserting that she was not given any discovery, Dr. Faltas was handed incomplete discovery.* It was later learned that then-CMC prosecutor then-Columbia-Assistant-City-Attorney ("CACA") David A. Fernandez, now an SC Assistant Attorney General ("SCAAG"), and/or his agents had researched and obtained Charlene Crouch's criminal record *up to that date* but same was not handed to Dr. Faltas, **nor was then-Columbia Police Department's ("CPD") Investigator Amanda Star Blanton's 17 November 2009 case summary, falsely pretending *inter alia* that Crouch declined to be**

“developed” as a victim because she was “afraid of” Dr. Faltas when the reality was that Blanton was aware of Crouch’s criminal record, *which got worse thereafter*, and of its effect on Crouch’s credibility as a pretended “victim” of Dr. Faltas’ or as a witness against her.

Also crucially omitted from the record CMC forwarded to DMN, and he belatedly to the circuit court, are then-CMC-Chief Turner’s *written January 2014* admission that Crouch had been convicted of public drunkenness on Dinah Steele’s property in May 2012. That conviction does not appear on the public record nor was it *ever* reported to SLED. In Dr. Faltas’ 25 April 2013 trial, Crouch and then-CACA Fernandez misrepresented to the CMC judge and to Dr. Faltas and her defense that Crouch’s public drunkenness charge was “still pending.” Also, Crouch and then-CACA Fernandez misrepresented to Dr. Faltas and her Defense that Crouch “has no idea” about the pendency of her sexual battery of a vulnerable adult charge. In the 4 February 2019 hearing, Dr. Faltas proffered evidence that Crouch had been arrested on that charge and had had at least two bench warrants related to it *before* 25 April 2013, and pled guilty to it shortly thereafter. Thus, Crouch could *not possibly* have had “no idea” about that charge on 25 April 2013. **All of that is *still* missing from DMN’s return to circuit court and is crucial in that it takes the applicable standard from the older *State v. Irvin*, which is limited to matters which do NOT involve prosecutorial misconduct, to *Kyles v. Whitley* and *Riddle v. Ozmint*, and their ancestry and progeny, which set mandatory reversal for prosecutorial concealment/misrepresentation/failure to correct falsehoods.**

Therefore, Judge Brown is asked to rule in writing why he was satisfied with DMN’s grossly incomplete return, and why he chose the *Irvin* standard over the *Kyles* and *Riddle* standards. Also controlled by error of law is Judge Brown’s choice of an antiquated standard for judicial recusal and claim that DMN’s giving Dr. Faltas breaks to catch her breath (without which she could have died of heart arrhythmias) precludes judicial bias. Due process requires much more than the jurist avoiding a possible charge of negligent homicide. The more recent and now-controlling standard is *Caperton v. A.T. Massey Coal Co., Inc. et al.*, 556 U.S. 868 (2009):

The inquiry is an objective one. The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is “likely” to be neutral, or whether there is an unconstitutional “potential for bias.”

III *****

That temptation, Caperton claims, is as strong and inherent in human nature as was the conflict the Court confronted in Tumey and Monroeville when a mayor-judge (or the city) benefited financially from a defendant’s conviction, as well as the conflict identified in Murchison and Mayberry when a judge was the object of a defendant’s contempt.

Nor do we determine whether there was actual bias.

Following accepted principles of our legal tradition respecting the proper performance of judicial functions, judges often inquire into their subjective motives and purposes in the ordinary course of deciding a case. This does not mean the inquiry is a simple one. "The work of deciding cases goes on every day in hundreds of courts throughout the land. Any judge, one might suppose, would find it easy to describe the process which he had followed a thousand times and more. Nothing could be farther from the truth." B. Cardozo, *The Nature of the Judicial Process* 9 (1921)

The difficulties of inquiring into actual bias, and the fact that the inquiry is often a private one, simply underscore the need for objective rules. Otherwise there may be no adequate protection against a judge who simply misreads or misapprehends the real motives at work in deciding the case. The judge's own inquiry into actual bias, then, is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief. In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge's determination respecting actual bias, the Due Process Clause has been implemented by objective standards that do not require proof of actual bias. See *Tumey*, 273 U.S., at 532, 47 S.Ct. 437; *Mayberry*, *supra*, at 465-466, 91 S.Ct. 499; *Lavoie*, 475 U.S., at 825, 106 S.Ct. 1580. In defining these standards the Court has asked whether, "under a realistic appraisal of psychological tendencies and human weakness," the interest "poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented." *Withrow*, 421 U.S., at 47, 95 S.Ct. 1456.

It is true that extreme cases often test the bounds of established legal principles, and sometimes no administrable standard may be available to address the perceived wrong. But it is also true that extreme cases are more likely to cross constitutional limits, requiring this Court's intervention and formulation of objective standards. This is particularly true when due process is violated. See, e.g., *County of Sacramento v. Lewis*, 523 U.S. 833, 846-847, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998) (reiterating the due process prohibition on "executive abuse of power ... which shocks the conscience"); *id.*, at 858, 118 S.Ct. 1708 (KENNEDY, J., concurring) (explaining that "objective considerations, including history and precedent, are the controlling principle" of this due process standard).

This Court's recusal cases are illustrative. In each case the Court dealt with extreme facts that created an unconstitutional probability of bias that "cannot be defined with precision." *Lavoie*, *supra*, at 822, 106 S.Ct. 1580 (quoting *Murchison*, *supra*, at 136, 75 S.Ct. 623). Yet the ~~2266~~²²⁶⁶ Court articulated an objective standard to protect the parties' basic right to a fair trial in a fair tribunal. The Court was careful to distinguish the extreme facts of the cases before it from those interests that would not rise to a constitutional level. See, e.g., *Lavoie*, *supra*, at 825-826, 106 S.Ct. 1580; *Mayberry*, 400 U.S., at 465-466, 91 S.Ct. 499; *Murchison*, *supra*, at 137, 75 S.Ct. 623; see also Part II, *supra*. In this case we do nothing more than what the Court has done before.

It is "constitutionally intolerable" for Dr. Faltas to have been judged by a man who had her stripped naked in front of two strangers because, without basis, DMN wondered whether Dr. Faltas carried "a bomb or what" *well* after she had *successfully* cleared the metal detector.

Nor did DMN deny any of that; he only insisted that Dr. Faltas had alleged she was stripped naked *in the courtroom*, **when she had correctly reported it was in the courthouse.**

DMN's *judicial* bias against Dr. Faltas is proven by DMN's obsessive chant "there is not a shred of evidence" **before Dr. Faltas was allowed to offer any evidence.** DMN spent the majority of the 4 February 2019 hearing haranguing Dr. Faltas that, if her witnesses were going to testify how she was hoping for them to testify, they would have appeared without subpoenas.

And therein lies an error of law by both DMN and Judge Brown, who affirmed DMN.

At the threshold, and this is a factual error by Judge Brown, **no one was subpoenaed for the 4 February 2019 after-discovered-evidence hearing**. Few persons, including Charles White and Teresa Ingram, were *summoned* for that hearing; **but the magistrate's subpoena power is limited to Richland County; and he has no power to issue subpoenae duces tecum**. Dr. Faltas duly moved for return of the case to the circuit court with its state-wide subpoena power and power to compel production of records. This is evident in Tr pp:

[Page 5, lines 17-18] **Defendant Faltas:** I mean can I put it on the record as a basis?

[19] **THE COURT:** Sure. Yeah.

[20-21] **Defendant Faltas:** And there are witnesses, necessary witnesses —

[22] **THE COURT:** For? For the transfer?

[23 to page 6, line 5] **Defendant Faltas:** No, necessary witnesses for the actual rule 29(b) hearing who are from other counties. So, in this court I cannot get them; and I cannot get them *duces tecum*. [5+6] Additionally, additionally, your staff has given me hard time about subpoenaing witnesses and having been told that this hearing will just be about those two motions. And, in fact, I have an e-mail from Ms. Raquel Welch — I'm sorry, Raquel Perez, that says exactly that. It says it will just be on the motion to recuse and the motion to transfer. And if —

[6] **THE COURT:** Hold on a second. **Is that correct?** [7] **(Court confers off the record.)**

[8-10] **THE COURT:** You told him it was just those two motions? No, we've got the whole thing. We've got a motion to reopen. Okay. All right. Continue with your motion to transfer.

[11-15] **Defendant Faltas:** Since it is the court's own staff who told me that I think I'm prejudiced because I haven't subpoenaed my witnesses; and in any event, I cannot subpoena them, those of them who reside outside Richland County. **And as I said the circuit court has broader subpoena power; so, it's a matter of judicial economy.**

[16-22] **THE COURT:** Okay. You are well aware that I'm under the constraints of what the law is now, both appellate cases as well as the statutory cases. The only time we have the right to subpoena records is when it is statutorily provided. Given that, I cannot grant your motion to transfer. **The other thing is it was a circuit court that ordered this case sent here.** And the way the courts work, Circuit Court is here, I'm down here. If he or she —

[23] **Defendant Faltas:** I —

[24 to Page 7, line 6] **THE COURT:** Don't interrupt me. If he or she tells me I will do something, I can't say no. So, it doesn't work that way. And the [6+7] motion, the reason why they sent it back down is because the motion for a new trial is proper in the court, the level of court in which the trial was had. So, it's proper in this court for any other reason. I realize there are some limitations as far as you subpoena people outside the jurisdiction of this court. From what I've been told, you want to subpoena the sheriff —

[7] **Defendant Faltas:** No, sir.

[8-13] **THE COURT:** Yes, ma'am. You want to subpoena me; you want to subpoena our court administrator who is retired and lives in another county. Judge Kirby Shealy, you wanted to subpoena him. I am not going to let you abuse the process for folks that have nothing to do with this case. What witnesses that are germane to your motion to reopen are not here?

[14-18] **Defendant Faltas:** Okay, I'll tell you; but just let me also put on the record that those people that you mentioned were related to the motion to recuse, not the motion to reopen. And you in fact faulted me for not having subpoenaed the Sheriff himself. So, all of this is related but—

[19] THE COURT: Okay.

[20] Defendant Faltas: I'll tell you who —

[21-23] THE COURT: Who are the witnesses that you want to subpoena that would — and you've got to give me a summary of what their testimony would be.

[23 to Page 8, line 1] Defendant Faltas: Well, yes, sir, I will but under protest — I know — let me put it on the record please under protest that I'm not [7-8] required to give my defenses —

[2-3] THE COURT: This is not a defense. You have the burden of proof for the motion to reopen the case.

[4-5] Defendant Faltas: Those people have been subpoenaed last time. They did not show up but ...

[6-7] THE COURT: What evidence would you glean from those people?

[8] Defendant Faltas: I'm about to tell you.

[9] THE COURT: Well, good.

[10-11] Defendant Faltas: Okay. First of all, Theodore Nichols Lupton.

[12-13] THE COURT: And what would he testify to that would be grounds for a new trial?

[14-15] Defendant Faltas: He would — I need to put one other thing on the record.

[16] THE COURT: Okay. Go ahead.

[17-18] Defendant Faltas: You, said and you volunteered that you think I like the chase more than the capture. So —

[19-20] THE COURT: That's already on the record. Move on. We are talking about your witnesses.

[21 to page 9, line 2] Defendant Faltas: Because you know now when you said what would they say that would be grounds. What you are going to do is say, no, that won't be grounds; therefore, the witness is not necessary. Therefore, you haven't been prejudiced. Exactly the same process that you think I'm here not for the result, just for the [8-9] process and you will rule against me thinking that I am here just for the process because I like the chase more than the capture. And so I —

[3-4] THE COURT: Dr. Faltas, let me stop you. If there is evidence that is after-discovered evidence that meets the litmus test to grounds for me to reopen, I have no problem at all reopening the case.

[6] Defendant Faltas: I have no confidence in that —

[7-12] THE COURT: I understand that but let's move on. You've asked me to recuse myself a couple of times. I've denied it. Don't go there any more. Tell me about the witnesses that aren't here that you think ought to be subpoenaed; but you've got to tell me what they are going to say. Just because you want to subpoena somebody doesn't mean they are germane.

[Page 59, lines 21-22] THE COURT: We are not dealing with possibilities. You have a motion, you have the burden of proof.

[23-25] Defendant Faltas: Sir, it's either of the two. And these are the only two plausible possibilities and both of them support my motion. I just cannot testify for someone else. I'm telling you —

[Page 60, lines 1-7] THE COURT: And I agree with you. So, that's why I don't know whether you need to testify or not. You are basing your legal argument on what the other people might say and there's nobody here that you've called that can say anything that supports your record. Much the same as if the state summonses a witness and they don't show up for trial. I can't make the witness show up. Okay? Understand that.

[8-11] Defendant Faltas: No, sir. I'm sorry. The 6th Amendment to the U.S. Constitution guarantees a criminal defendant the right to *compulsory process*, compulsory, not voluntarily, not invitational. You are trying —

[12] THE COURT: This is a motion. This is not your trial.

[13-14] Defendant Faltas: It has the same constitutional guarantees —

[15-16] THE COURT: Go on. You can argue that on your appeal if I rule against you.

[17-18] **Defendant Faltas:** Of course you are going to rule against me. It was obvious from the beginning.

[19 to page 61, line 1] **THE COURT:** Ma'am, you say one other disrespectful thing to this court I am going to hold you in contempt. And you know I will because I've done it before. I don't want to do it t. It's a last resort. Do not push. Your disrespect for people and the system is obvious and I think if we put these people under oath that you've brought in here today, none of whom you've called by the way, if they were asked they'd agree. Now you may be respectful or you may stand down and [60*61] I'll rule with what I have at this time.

[Page 64, lines 19-20] **Defendant Faltas:** Could I finish my response to the objection?

[21] **THE COURT:** Yes, ma'am.

[22 to Page 65, line 9] **Defendant Faltas:** So, I (inaudible) if you are saying and I'm not sure you are saying it or not saying it that rule 29(b) is cut out from the rules of criminal procedure and not subject to the 6th amendment of the united states. But the 6th amendment includes the [65] right to confront one's accuser, the right to compulsory process and also the right to a speedy trial. This matter has been going on for nine years now, going on the tenth now. But she volunteered to testify. She volunteered that she was still on medication. She is here and I am asking that I examine her. You, of course, can control the questions subject to abuse of discretion. You can control the questions but when it's something that she volunteered emphatically. Several times she said she had the nervous breakdown.

[10-12] **THE COURT:** Do you have any evidence that she did not suffer a nervous breakdown condition or that she did not take medicine?

[13] **Defendant Faltas:** Yes.

[14] **THE COURT:** What's that evidence?

[Page 127, LINES 22-23] **THE COURT:** You assume but there is no evidence in the record there wasn't. Correct?

[24-25] **A.** No, there is evidence that Charles White whom you are not exercising the compulsory ---

[Page 128, lines 1-2] **THE COURT:** Ma'am, don't go there. Your disrespect to the courts is noted. I don't want it again.

[3] **A.** All right. My testimony is that Charles White told me.

[4-6] **THE COURT:** Which is hearsay. And he would have been your witness and you can't testify what one of your witnesses would have been if he didn't come in.

[7-8] **A.** But there is the argument that I would have wanted the court to enforce its compulsory process.

[11-13] **THE COURT:** You made that earlier. I don't know how we can enforce what we don't have the same powers outside the county as other courts do.

[14] **A.** That's why I wanted ---

[15] **THE COURT:** I understand. Any more testimony?

Dr. Faltas preserved below her assertion that the guarantee of compulsory process extends to a Crim.R 29(b) motion hearing, which is part and parcel of the criminal adjudication process. DMN ruled the right to compulsory process does not extend to a Crim.R 29(b) hearing. Judge Brown did not rule on those issues *at all* and is now asked to do so.

Another issue on which DMN was controlled by an error of law, and which Judge Brown did not address, is Steele's ability, as a landlady, to trespass Crouch from Steele's property *even if White, a Steele tenant, wants Crouch there as White's invitee*. Tr pp 89-90:

[PAGE 89, LINE 23] THE COURT: Sustained. I don't see the relevance of other.

[24-25] Q. (by Defendant Faltas) Did you ever get money from a man called Charles Randolph White for any reason?

[Page 90, line 1] A. I do clean up for him. I was his neighbor for years.

[2] Q. Did you ever have sex with him?

[3] Ms. Mangum: Objection, Your Honor.

[4] THE COURT: What's the relevance?

[5-7] Defendant Faltas: The relevance is that she needed to overrule or bypass the trespassing order to give the prostitution services to Mr. White.

[8-10] THE COURT: Number one, I haven't seen any evidence of a trespass. And the way trespass works I can trespass you today and take it off tomorrow for any reason.

[11-12] Defendant Faltas: Well, we'll follow that. We'll follow that.

[13-14] Q. (by Defendant Faltas) So, when was the last time you got money from Mr. White?

[15-17] Ms. Mangum: Your Honor, I object as to relevance. I believe Ms. Crouch was purportedly brought here because she lied about her criminal record.

[18-19] Defendant Faltas: And I am trying to also put evidence that she has incentive to lie now.

Judge Brown made much of the fact that it was White, not Steele, who initially put Crouch on trespass notice. The issues, however, are that: (a) Crouch *perceived* that Steele could put Crouch on trespass notice *even if White wanted Crouch as his invitee*; and (b) Steele has, not only power, *but duty*, to protect *other tenants* from third-party criminality. Wright v. PRG Real Estate Management, 426 SC 202, 826 SE 2d 285 (2019). Crouch testified that, when drunk that early morning, she was banging on Steele's property windows or doors. Thus, Steele would have had grounds to put Crouch on trespass notice. Parenthetically, too, Steele had put Dr. Faltas herself on trespass notice *from her own apartment*. So, Crouch could have plausibly believed, "right or wrong," that a ruthless Steele could put Crouch on trespass notice from a Steele building where Crouch was not a tenant; and, with her ever-growing criminal record, Crouch would have had no basis to claim the trespass notice was arbitrary.

Another error of law by both DMN and Judge Brown are that Steele's false claims of nervous breakdown are irrelevant to Dr. Faltas' actual innocence of the simple assault conviction. Not only was "mental injury" the only injury claimed by Steele, she used it to falsely pretend that the assault was so *physically* severe as to cause her mental injury. Judge Brown is now asked to at least clarify his ruling on the relationship of Steele's claimed mental injury to the case.

Nor could Dr. Faltas have called Mangum, who was there as the City's lawyer but had **not** prosecuted the case, to testify. Further, due to the limited summons power of SC magistrate courts, neither Teresa Knox nor Jessica Mangum (now CMC Chief Judge) brought records.

Additional errors of law are the failure to recognize the totality-of-evidence standard, the new-light standard, and the crucial-witness standard, as shown below.

The real law and its application to the facts of this case

A. **The Criteria are basically two, not five or six, and aim to promote truth and diligence.** Finality is good; **but finalizing injustice is not, and cannot be, the mission of courts.** That would change temples of truth into judgment mills and end the very respect for the law which finality seeks to promote. ***The more honest a court system is about its inaccuracies, the more likely it is to favor truth over finality.*** Finality is guarded by a “could not by due diligence have been discovered before trial” criterion to induce parties to gather all necessary evidence before trial and reach truth in the first trial. The criteria are constant in federal and state law, across eras and jurisdictions, and in criminal and civil law. Motions under Rule 60(b) of the Federal Rules of Civil Procedure and state versions of that federal rule are adjudicated by the same criteria as motions under Federal Rule of Criminal Procedure 33 and, in South Carolina, under SC Crim R 29(b). The criteria were developed before the rules were enacted. **In all cases, the criteria are applied to promote truth and finality. Legal truth is expressed in the verdict.** A “make a different verdict likely” criterion promotes truth. **As legal truth is narrow in criminal cases,** the question must be: **would the newly-discovered evidence give fair fact-finder reasonable doubt of defendant’s guilt?** DMN *at least twice* admitted certainty of Dr. Faltas’ innocence or doubts of her guilt. Without benefit of the CD or transcript of the 4 February 2019 hearing (which Dr. Faltas requested but still did not receive), Dr. Faltas is still sure DMN said “I am not sure I would have found you guilty if I had been the initial trier of fact” and “if you were not innocent, you would not have pursued it all those years” but insisted all criteria must be mechanically applied even to the exclusion of admissible facts necessary for context.

Criminal defendants must exercise due diligence before trial to discover all facts, *typically* in the Prosecution’s possession; **but** proof of a *Brady/Kyles* violation meets that criterion. *The City* is the Prosecution here. Charlene Crouch’s May 2012 conviction could **not** have been available for discovery before trial without *the City* having put it on the public index and/or reported it to SLED. **The City had done neither.** *The City’s* hiding Crouch’s conviction is: (1) an aggravated *Brady/Kyles* violation for being intentional, and (2) a *Napue v. Illinois*, 360 U.S. 264 (1959), violation because, by *actively* keeping that conviction away from Crouch’s rap sheet *to this day*, *the City continues* to give her valuable rewards for her testimony against Dr.

Faltas: Crouch's "priors" were deflated when she was sentenced in July 2013 for her conviction of sexual battery of a disabled person functionally equivalent to a child. DMN also ignored settled law on cumulative impact set in *e.g., Riddle v. Ozmint*, 369 SC 39, 45, 631 SE 2d 70, (SC 2006) ("The impeachment value of this statement is clear. **Either the brothers were given a lift or they were not:** Jason could not have been telling the truth in all his statements.") *Riddle, supra*, at 44 and 46, respectively, granted new trial for prosecutorial misconduct, ("*Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999). We are concerned here [...] with the question whether prosecutorial misconduct denied petitioner's due process right to a fair trial. *Id.*") ("An individual asserting a *Brady* violation must demonstrate that evidence: (1) favorable to the accused; (2) in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence **or was impeaching.** *Kyles v. Whitley*, 514 U.S. 419, (1995); *Gibson, supra*. **If a *Brady* violation is found to have occurred, [new trial] must be granted.** *Gibson, supra*.) ("When determining whether the suppression of more than one item of evidence was material under *Brady*, we consider **the collective impact of the undisclosed evidence.** *Kyles v. Whitley*, 514 U.S. at 436.") [emphasis added] Prosecutorial misconduct and *Brady* violations are grounds for new trial which DMN improperly ignored. Nor does the "not merely cumulative or impeaching" prong exclude Dr. Faltas' evidence. Impeaching evidence **was** withheld in violation of *Brady/Kyles/Gibson, supra*. A key word is "merely." Impeaching evidence mandates a new trial so long as it is not *merely* impeaching. And evidence is **not** "cumulative" if it presents proves a point that was not proven at trial or is different evidence from that presented at trial on the same point. **Crucially, facts occurring after trial are after-discovered evidence if they prove facts or conditions existing at the time of trial.** DMN **erroneously confused the presumption of innocence**, which properly prevented Dr. Faltas from impeaching Charlene Crouch with her *mere* arrest before Crouch had been convicted of essentially the rape of a child, **with the fact that due to Crouch's conviction of that sexual battery in July 2013, she was basically a child rapist when she testified against Dr. Faltas in April 2013.** That victim had been sexually battered by Crouch in December 2011; Crouch was arrested in June 2012 and convicted in July 2013.

The question is not "was it proper, in April 2013, to *explore* Crouch's sexual battery *arrest*?" but "was it **necessary**, in February 2019, to consider Crouch's sexual battery *conviction*?" The answer to the right question is yes **because a ruling on a motion is made on the state of**

the record at the time of the ruling, not the time the motion is filed. *Ortiz v. Jordan*, 562 U.S. ___, 131 S. Ct. 884 (2011). See also: (1) *Peacock v. Bd. of Sch. Comm'rs*, 721 F.2d 210, 214 (7th Cir. 1983) (generally finding that material not in existence until after trial falls within 60(b)(2) only if it pertains to facts in existence at time of trial). (2) *Gray v. Bryant*, 298 S.C. 285, 287, 379 S.E.2d 894, 895-6 (1989), (finding juror's letter to newspaper praising doctors and criticizing parties who sue them, which was written on the same day the jury returned a verdict in favor of the defendant doctor and published two weeks after verdict, revealed a preexisting bias and was newly discovered evidence for purposes of Rule 60(b)); (3) *Amesco Exports, Inc. v. Assoc. Aircraft Mfg. & Sales, Inc.*, 87 F.Supp.2d 1013, 1015 (C.D. Cal. 1997) (finding plaintiff corporation's receipt of letter from tax commission advising it of conditional revival of its corporate status constituted newly discovered evidence for purposes of 60(b)(2) warranting relief from final judgment); (4) *Nat'l Anti-Hunger Coal. v. Exec. Comm. of the President's Private Sector Survey on Cost Control*, 711 F.2d 1071, 1075 n.3 (D.C. Cir. 1983) (stating task reports that came into existence after lower court's decision pertained to facts in existence at time of decision which supported a finding that the reports were newly discovered evidence within the meaning of Rule 60(b), FRCP); and (5) 11 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal Practice and Procedure* § 2859 (2d ed. 2008) (stating "**Rule 60(b)(2) has proved useful, especially when the newly discovered evidence calls into question the validity of the judgment by directly refuting the underpinnings of the theory which prevailed**"). The theory which got Dr. Faltas convicted at the 25 April 2013 trial is: (1) Crouch is a woman of "character" with "no dog in this fight" who "clearly stated what she saw," and (2) Steele suffered a "mental injury" suddenly in January 2010 and had to take unnamed medication for three years and three months. ***The underpinnings of that theory are directly refuted by the new evidence.*** Crouch had committed a child-rape-equivalent *before* testifying against Dr. Faltas. That crime **refutes Crouch's "character" touted by the City regardless of whether it proves dishonesty under a *crimen falsi* theory or not.** Crouch had "a dog in that fight": unprohibited access to Steele's tenant, Charles White, who had earlier testified to paying Crouch for sex and from whom Crouch admitted getting \$300.⁰⁰/month for who knows what. Steele had many avenues to block that access: she could make *White's* continued tenancy in Steele's rental building contingent on *White's* cutting ties with Crouch; Steele could use Crouch's confession to, and conviction of, drunkenly banging on White's window or door as proof of vandalism of

Steele's property. Crouch is a high-school dropout who had seen Steele put Dr. Faltas on trespass from Dr. Faltas' own apartment for which she paid rent from September 2008 to April 2011. Crouch had also, on 21 March 2013, testified *for the City* in a trial charging Dr. Faltas with trespass *to her own mailbox* on 5 September 2009. A jury acquitted Dr. Faltas of that charge. But *the City* also set a 24 April 2013 trial date for Dr. Faltas for having allegedly trespassed *into her own apartment* on 8 July 2010. That, too, was dismissed; but the law as read *and understood by a sitting jurist* **has no relationship to Crouch's perception of reality.** DMN's injection of his own views of the law into Crouch's head and its impervious resistance to Dr. Faltas' eliciting Crouch's *belief, right or wrong*, about Steele's ability to ban Crouch from visiting White in the apartment he rents from Steele are error and **irrefutable proof of the jurist's hopeless bias.** DMN ignored the compulsory process guaranteed to a criminal defendant by the Sixth Amendment; and instead, *announced* that testimony of the witnesses for whose attendance Dr. Faltas sought but was denied compulsory process would not have helped. This is an *a fortiori* from the error which was recently reversed by SC's Supreme in a PCR appeal, *Darrell L. Goss, Petitioner, v. State, Respondent*, Appellate Case No. 2016-002186, Opinion No. 27843, Heard June 12, 2018 – Filed October 17, 2018, which ended thus:

Here, the PCR court's decision to take judicial notice of the substance of witnesses' testimony and then find those witnesses not credible diluted the process to the point where the PCR court's factual findings—and perhaps the legal conclusions arising from those factual findings—were based upon an incomplete consideration of all the evidence. Based upon the foregoing, we REMAND this matter to the circuit court for a de novo PCR hearing. It will be incumbent upon Goss to secure the attendance of his witnesses for the de novo hearing, and Goss, trial counsel, and other pertinent witnesses may be presented for testimony by the parties. We emphasize the proceedings will be de novo, and neither party may rely upon testimony presented at the initial hearing which is the subject of this appeal. BEATTY, C.J., KITTREDGE, HEARN and FEW, JJ., concur.

B. Over two centuries of case law establish that nomenclatures should not cement injustice.

Case law being consistent, quotations from South Carolina's and other states' case law are hereunder set in chronological order with emphasis on the heightened rights of criminal defendants seeking new trials.

1917-02-17: *State v. Wiley*, 106 S.C. 437, 91 S.E. 382 (S.C. 1917):

We think his Honor was in error in finding that the evidence offered was merely cumulative. It was more than merely cumulative; it gives more testimony from disinterested witnesses and throws light on and elucidates the points at issue. "Cumulative evidence" is "augmenting or giving force" to the evidence or "increasing it by successive additions." The proposed new evidence was to contradict the State's evidence that the deceased was unarmed, and that defendant followed him, having previous to that time made threats against him, and to show that the deceased was armed, and that the defendant did not follow him, but was called by the deceased before defendant went where deceased was; that defendant

made no threats. All the new evidence was in derogation of the State's testimony, and, under all facts and circumstances developed in the case, due diligence was exercised by the defendant and his counsel; the evidence was material, in that it corroborated the evidence of the defendant, who was the only witness in his behalf, who testified on the part of the defense as to the actual facts at the occurrence when the deceased was killed.

1921-06-30: *State v. Casey*, 116 S.C. 280, 108 S.E. 112 (S.C. 1921)

Judge McIver [found]: "That the defendant and his counsel used due diligence, that they did not at the former trial have notice of the testimony now desired to be offered, and that the testimony is material. I am, however, of the opinion that the evidence submitted is largely cumulative and would not probably have changed the verdict of the former trial, and for this reason it is ordered that the motion for a new trial be, and the same is hereby, overruled." [¶] In view of the facts developed at the trial before Judge Sease and the nature and character of the new testimony, it is more than merely cumulative. It is material to the issue. It shows the mental attitude of the deceased and substantiates and corroborates the defendant and his witnesses **as to whether deceased was armed or not at the time he was on the premises of the defendant when the killing occurred. [¶] It is of vital importance in the case and might have vitally affected the jury in the consideration of the case, if it had been presented for their consideration at the trial. It might have influenced and probably might have changed their view, taking into consideration other facts and circumstances.** As to whether or not deceased made threats while on his way to defendant's home, and whether or not he then had a pistol on his person, is evidence now of newly developed facts, and not merely cumulative, as held by his Honor, **and, even if merely cumulative, might have changed the result if submitted to the jury. [¶] His Honor was in error in not granting a new trial.**

1922-08-17: *Turner v. Southern Railway Co.*, 121 S.C. 159, 113 S.E. 360 (S.C. 1922):

The county Judge[s] refusal of the motion was expressly predicated upon this ground: "**There must be an end of litigation and a litigant is not entitled to his two days in Court without making a clear showing as to the exercise of diligence.**" [...] In disposing of the motion for new trial we think it is apparent that the conclusion of the learned county Judge was influenced, if not controlled, by an error of law in the application of the principle of due diligence to the peculiar facts of the case at bar. There can be no question as to the validity and importance of the salutary general rule that parties should be held to diligence in the preparation of their cases for trial, and that public policy, looking to the finality of trials, demands that new trials shall not be granted where alleged newly discovered evidence could with reasonable diligence have been produced at the trial. But we think the principle applicable to the state of facts appearing upon the hearing of this motion is thus correctly stated in 29 Cyc., p. 868:

"But where it is clear that a witness was mistaken in giving the only or controlling testimony to a material fact, or that the testimony of witness on which the verdict proceeded was found on particular circumstances, which have been clearly falsified, a new trial should be granted."

See cases cited, notes 79, 80, p. 868, 29 Cyc., and particularly *Huson v. Egan* (Com. Pl.), 6 N.Y. Supp., 661, where witness misunderstood question. 20 R.C.L. (Com. Pl.), p. 292, § 74; *Cockrell v. State*, 71 Tex. Crim. R. *Page 163 163 S.W., 343, 48 L.R.A. (N.S.), 1001. When the mistake is that of a party to the cause, and is evidenced by a subsequent written admission under oath of the party himself, the evidence thus presented clearly could not have been produced at the trial and the adversary's lack of diligence in producing impeaching testimony upon the trial becomes immaterial. See *Guth v. Bell*, 153 Iowa, 511, 133 N.W., 833, 42 L.R.A. (N.S.), 692, Ann. Cas., 1913 E, 142, and note, p. 147.

1922-11-03: *State v. Hawkins*, 121 S.C. 290, 114 S.E. 538 (S.C. 1922):

Justice WATTS: I am of the opinion that some Court ought to have jurisdiction to entertain motions for new trials on the ground of after-discovered testimony. [¶] I have changed my mind since I dissented along with Circuit Judge Ernest Gary in the case of *State v. Lee*. My change was brought about by the case of *State v. Williams*, 76 S.C. 135. I tried him on Circuit; he was convicted of murder. I overruled his

motion for a new trial and sentenced him to death; he appealed, and the Supreme Court affirmed the judgment of the Circuit Court and remanded the case for the purpose of assigning a new day for the execution of the sentence. **His attorneys discovered new evidence and moved before the Circuit Court for a new trial, which was granted by, I think, his Honor, Judge Prince, and Williams was either acquitted or case "not prossed."** *An innocent man would have suffered if some Court had not had the power to grant a new trial on after-discovered evidence.* [¶] My opinion is that, when the Supreme Court has jurisdiction of a case on a *prima facie* showing, it should have the power to suspend the appeal and send it to the Circuit Court for investigation, and with power to the Circuit Court to grant a new trial on after-discovered testimony. [¶] After remittitur of the Supreme Court is sent down, that Court has no further jurisdiction. After that the Circuit Court should have jurisdiction to hear a motion for a new trial at any time, on the ground of after-discovered evidence, and grant a new trial in a proper case.

1925-12-14: State v. Tripp, 133 S.C. 294, 130 S.E. 888 (S.C. 1925)

We take it that the well-settled principle in reference to this subject in this State is that the test is whether the affidavits filed would lead any reasonable mind to the inference that the newly discovered evidence *would probably change the result*. Therefore, the evidence must be viewed in the light of the probable result on the minds of the jury, and, in this view, there was error on the part of his Honor in not granting a new trial. In support of the contention that there was error in refusing to hear the affidavits of Munro and Skinner, the appellant cites the following, from the case of *Durant v. Philpot*, 16 S.C. 125:

"The fourth ground of appeal is based upon the proposition that a new trial should not be granted on the ground of newly discovered evidence, the effect of which is to impeach or contradict a witness examined at the former hearing. Whatever may be the rule elsewhere, it is quite certain that such is not the rule in this State, nor does it seem to be the rule in rule in England. In *Levingsworth ads. Fox*, 2 Bay, 520, a new trial was granted because evidence was discovered after the trial, showing that one Rountree, a witness who had testified at the former trial, was interested in the event of the suit, though he had stated, when examined on his *voir dire*, that he had no interest. In *Durant v. Ashmore*, 2 Rich., 184, a new trial was granted on the ground of after-discovered written evidence, which might have affected the credit of a witness examined at the former trial. So, in *Fabrilus v. Cock*, 3 Burr, 1771, a new trial was granted because evidence was discovered after the former trial, going to show the subornation of witnesses who testified at the first trial."

His Honor should have considered these affidavits, and there was error in not so doing.

1925-01-25: State v. Pittman, 137 S.C. 75, 134 S.E. 514 (S.C. 1926)

[N]ewly discovered testimony, which is in a sense cumulative, **may throw such new light on a vital issue and may be of such compelling force as clearly to require a new trial in the interest of justice.** Such was the character ^{*Page 89} of the after-discovered evidence in the cases of *State v. Wiley*, 106 S.C. 437; 91 S.E. 382, and *State v. Casey*, 116 S.C. 280; 108 S.E. 112, cited by appellants.

1930-05-03: State v. Hamilton, 287 P. 933 (Montana Supreme Court 1930)

This evidence tends strongly to impeach the testimony of [5] Scheibel and Lackner and would "probably produce a different result upon another trial. *** **'Where the impeaching evidence may demonstrate perjury in the witness upon whose evidence the verdict was founded and but for which conviction could not have been had,' a new trial should be granted. (State v. Belland, 59 Mont. 540, 197 P. 841).**" (*State v. Mott*, 72 Mont. 306, 233 P. 602, 606; *State v. Gangner*, 73 Mont. 187, 235 P. 703.) ^{*Page 368} However, motions for a new trial in criminal cases on the [6] ground of newly discovered evidence are not favored (*State v. Van Laningham*, 55 Mont. 17, 173 P. 795), and, regardless of the facts set up in the affidavits therefor, the defendant is not entitled to a new trial unless he shows that "he could not, with reasonable diligence, have discovered and produced" the evidence at the trial. (Sec. 12048, Rev. Codes 1921.)

1937-06-15: McCabe v. Sloan, 84 S.C. 158, 191 S.E. 905 (SC 1937)

From 20 R.C.L., 297, § 79[:] “[f] Cumulative evidence has been tersely defined as additional evidence of the same kind to the same point. It is apparent that there is a wide difference in meaning between the terms ‘of the same kind’ and ‘to the same point’, as used in the various definitions. Newly discovered evidence, to be cumulative, must not only tend to prove facts which were in evidence at the trial, but must be of the same kind of evidence as that produced at the trial to prove those facts. If it is of a different kind, though upon the same issue, or of the same kind on a different issue, it is not cumulative. Nor is evidence cumulative in the legal sense which, while tending to establish the same general result, does it by proof of a new and distinct fact. To render evidence subject to the objection that it is cumulative, in the legal sense, it must be cumulative, not with respect to the main issue between the parties, but on some collateral or subordinate fact bearing on that issue. * * * **Newly discovered evidence raising a new ground of claim or defense is, of course, not cumulative, nor is evidence explaining an apparent conflict in or contradicting, evidence offered at the** ^{Page 168} **trial. Newly discovered evidence of admissions has been held not to be cumulative to evidence of facts and circumstances.**”

From Section 72 of the same authority[:] “As a general rule a new trial will not be granted on account of the discovery of facts and circumstances merely cumulative in their character. The reason of the rule is that public policy, looking to the finality of trials, requires that the parties be held to diligence in preparing their cases for trial, and it is not, strictly speaking, an independent rule, but a mere corollary of the requirement that the newly discovered evidence must be such as to render a different result probable on a retrial of the case. **The rule must, however, be taken in its proper sense, and is not to be understood as precluding a new trial in every case, where the new testimony relates to a point contested on the former trial; for if it were so a new trial could seldom, if ever, be granted in any case.**”

1953-12-10: *United States v. Rutkin*, 208 F.2d 647 (3d Cir. 1954)

The test whether evidence is cumulative is not whether it tends to establish the same fact, but rather whether it is different in kind, quality or grade.² New evidence of a higher grade or character should not be classified as merely cumulative.³ ***Evidence of disinterested witnesses although repetitious of that given by an interested party is evidence of “another character” and “in justice the two classes of testimony should be distinguished, and the defendant should have the benefit of the declarations of disinterested witnesses.”***⁴ The criterion to be applied is whether the new evidence, notwithstanding its cumulative character, “possesses sufficient probative force to render probable a different result upon a retrial of the case”; if it does, “it will then warrant and require an order granting a new trial.”⁵ In applying the principles stated it is imperative to keep in focus (1) the critical issue at the original trial; (2) the source, grade and quality of the testimony there submitted; (3) the quality and grade of Frayne's newly-discovered evidence and (4) the probable effect of the latter evidence upon a retrial of the case.

1968-11-19: *State v. Funderburke*, 251 S.C. 536, 164 S.E.2d 309 (S.C. 1968)

Cumulative evidence has repeatedly been defined to be additional evidence of the same kind to the same point. *McCabe v. Sloan*, 184 S.C. 158, 191 S.E. 905, 909 (1937); *Johnston v. Belk-McKnight Co.*, of Newberry, 188 S.C. 149, 198 S.E. 395, 399 (1938). Appellant is entitled to a new trial and the judgment of the lower court is, accordingly, reversed.

1983-02-16: *Robert Gene MULKINS, Marilyn L. Mulkins, Roscoe M. Mulkins and Pauline L. Mulkins v. BOARD OF SUPERVISORS OF PAGE COUNTY, Iowa*, 330 N.W.2d 258 (S. Ct. of Iowa 1983).

Ordinarily newly discovered evidence as the term is used in Rule 252 is limited to evidence which existed at the time of trial but which, for excusable cause, the party was unable to produce at that time. *Wilkes v. Iowa State Highway Commission*, 186 N.W.2d 604, 607 (Iowa 1971). There is, however, authority that when it is ²⁶²₂₆₂ no longer just or equitable to enforce a judgment, facts which occurred *after* its rendition may be considered in deciding whether it should be vacated or whether a new trial should be granted. [* * * *] **Most of the cases granting relief on posttrial events have done so when the new evidence,**

although arising after trial, goes to a condition which existed at the time of trial. See, e.g., *Bridgham v. Hinds*, 120 Me. 444, 452, 115 A. 197, 201 (1921); *Swanson v. Williams*, 303 Minn. 433, 435-36, 228 N.W.2d 860, 862-63 (1975); *Piper v. Piper*, 239 N.W.2d 1, 4 (N.D.1976); *Chemical Leaman Tank Lines, Inc. v. Trinity Industries, Inc.*, 478 S.W.2d 114, 118 (Tex.App.1972) (distinguishing *Forshagen v. Payne*, 225 S.W.2d 229, 231 (Tex.App.1949)).

1989-05-03: *STATE of Maine v. Robert MELANSON*, 566 A.2d 83 (Supreme Judicial Court of Maine 1989)

But if the testimony relates to a material issue a new trial will not be denied merely because its contradiction tends to impeach or discredit a witness. See also *Nathan M. Rodman Co. v. Kostis*, 121 Me. 90, 115 A. 557 (1921); *Bridgham v. Hinds*, 120 Me. 444, 115 A. 197 (1921); *White v. Andrews*, 119 Me. 414, 111 A. 581 (1920); *Drew v. Shannon*, 105 Me. 562, 75 A. 122 (1909); *Parsons v. Railway*, 96 Me. 503, 52 A. 1006 (1902); *Stackpole v. Perkins*, 85 Me. 298, 27 A. 160 (1893).

As long ago as *Parsons v. Railway*, 96 Me. at 506-509, 52 A. at 1006-1008, we rejected the rule for both civil and criminal cases that would require that newly discovered evidence material to the issue of the case, which might also contradict, tend to impeach or discredit a witness, be of such character as to result *necessarily* in a different verdict before a new trial can be granted. We stated that such a strict rule would "deprive a party of the privilege of having his new evidence passed upon by a jury, whose peculiar province it is to decide controverted issues of fact" and that the correct rule is that "there must be a probability that the verdict would be different upon a new trial. But it is not necessary that the additional testimony should be such as to *require* a different verdict." (Emphasis in original).

1990-03-29: *The PEOPLE of the State of Colorado v. Park Journee ESTEP*, 799 P.2d 405 (Colorado Court of Appeals, Div. V. 1990). As Modified on Denial of Rehearing May 17, 1990. Certiorari Denied November 13, 1990.

The court's ruling that the Toole confession would not probably result in defendant's acquittal was based on its assessment of Toole's credibility, or lack thereof. However, the trial court did not make, nor do we believe that the evidence would support, a finding that Toole's testimony was incredible as a matter of law. In our view, the determination of the character of the new evidence to probably produce an acquittal in a new trial is not to be based on the court's experience in evaluating the credibility of witnesses. **Rather that determination should be premised on whether the new evidence, as developed in a trial, when considered with all the other evidence is such that a reasonable jury would probably conclude that there existed a reasonable doubt as to defendant's guilt and thereby bring about an acquittal verdict.** See *People v. Gutierrez*, 622 P.2d 547 (Colo.1981).

⁴⁰⁸ By emphasizing its own experience in evaluating the credibility of a witness, the court applied an incorrect standard for evaluating whether "the newly discovered evidence is of such a character as to probably bring about an acquittal verdict if presented at another trial." Therefore, the matter must be remanded for reconsideration of defendant's motion in accordance with the standard enunciated herein.

2007-02-06 and 2007-04-26: *City of Columbia v. Faltas*, 2007-UP-193 (SC Ct. App. 2007) argued *pro se* on 6 February 2007, decided 26 April 2006, after this form oral argument before then-Judges Anderson and Huff and Beatty:

[minute 11:01] **The Honorable Judge Beatty:** Ms. Faltas, your time is about running out. I wanted to ask you one other question: whether or not the evidence that you put forward was untruthful? And truthfully was it really after-discovered evidence? We're talking about a photograph that you had access to. And the only new thing that I've seen in the record is that you had it blown up and you deduced some other evidence from the expanded picture.

[minute 11:28] **Appellant pro se:** Actually, and I'm glad Your Honor asked me that question because that was a question that the Honorable Judge Anderson asked me and I didn't get around to answering it. And the fact is no, no, no. Not only did I not have it before trial, I did not even have it during

trial. I did not even have it after trial until a judge [sic] by the Honorable Judge Huff allowed me to make a photocopy of it.

And, and this is not only a red herring by the Prosecution, it is straight falsification of the record. Specifically on, on March 14th 2002, she wrote to my then-counsel that there, the items are not there; there is a photograph of it. He immediately faxed her, and that's on record page 39, saying "I need to see that photograph ASAP." She essentially faxes him back a one-sentence letter saying essentially "Go to hell. I'm not going to show you the photograph; and do whatever you want." So, what else? And in---

[minute 12:51] **The Honorable Judge Beatty:** What page of the record is that on?

[minute 12:53] **Appellant pro se:** Page 39 Your Honor; and this is very important and it was attempted. The, the exchanges are on page 39 and 40. And that's from, from the trial record. And then also, during the after-discovered evidence hearing, Mr. Briggs came and testified. (Advocate chokes and coughs.) Excuse me. And I specifically asked him to test, asked him: "Short of breaking into Ms. Thye's office to get that photograph before the trial, was there anything else you could have done?" And he said "I was relying on the discovery process." Besides, prior to that, there were 10 specific requests for production [sic]. Additionally,---

[minute 13:48] **The Honorable Judge Anderson:** Ms. Faltas, your time is up. Now, we need to let her talk then you can reply. Well give you time in reply. * * * * *

[minute 14:02] **The Honorable Judge Anderson:** All right, Counsel. you're recognized.

[minute 14:04] **Counsel for the City:** Thank you, Your Honor. Good afternoon. May I please the Court. My name is Dana Thye and I represent the City of Columbia in this matter. This case was decided correctly, first at the trial and on direct appeal, where a panel of this Court affirmed the conviction, and most recently by the Circuit Court in reversing the grant of a new trial. There was simply no manifest injustice done here despite Dr. Faltas' contentions.

[minute 14:29] **The Honorable Judge Beatty:** Was she or was she not denied the photograph that is the basis of the new trial motion?

[minute 14:32] **Counsel for the City:** She had the photograph on the morning of trial, yes, Your Honor.

[minute 14:36] **The Honorable Judge Beatty:** On the morning of trial; but they had requested it sometime before then. Didn't they?

[minute 14:39] **Counsel for the City:** They had requested it. That's correct There was no --

[minute 14:40] **The Honorable Judge Beatty:** It was not given to them.

[minute 14:42] **Counsel for the City:** There was nothing filed but they had requested it in writing. I informed that the Wal-Mart representatives had the photograph and they'd be bringing it to the trial. I then invited them to make whatever motions they needed to make --

[minute 14:52] **The Honorable Judge Beatty:** Actually, your letter doesn't say all that. It just says you (reading from the Record on Appeal) "intend to call the case for trial on" your "next term. You're welcome to make pre-trial motions as you deem necessary."

[minute 14:58] **Counsel for the City:** It was the preceding letter when I told them that the photograph, that there were not actually the folders. They wanted to see the actual folders. I told them the folders didn't exist; it was just the photograph.

[minute 15:06] **The Honorable Judge Beatty:** Well, let me ask you. The photograph, after she got it and used it at the pre-trial, well, excuse me, at the new-trial motion, digitally, I guess, enlarged the photograph and discovered certain things in that photograph. Would you consider that to be after-acquired evidence or not?

[minute 15:20] **Counsel for the City:** No, Your Honor, I wouldn't consider that. I would consider it after-created.

[minute 15:24] **The Honorable Judge Beatty:** It's not newly-discovered at all?

[minute 15:26] **Counsel for the City:** The magnification certainly was. I mean, she didn't. The magnification was after the trial. That much is, is true. The photograph itself and the opportunity to do that magnification, she had it at trial and could have made any request to have more time---

[minute 15:39] **The Honorable Judge Beatty:** How, how could she have done that at trial if you did not produce the photograph until the morning of the trial?

[minute 15:44] **Counsel for the City:** She had it the morning of the trial. It came ---

The panel ruled *unanimously* for Dr. Faltas; rehearing/rehearing *en banc* was denied; and SC's Supreme Court denied *the City's certiorari* petition. So, although the opinion is unpublished, the complete identity between the parties forever binds *the City*, in all its cases against Dr. Faltas, by the ruling that post-trial investigation of something sprung on Dr. Faltas *for the first time during trial is after-discovered evidence*.

From 1917 to 2007, South Carolina to Colorado, and Maine to Montana, the test is a totality of the evidence, old or new, existing at trial or after-occurring, in an integrated new light, not a mechanical test of each element in a vacuum averse to impeaching perjurers. After-discovered evidence gains weight from the Prosecution's active concealment thereof.

Solicitor Weiss never produced Steele's 22 December 2009 *signed* denial of "mental injury" and, **since 12 November 2010**, *the City* still refuses to produce a copy thereof and of other documents Dr. Faltas identified while reviewing the "two banker's boxes," the importance of which is proven by relevant transcript excerpts quoted in her Supplement to Application 2019-CP-40-00112 at: <https://publicindex.sccourts.org/Richland/PublicIndex/PIImageDisplay.aspx?ctagency=40002&doctype=C&docid=1840087&HKey=848153781051208348658111297501098212253668775651001219911465848783785297896812051108117484890108103> and incorporated herein by reference — all added to *the City's* concealment of Crouch's criminal record.

WHEREFORE, DMN's oral rulings, reconsideration of which is denied in a one-sentence ORDER, should be REVERSED. But, instead of remand for trial in summary court, the underlying matter should be transferred to the Richland County Circuit Court of Common Pleas, which has **concurrent jurisdiction** on such cases and which has more access to a non-conflicted jurist to retry the case on the facts and the law.

Sincerely submitted and served via Mr. Addison on 22 February 2022, all God so willing.



s/Marie Assaad-Faltas, MD, MPH, Defendant *pro se*

P.O. Box 9115, Columbia, SC 29209

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
City of Columbia,	)	C/A no. 2019-CP-40-01374
	)	
v.	)	
	)	Order affirming the magistrate's denial
Marie-Thérèse Assa'd-Faltas,	)	of appellant's motion to recuse himself
	)	and denial of her motion to reopen
<u>Defendant.</u>	)	

THIS MATTER came before the circuit court on appeal from the Richland County Magistrates Court. A hearing was conducted on January 28, 2022 via WebEx. Appearing for the City of Columbia was Mr. Marshall James. Appellant was present, audio only, and represented by Mr. Dan Addison. The parties consented to conducting the hearing via WebEx.

At the beginning of the hearing, appellant made a Motion to Relieve Counsel. This Motion was denied pursuant to our Supreme Court's September 27, 2017 Order limiting appellant's ability to appear *pro se* in appellate matters in the courts of this state.¹ Appellant's request for leave to file an interlocutory appeal was denied pursuant to S.C. Code Ann. § 14-3-330 and Rule 72, SCRCP.

I. Procedural History

A. Underlying simple assault case.

The underlying case in this matter began on September 11, 2009, when appellant was issued City of Columbia courtesy summons L066971 for simple assault at her apartment complex on Byron Road in Richland County. Appellant was found guilty of simple assault at a bench trial held before the honorable Carl Solomon of the City of Columbia Municipal Court on

¹ "Respondent's ability to proceed *pro se* shall end with the service and filing of the notice of appeal, and she shall be represented by counsel in the appeal (including any subsequent appeal to a higher court and any discretionary review under Rule 242 of the South Carolina Appellate Court Rules)."

April 25, 2013. Appellant appealed to the Circuit Court, civil action number 2013-CP-40-3522. The Hon. Alison Renee Lee affirmed the municipal court in an order dated April 17, 2015. Appellant then appealed Judge Lee's order to the Supreme Court of South Carolina, appellate case number 2015-00941. Our Supreme Court affirmed the circuit court in a published opinion, City of Columbia v. Assa'ad-Faltas, 420 S.C. 28, 800 S.E.2d 782 (2017) (reh'g denied August 17, 2017) (cert. denied October 1, 2018).

B. Current Case

Following appellant's April 25, 2013 trial in city court, appellant made a timely Motion for a New Trial. This hearing was delayed, however, pending appeal. The Hon. Philip Newsom of the Richland County Magistrates Court held a hearing on appellant's motion on February 4, 2019.²

Appellant appeared *pro se*. The City of Columbia was represented by Jessica Magnum. Appellant raised three matters: 1) a motion to recuse the trial judge; 2) a motion to transfer the case to the circuit court; and 3) motion for a new trial based on allegations of after-discovered evidence and prosecutorial misconduct. In support of her motion for a new trial, appellant called four witnesses, including Teresa Knox, city attorney for the City of Columbia; Dinah Gail Steele, the victim in the simple assault case and appellant's former landlord; Charlene Crouch, a witness to the simple assault who testified at appellant's original trial; and appellant herself. All three motions were denied, and a written order denying appellant's motion to reconsider the rulings was issued February 27, 2019.

² The trial of this matter was held in city court, but due to conflicts appellant has with all of the city judges, this hearing was held in magistrate's court.

Appellant filed a notice of appeal on March 8, 2019. On December 12, 2019, an order was issued by the circuit court, The Hon. Courtney Clyburn Pope presiding, ordering that the magistrate issue a return. The magistrate filed his return on June 23, 2021.

II. Law

Circuit judges may hear appeals from the magistrates' court. S.C. Code Ann. § 14-5-340 (1976). An appeal from magistrate's court is to the circuit court of the county in which the judgment is rendered. S.C. Code Ann. § 18-7-10. A circuit court's jurisdiction over a magistrate court's judgment is appellate in nature. *DeWitt v. S.C. Dep't of Highways and Pub. Transp.*, 274 S.C. 184, 262 S.E.2d 28 (1980).

The circuit court may affirm or reverse, in whole or in part, the judgment of the magistrate court, as to any of the parties and for errors of law or fact. S.C. Code Ann. § 18-7-170; Parks v. Characters Night Club, 345 S.C. 484, 548 S.E.2d 605 (Ct. App. 2001). However, the circuit court cannot consider questions that have not been presented to the magistrate. Indigo Assocs. v. Ryan Inv. Co., 314 S.C. 519, 431 S.E.2d 271 (Ct. App. 1993). Likewise, the parties to an appeal from the magistrate's court are restricted to the arguments raised in the magistrate's court. *Id.*

If the appealed issue is one at law, the circuit court must render judgment according to the law of the case. S.C. Code Ann. § 18-7-190. Generally, where the testimony is sufficient to sustain the magistrate's judgment, and no facts show the affirmance was influenced by an error of law, the appellate court will presume the affirmance by the circuit court was made upon the merits. Bowers v. Thomas, 373 S.C. 240, 644 S.E.2d 751 (Ct. App. 2007); Burns v. Wannamaker, 281 S.C. 352, 315 S.E.2d 179 (Ct. App. 1984).

Based upon the argument of counsel at the January 28, 2022 hearing, and upon review of the magistrate's return, I affirm the magistrate court's rulings denying appellant's motion to recuse and denying her motion to reopen the trial.

III. Recusal

Appellant moved for Judge Newsom to recuse himself. She argued it would be impossible for him to give her a fair hearing as he was under investigation by the Office of Disciplinary Counsel based on a complaint she filed against him. (Tr. p. 2 lns. 6-8, 21-22). She argued that Judge Newsom had the appearance of partiality and was presumptively vindictive towards her. (Tr. pp. 2-3, lns. 24-2). She also claimed that Judge Newsom ordered her to be "stripped naked" at a prior hearing. (Tr. p. 4 ln. 10). Judge Newsom denied appellant's motion, stating that he had conferred with the office of disciplinary counsel and that they told him that so long as he could give appellant a fair trial he could preside over the hearing. (Tr. p. 3 lns 12-15).

Throughout the three-hour hearing, Judge Newsom allowed appellant to take breaks as necessary to catch her breath. (Tr. p. 11 lns 22-24, p. 12 lns 8-9, 17-21; p. 22 ln 3; p. 25, 22-23; p. 28, lns 5-6; p. 37 lns 12-13; p. 47 lns 11-12; p. 66 lns 16-17; p. 73 lns 13-15; The court: "and just for the record I've given you breaks every time that you've asked." Dr. Faltas "And I thank you for it." p. 37 lns 15-17). He told appellant he would allow her to go to her car to retrieve documents. (Tr. p. 16 ln. 12). Judge Newsom did cut appellant off multiple times, and said he would not allow her to go on a "fishing expedition." (Tr. p. 2 lns 4-7, p. 53 ln. 23, p. 57 ln. 23). He allowed her to put her concerns on the record when he ruled against her and gave her great leeway both in advocating *pro se* and testifying. (See, e.g., tr. pp. 61-62 and 68-70). Judge

Newsom characterized appellant's examination of Ms. Knox as harassing (tr. p. 57 ln. 21) and also admonished her not to interrupt him (tr. p. 6 lns. 23-24).

A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned. Canon 3(E)(1) of the Code of Judicial Conduct, Rule 501, SCACR. It is not enough for a party to allege bias; a party seeking disqualification of a judge must show some evidence of bias or prejudice. Lyvers v. Lyvers, 280 S.C. 361, 312 S.E.2d 590 (Ct. App. 1984). To compel recusal, the alleged bias of the judge must be personal, as distinguished from judicial, in nature. Christensen v. Mikell, 324 S.C. 70, 74, 476 S.E.2d 692, 694 (1996). When the moving party has failed to demonstrate some evidence of judicial bias or prejudice, an appellate court will not reverse a judge's decision not to recuse. Davis v. Parkview Apartments, 409 S.C. 266, 284, 762 S.E.2d 535, 545 (2014). If there is no evidence of judicial prejudice, a judge's failure to disqualify himself will be affirmed. Ellis v. Procter & Gamble Dist. Co., 315 S.C. 283, 433 S.E.2d 856 (1993).

This court finds that appellant has failed to demonstrate evidence of judicial prejudice, and therefore, affirms the magistrate's decision not to recuse himself. Contrary to appellant's argument before this court that the transcript is full of examples of personal bias against her, this court finds that the magistrate judge showed no bias and was, in fact, professional throughout the hearing. He allowed appellant's hearing to go on for three hours, allowed her to call four witnesses (including herself) and made sure all of her concerns were put on the record. He made sure appellant had time to fully develop her arguments, patiently explained his reasons for making decisions, and was detailed in his ruling. He accommodated her shortness of breath and gave her leave to retrieve documents from her car.

While appellant may not have liked everything that the magistrate did during the hearing, there was no personal bias in his actions. Instances where the magistrate cut appellant off, prevented her from going on fishing expeditions, and admonished her for harassing witnesses are part of that magistrate's job of keeping order in his courtroom. Even if these actions did show bias, such bias was not personal in nature. See Christensen, supra. Although the length of time it took the magistrate to produce a return is concerning, this delay occurred after the hearing and cannot be a basis for showing bias at the hearing. Even if it were, appellant has not demonstrated that any bias in this delay is personal rather than judicial in nature. See Id.

IV. Motion for a new trial based on Rule 5/Brady and after-discovered evidence

To support her motion for a new trial, appellant argued that the City of Columbia withheld evidence from her in violation of Rule 5, SCRCP and Brady v. Maryland, 373 U.S. 83 (1963,) and that she had after-discovered evidence.

A. Rule 5/Brady argument regarding evidence the city failed to produce

Appellant questioned Teresa Knox, City Attorney for the City of Columbia, to support her claims of a Rule 5/Brady violation. Appellant asked Ms. Knox who in her office is responsible for turning over discovery in a criminal case prosecuted by the city; who becomes custodian over records when a prosecutor leaves the city attorney's office; and whether Ms. Knox's office ever had the transcript for a hearing that took place on November 17th, 2009. (Tr. p. 55 ln. 5 – 56 ln. 22). Ms. Knox testified that she had no direct knowledge of any evidence in applicant's file. (Tr. p. 56 lns. 23-24). Ms. Knox also testified that the city's chief prosecutor was present, and that "She would be your best person to answer any questions about the evidence in your file." (Tr. p. 56 lns. 24-25). Applicant never called the city's chief prosecutor.

Appellant also testified herself regarding evidence the city failed to turn over. Appellant testified that the city had failed to turn over a document which stated that the victim in her assault case “has no psychological effects and no need for a doctor.” (Tr. p. 124 lns. 9-10). When the court asked whether that issue was raised at trial and if appellant saw that document before the trial was over, appellant replied, “Remember I was not allowed—I tried to raise it but Mr. Lupton cut me off.” (Tr. p. 124 lns. 16-17).

The magistrate denied appellant’s motion to reopen based upon her Rule 5/Brady argument. Judge Newsom stated that, although he had concerns that not everything that was discoverable was given to appellant before trial, he did not have proof that the alleged document existed or not, and that appellant failed to meet her burden of proof. (Tr. p. 133 lns. 4-8). The judge also addressed Mr. Lupton and the records he allegedly failed to get at trial, saying “If he didn’t get records ... he could have made that motion at that time. Ther’s (sic) a different forum. I understand there’s a P.C.R. filed. That can be heard at that time.” (Tr. p. 133 lns. 11-14).

B. After-Discovered Evidence

Appellant alleged she had four pieces of after-discovered evidence that support her motion to reopen: 1) Dinah Gail Steele’s use of prescription drugs for anxiety arising from the assault; 2) Charlene Crouch’s criminal record; 3) A statement by Charles White promising favorable testimony in return for dropping a subpoena; and, 4) Testimony of Teresa Ingraham.

i. Dinah Gail Steele’s prescription drug use.

To support the argument that evidence of Steele’s prescription drug use was after-discovered, appellant testified that “in the middle of the trial my false accuser masquerading as my victim says that she has been on medication since January 25 and she used the word still so

she was on medication for three and a half [years].” (Tr. p. 9 lns. 22-24). Appellant continued, saying “Either she was on medication that day and that would also have affected her competence to testify or she wasn’t and she lied.” (Tr. p. 10 lns. 15-17). Appellant also stated she wanted Steele’s medical records (tr. p. 10 lns. 18-19, 24), but the magistrate said he did not have the power to compel those records (tr. p. 11 lns. 1-3). In the course of appellant’s argument, the court asked appellant whether she knew what Steele’s medicine was. Appellant replied, “I don’t because I wasn’t allowed to control the defense and the incompetent Lupton did not ask.” (Tr. p. 51 lns. 17-19). The magistrate noted that Dr. Faltas was allowed to conduct cross-examinations at her own trial, and that the issue of Steele’s medication was addressed in a previous circuit court order. (Tr. p. 64 ln. 25-p. 65 ln. 7).

Steele was present and called to the stand. Appellant asked her a number of questions that the magistrate court ruled irrelevant because they were not tailored to the time frame of when Steele started taking medication in relation to the assault and the trial (Tr. pp. 78-87).

ii. Charlene Crouch’s criminal record

Appellant called Charlene Crouch to testify. Crouch testified that she remembered being arrested for drunkenness in April, 2012, and pleading guilty to the same in May, 2012. (Tr. p. 92 lns. 8-17). She also testified that she was trespassed from the Byron Road property by tenant Charles White, but that he called and lifted the trespass notice after only one day. (Tr. p. 92 lns. 21-25). Crouch’s testimony involved questions by appellant about her drunkenness charge and an assault, second charge. (Tr. pp. 97-102). Appellant also questioned Crouch over whether it was her or some other person who called the police at the time of the assault (tr. p. 107 lns. 10-22) and whether she had ever sold White a car (tr. p. 108 ln. 12).

iii. Teresa Ingram

Teresa Ingram was subpoenaed but did not appear at the hearing. (Tr. p. 27 lns. 21-23). Appellant argued that Ingram was paid in the form of free rent to testify falsely against her at her 2010 harassment trial in circuit court. (Tr. p. 28 lns 2-3). Ingram did not testify at the 2013 simple assault trial, the underlying case in this matter, although she was listed on the prosecutions' witness list (Tr. p. 31 lns. 23-24; p. 33, lns. 8-24). Appellant alleged that if Ingram were present at the hearing and told the truth, she would testify that Steele bribed her and other witnesses to testify against appellant. (Tr. p. 32 lns. 23-25).

iv. Charles White

Charles White was not subpoenaed and did not appear at the hearing. (Tr. p. 22 lns. 10-11). Appellant argued that White called her during the appeal of her simple assault conviction and told her that he would testify he was paying Crouch for sex if she lifted the subpoena against him. (Tr. p. 19 lns. 16-20). Appellant also stated she had a letter from 2009 from Charles White. (Tr. p. 19 ln. 25- p. 20 ln 8). Appellant argued that if Charles White were to testify truthfully, it would reveal that Crouch was motivated to lie at the simple assault trial so that Steele would allow her back onto the Byron Road property and Crouch could continue rendering services to White. (Tr. p. 21 lns. 5-9, p. 22 lns. 1-17).

A motion for a new trial based on after-discovered evidence is addressed to the sound discretion of the trial judge. State v. Irvin, 270 S.C. 539, 545, 243 S.E.2d 195, 197-98 (1978). The granting of a new trial because of after-discovered evidence is not favored, and this Court will sustain the lower court's denial of such a motion unless there appears to be an abuse of discretion. Id. In order to obtain a new trial based on after-discovered evidence the movant must show that the evidence 1) is such as would probably change the result if a new trial is had; 2) has

been discovered since the trial; 3) could not by the exercise of due diligence have been discovered before trial; 4) is material to the issue; and 5) is not merely cumulative or impeaching. Id.

This court affirms magistrate's ruling denying appellant's motion to reopen. As to appellant's allegations of prosecutorial conduct and Rule 5/Brady violations, the magistrate court found that the records that were allegedly withheld could have been discovered before trial and thus failed to meet one of the elements required in order to grant a motion for a new trial. The magistrate stated that if appellant's attorney failed to request or act diligently in acquiring certain documents, then those matters could be dealt with in the pending P.C.R. action. (Tr. p. 133 lns. 10-13). As to the testimony of Dinah Steele and Charlene Crouch and appellant's testimony as to what Teresa Ingram and Charles White would say if they appeared, the magistrate found that all of that evidence "would be merely impeaching rather than a direct on the fact lie." (Tr. p. 135 lns. 9-12). Because the standard to reopen requires that after-discovered evidence be more than impeaching, the magistrate did not err in denying appellant's motion to reopen based on the testimony of Steele and Crouch or the evidence presented regarding Ingram, and White.

V. Conclusion

I find that the appellant failed to demonstrate bias on the part of the magistrate, and therefore affirm Judge Newsom's denial of appellant's request that he recuse himself. Additionally, I find that the magistrate was correct in denying appellant's motion to reopen, as the evidence appellant presented was either not after discovered or was merely impeaching. The magistrate court is AFFIRMED.

[electronic signature page to follow]



Richland Common Pleas

Case Caption: City Of Columbia , defendant, et al VS Marie Assaad Faltas
Case Number: 2019CP4001374
Type: Order/Other

IT IS SO ORDERED

s/D. Craig Brown (2160)

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 STATE)
)
 VS)
)
 MARIA FALTAS)
 DEFENDANT)

IN THE COURT OF COMMON PLEAS
 2019-CP-400-1374

MAGISTRATE'S RETURN
 OF
 APPEAL FROM DENIAL OF MOTION
 TO REOPEN

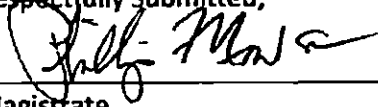
The Attached Papers Comprise the Court Record Which Is Transmitted to the Circuit Court

Pursuant to Section 18-3-40 SC Code. Attached are copies of the items which are checked.

- ☐ 1. ☐ Warrant / OR ☐ Ticket. Number _____
- ☐ 2. Pretrial Motions and Responses:
 - ☐ A) Rule 5 / Brady
 - ☐ B) Motion to Exclude Evidence And/or Testimony
 - ☐ C) Other Motions
- ☐ 3. Jury List and Jury Selection Record of Strikes, Cause and/or Peremptory.
- ☐ 4. Voir Dire of Jury.
- ☒ 5. Motion Transcript: ☒ Judge's Trial Notes Typed.
- ☒ 6. List of Witnesses and summary of their testimony.
- ☒ 7. List of Motions, a summary of parties' positions, and court rulings.
- ☒ 8. List of items offered into evidence, a summary of objections and the court's ruling.
- ☒ 9. List of Exhibits Admitted and Copies.
- ☐ 10. Jury Verdict.
- ☒ 11. New Trial Motion Received.
- ☒ 12. Notice of Hearing on Motion.
- ☒ 13. Notice of Denial of Motion.
- ☒ 14. Notice of Intent to Appeal.
- ☒ 15. Other Transcript of Witness Conviction.

RICHLAND COUNTY
 FILED
 2021 JUN 23 AM 9:02
 C.C.P., G.S., & F.C.

Respectfully Submitted,



 Magistrate

CITY Columbia STATE S.C.
June 20th, 2021

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 STATE)
)
 VS)
)
 MARIA FALTAS)
 DEFENDANT)

IN THE COURT OF COMMON PLEAS
 2019-CP-400-1374
)
 MAGISTRATE'S RETURN
 OF
 APPEAL FROM DENIAL OF MOTION
 TO REOPEN

This matter is on appeal from the City of Columbia Municipal Court, Richland County, South Carolina, the Honorable, Phillip F. Newsom, Presiding Judge.

The Defendant, Maria Faltas moved for a new trial on the basis after discovered evidence from her conviction of Simple Assault in the City of Columbia Municipal Court April 25th, 2013. A timely notice for a new trial was filed yet the hearing was delayed until the Defendant exhausted her appeals. With the City of Columbia Judge all recusing themselves Richland County Magistrate Phillip F. Newsom was appointed to hear the Motion for a New Trial.

This matter was heard in a Bench trial on February 4th, 2019 and the Notice of Appeal was filed on 3-8-19. The proceedings were recorded electronically.

The State called the following witnesses: N/A

The Defendant called the following witnesses:

1. Teresa Knox
2. Dinah Gail Steele
3. Charlene Crouch
4. Maria Theresa Assa 'Ad-Faltas

A summary of their testimony is attached.

The State made the following motions: N/A

The Defendant made the following motions:

1. Motion to Recuse.
2. Motion to Transfer Case.
3. Motion for a New Trial.

A summary of the Defendant's and State's position on each motion and the Court's ruling is attached.

The Defendant offered the following items into Evidence:

1. Record of Charlene Crouch Violation Date 4-22-12.

The State raised the following objections to the items that the Defendant sought to introduce into evidence: N/A

The Motion as denied at the conclusion of the hearing on February 4, 2019 and a written order denying motion to reconsider the ruling was signed on February 27, 2019.

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP4001374

Marie Assaad Faltas
PLAINTIFF(S)

City Of Columbia et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Appeal is continued. Magistrate is ordered to file a return to the appellate court in compliance with 14-25-95.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/11/2019 .

State Of South Carolina

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: City of Columbia VS Marie Assaad Faltas

Case Number: 2019CP4001374

Type: Order/Electronic Form 4

So Ordered

The Honorable Courtney Clyburn Pope

Electronically signed on 2019-12-11 17:08:37 page 3 of 3

STATE OF SOUTH CAROLINA

L066971

CASE NUMBER

COUNTY OF RICHLAND

ORDER

STATE

Vs

Marie Therese Assaad Faltas

P O Box 9115

Columbia, SC 29290

DEFENDANT(S)

IT IS ORDERED that after further review on the Motion to Reconsider Magistrate's Oral Denial of her three motions heard on Monday, February 4, 2019, has been DENIED.

MOTION DENIED on 2/27/2019.

IT SO ORDERED


JUDGE NEWSOM

Central Court
2500 Decker Boulevard
Post Office Box 192
Columbia, SC 29206
Phone: (803) 576-2300
Fax: (803) 576-2326

February 27, 2019

STATE OF SOUTH CAROLINA

Richland County Magistrate's Courts

Case No. 1066971 (Transferred from Columbia's Municipal Court)

Also 2013-CP-40-03522 in Circuit Court

CITY OF COLUMBIA, Plaintiff

v.

Marie Assa'ad-Faltas, MD, MPH, Defendant

Defendant's MOTIONS to Reconsider Magistrate's Oral Denial

Of her three motions heard on Monday, 4 February 2019

And motion for a free CD and transcript of said hearing.

Although the *pro se* defendant herein receive NO written order from Dentsville Magistrate Newsom memorializing his 4 February 2019 oral rulings or giving findings of fact or conclusions of law in support thereof with sufficient clarity for an appellate court to review, Defendant *pro se*, on the fifth business day from Monday, 4 February 2019, seeks reconsideration. As to the motions to recuse Dentsville Magistrate Newsom, his very self-admitted consultation with SC's Disciplinary Counsel investigating Defendant's complaint against Dentsville Magistrate Newsom is both an error of law and more reason for recusal. The conduct of the hearing itself reeks of bias. Transfer to Circuit Court, which has concurrent jurisdiction, was denied summarily and without explanation; but the fact that witnesses ignored the magistrate's court's summonses with impunity and could not have ignored circuit court subpoenas, proves necessity of that transfer. Dentsville Magistrate Newsom aggravated the absence of witnesses and was controlled by an error of law when he *repeatedly* announced that witnesses whose attendance Defendant had sought to compel "would not have said what [Defendant] wants them to say." Similar error was recently reversed by SC's Supreme in a PCR context in *Darrell L. Goss, Petitioner, v. State of South Carolina, Respondent*, Appellate Case No. 2016-002186, Opinion No. 27843 Heard June 12, 2018 – Filed October 17, 2018, which ended thus:

Here, the PCR court's decision to take judicial notice of the substance of witnesses' testimony and then find those witnesses not credible diluted the process to the point where the PCR court's factual findings—and perhaps the legal conclusions arising from those factual findings—were based upon an incomplete consideration of all the evidence. Based upon the foregoing, we REMAND this matter to the circuit court for a de novo PCR hearing. It will be incumbent upon Goss to secure the attendance of his witnesses for the de novo hearing, and Goss, trial counsel, and other pertinent witnesses may be presented for testimony by the parties. We emphasize the proceedings will be de novo, and neither party may rely upon testimony presented at the initial hearing which is the subject of this appeal.

BEATTY, C.J., KITTREDGE, HEARN and FEW, JJ., concur.

Dentsville Magistrate Newsom *imagined* the testimony of witnesses who ignored the summonses.

Dentsville Magistrate Newsom also ignored settled law on cumulative impact set in *e.g., Riddle v. Ozmint*, 369 SC 39, 45, 631 SE 2d 70, (SC 2006) ("The impeachment value of this statement is clear. **Either the brothers were given a lift or they were not:** Jason could not have been telling the truth in all his statements.") *Riddle, supra*, at 44 and 46, respectively, granted new trial for prosecutorial misconduct, ("*Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999). We are concerned here [...] with the question whether prosecutorial misconduct denied petitioner's due process right to a fair trial. *Id.*") ("An individual asserting a *Brady* violation must demonstrate that evidence: (1) favorable to the accused; (2) in the possession of or known by the prosecution; (3) was suppressed by the State; and (4) was material to the accused's guilt or innocence **or was impeaching.** *Kyles v. Whitley*, 514 U.S. 419, (1995); *Gibson, supra*. **If a *Brady* violation is found to have occurred, [new trial] must be granted.** *Gibson, supra.*") ("When determining whether the suppression of more than one item of evidence was material under *Brady*, we consider **the collective impact of the undisclosed evidence.** *Kyles v. Whitley*, 514 U.S. at 436.") [emphasis added] Therefore, prosecutorial misconduct and *Brady* violations are added as grounds for new trial, which Dentsville Magistrate Newsom improperly ignored.

Under the controlling authority of *Mayer v. City of Chicago*, 404 U.S. 189 (1971), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), and their ancestry and progeny, Defendant seeks a free copy of the audio recording of the 4 February 2019 hearing and of a court-certified transcript thereof, which she would have gotten had the case been transferred to circuit court unless she had prevailed there.

Defendant reserves the right to seek further reconsideration upon receipt of a written order.

WHEREFORE, the oral rulings should be reconsidered that matter should be transferred to the Richland County Circuit Court of Common Pleas, which has concurrent jurisdiction on such cases and which has more access to a non-conflicted jurist to hear this matter.

Submitted and served by hand delivery to CACA Mangum's office and to Mr. Truluck's office on 11 February 2019, all God so willing.

Marie Assa'ad-Faltas, MD, MPH, Defendant *pro se*

P.O. Box 9115, Columbia, SC 29209

Phone: (803) 783-4536 Cell: (330) 232-4164

e-mail: Marie.Faltas@hotmail.com and MarieAssaadFaltas@GMail.com

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-4003522

City of Columbia

Marie Therese Assa'ad Faltas

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Judge Jocelyn Newman

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Jocelyn Newman
Circuit Court Judge

2757
Judge Code

January 4, 2018
Date

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
City of Columbia,

v.

Marie Therese Assa'ad Faltas,
Appellant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2013-CP-40-03522

ORDER

2018 JAN -4 PM 2:54
RICHLAND COUNTY
CLERK OF COURT

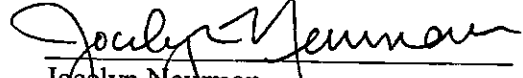
This matter comes before the Court upon "Motion for Hearing on Long Pending Motion to Present After-Discovered Evidence, from which Judge G. Thomas Cooper, Jr. Recused Himself at the Last Minute and which Now Needs to be Heard by Either or Both Judges Newman," which was filed by Appellant *pro se*. A hearing was conducted at the Richland County Judicial Center on January 4, 2018. The City of Columbia was represented by Jessica Mangum, Esquire. Appellant appeared *pro se*.

This action stems from Appellant's previous conviction in Columbia Municipal Court. That conviction was appealed and affirmed by the Circuit Court and, later, appealed and affirmed by the South Carolina Supreme Court. A remittitur was issued on August 17, 2017 by the Supreme Court, remitting the case back to Circuit Court. Appellant now asks for the case to be reopened so that she may present after-discovered evidence. However, because the Circuit Court was acting only in its appellate capacity with respect to Appellant's conviction, her motion is more properly addressed to the trial court.

IT IS THEREFORE ORDERED that Appellant's "Motion for Hearing on Long Pending Motion to Present After-Discovered Evidence..." is DENIED.

IT IS FURTHER ORDERED that the Richland County Clerk of Court issue a Remittitur in this action and that the case be REMANDED to Columbia Municipal Court in accordance with its procedures¹ and Rule 221(b) of the South Carolina Appellate Court Rules.

AND IT IS SO ORDERED.


Jocelyn Newman
Presiding Judge

January 4, 2018
Columbia, South Carolina.

¹ The South Carolina Clerk of Court procedural manual provides, in part: "From time to time, summary court appeals decided by the Circuit Court may be appealed to the Court of Appeals or the Supreme Court. When the case is remitted back to the Circuit Court by the Court of Appeals or the Supreme Court, the Circuit Court Clerk of Court is responsible for sending the remittitur back to the Summary Court which originally heard the case."

Jeanette W. McBride
Clerk of Court

Anne G. Kelly
Chief Deputy Clerk of Court



Mailing Address
Post Office Box 2766
Columbia, S.C. 29202-2766

Phone: (803) 576-1950
Fax: (803) 576-1785
TDD: (803) 748-4999

RICHLAND COUNTY JUDICIAL CENTER

1701 Main Street
Columbia, S.C. 29201

June 5, 2014

Dr. Marie Assa'ad Faltas
P.O. Box 9115
Columbia, SC 29290

RE: 2013CP4003522, City of Columbia vs Marie Therese Assa'ad Faltas

Dear Dr. Faltas:

You have filed the following motions with this office:

- (1) Motion to Suspend This Appeal For Initial 30 Days to Allow Dr. Assa'ad-Faltas to Submit Her After Discovered Evidence to The Trial Judge in Columbia's Municipal Court ("CMC") , dated December 23, 2013
- (2) Motion to Appoint Counsel as Tristan Shaffer Claims to Have Been Relieved as Counsel, dated March 11, 2014

Given the current posture of this case, there is nothing more to hear as Judge Lee has the appeal Under Advisement.

Sincerely,

A handwritten signature in cursive script that reads "Jeanette W. McBride".

Jeanette W. McBride/pjg

Cc: Judge Alison R. Lee
Judge L. Casey Manning
Jessica Mangum, esq
Clerk of Court File

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

City of Columbia, South Carolina,
v.
Marie Assa'ad-Faltas, MD, MPH

IN COLUMBIA'S MUNICIPAL COURT ("CMC")
CSW L-066971 (Appeal No. 2013-CP-40-03522 suspended or withdrawn)

Timely Rule 29(b) MOTION for a New Trial
Based on Dr. Assa'ad-Faltas' After-Discovered Evidence
Of MATERIAL Fraud Upon the Court and Upon Defendant.

Marie Assa'ad-Faltas, MD, MPH, Defendant *pro se*, having moved to suspend the appeal in Circuit Court or, failing that, having withdrawn the appeal, now moves this Court for an immediate hearing on her after-discovered evidence so that she may present it within the one-year period provided in Rule 29(b):

(b) New Trials Based on After-Discovered Evidence. A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence. A motion for a new trial based on after-discovered evidence may not be made while the case is on appeal unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion. Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court. [bold, italics, and bold italics, added for emphasis]

Dr. Assa'ad-Faltas had, since June 2013, asked her appointed appellate counsel Tristan Shaffer to make this motion. Mr. Shaffer had repeatedly promised, but failed, to do so. So, as soon as she was allowed to proceed *pro se* on her appeals, Dr. Assa'ad-Faltas diligently filed her motion on 23 December 2013.

The public importance of prosecutor-suborned perjury and other prosecutorial misconduct in South Carolina (SC) recently exploded with a despicable letter from SC Attorney General, based on a request signed by *inter alia* SC 5th Judicial Circuit (JC) Solicitor Johnson, SC 1st JC Solicitor Pascoe (whose deputy, Theodore Nichols Lupton, was forced on Dr. Assa'ad-Faltas and lost the case, possibly deliberately, for her), and SC 13th JC Solicitor Wilkins, son of former U.S. Court of Appeals for the Fourth Circuit Chief Judge and now Nexsen-Pruett partner William Wilkins. The 12 December 2013 letter made "open and notorious" the prosecutorial mentality of which Dr. Assa'ad-Faltas complained after having been victimized thereby: 13 of SC's 16 JC Solicitors think they have a divine right to falsely accuse people, incarcerate them indefinitely, and commit all manner of constitutional and ethical violations against them yet attack SC's best sitting state appellate judge because His Honor dared said the obvious: prosecutors should do justice.

Dr. Assa'ad-Faltas knows Rule 29(b) law and procedure, having, in May-July 2005, convinced CMC Judge Dennis, who had bench-convicted Dr. Assa'ad-Faltas of label swapping in April 2002, to vacate that conviction. Dr. Assa'ad-Faltas then successfully defended her Rule 29(b) success *pro se* before SC's Court of Appeals in *City of Columbia v. Assa'ad-Faltas*, No. 2007-UP-193 (SC Ct. App., 26 April 2007).

Dr. Assa'ad-Faltas prefaces this motion by showing this Court that religiously, historically, and legally, perjury (taking the Lord's name in vain and bearing false witness against one's neighbor) has been taken as seriously as, or even more seriously than, murder. And at least the modern story of Crystal Mangum, the stripper who in 2006 falsely accused Duke Lacrosse players of gang rape and in 2013 was convicted of fatally stabbing her boyfriend, is proof that perjury left unpunished may lead to murder.

I. Religiously: A. The Treatment of Perjury in the Holy Commandments

All iterations in the Old Testament prominently forbid perjury; and Leviticus 19:14 specially commands against injuring the defenseless: "Do not insult the deaf or cause the blind to stumble." These are the Commandments in Exodus and Deuteronomy, respectively, with emphasis added:

Exodus 20:1-17 And God spake all these words, saying, [2] I am the LORD thy God, which have brought thee out of the land of Egypt, out of the house of bondage. [3] Thou shalt have no other gods before me. [4] Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth. [5] Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; [6] And shewing mercy unto thousands of them that love me, and keep my commandments. [7] Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh his name in vain. [8] Remember the sabbath day, to keep it holy. [9] Six days shalt thou labour, and do all thy work: [10] But the seventh day is the sabbath of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy

manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: [11] For in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the sabbath day, and hallowed it. [12] Honour thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee. [13] Thou shalt not kill. [14] Thou shalt not commit adultery. [15] Thou shalt not steal. [16] **Thou shalt not bear false witness against thy neighbour.** [17] Thou shalt not covet thy neighbour's house, thou shalt not covet thy neighbour's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor any thing that is thy neighbour's.

Deuteronomy 5:6-21 [6] 'I am the LORD your God who brought you out of the land of Egypt, out of the house of slavery. [7] 'You shall have no other gods before Me. [8] 'You shall not make for yourself an idol, or any likeness of what is in heaven above or on the earth beneath or in the water under the earth. [9] You shall not worship them or serve them; for I, the LORD your God, am a jealous God, **visiting the iniquity of the fathers on the children, and on the third and the fourth generations of those who hate Me,** [10] but showing loving kindness to thousands, to those who love Me and keep My commandments. [11] **'You shall not take the name of the LORD your God in vain, for the LORD will not leave him unpunished who takes His name in vain.** [12] 'Observe the sabbath day to keep it holy, as the LORD your God commanded you. [13] Six days you shall labor and do all your work, [14] but the seventh day is a sabbath of the LORD your God; *in it* you shall not do any work, you or your son or your daughter or your male servant or your female servant or your ox or your donkey or any of your cattle or your sojourner who stays with you, so that your male servant and your female servant may rest as well as you. [15] You shall remember that you were a slave in the land of Egypt, and the LORD your God brought you out of there by a mighty hand and by an outstretched arm; therefore the LORD your God commanded you to observe the sabbath day. [16] 'Honor your father and your mother, as the LORD your God has commanded you, that your days may be prolonged and that it may go well with you on the land which the LORD your God gives you. [17] 'You shall not murder. [18] 'You shall not commit adultery. [19] 'You shall not steal. [20] **'You shall not bear false witness against your neighbor.** [21] 'You shall not covet your neighbor's wife, and you shall not desire your neighbor's house, his field or his male servant or his female servant, his ox or his donkey or anything that belongs to your neighbor.'

B. Treatment of Perjury, Deceit, and Conspiracy in Proverbs

The now-fatherless Dr. Assa'ad-Faltas and her widowed mother unknowingly bought land coveted by Dinah Gail Steele and her consort Larry Wayne Mason. Proverbs 23:10-11 is heard:

Do not move an ancient boundary stone or enter the fields of the fatherless. For their Redeemer is mighty. He will plead their case against you.

Proverbs 1:10-14 opens:

My son, if sinners entice you, Do not consent. [11] If they say, 'Come with us, Let us lie in wait for blood, Let us ambush the innocent without cause; [12] Let us swallow them alive like Sheol, Even whole, as those who go down to the pit; [13] We will find all kinds of precious wealth, **We will fill our houses with spoil;** [14] Throw in your lot with us, We shall all have one purse,' [15] **My son, do not walk in the way with them. Keep your feet from their path,** [16] For their feet run to evil And they hasten to shed blood.

Proverbs 6:16-19 emphasizes

There are six things that the Lord hates, seven that are an abomination to him: haughty eyes, a lying tongue, and hands that shed innocent blood, a heart that devises wicked plans, feet that make haste to run to evil, a false witness who breathes out lies, and one who sows discord among brothers.

Proverbs 11-1 and 12:22 reiterate: "A false balance is an abomination to the Lord, but a just weight is his delight." **"Lying lips are an abomination to the Lord,** but those who act faithfully are his delight." And Proverbs 13:5 diagnoses: **"The righteous hates falsehood."**

C. New Testament View of False Claims of Mental Illness and Other Verbal Sins

The Pyramids-firm Dr. Assa'ad-Faltas has been falsely accused of being mentally ill and "unstable." Jesus Christ equates that with murder in Matthew 5:21-22:

You have heard the ancient were told "YOU SHALL NOT COMMIT MURDER" ... But I say to you ... whoever says, "You fool," shall be guilty enough to go into the fiery hell.

D. Integration of All Commandments

James 2:10-11 is clear:

For whoever keeps the whole law and yet stumbles in one point, he has become guilty of all. For He who said, "DO NOT COMMIT ADULTRY," also said, "DO NOT COMMIT MURDER." Now, if you do not commit adultery, but do commit murder, you have become a transgressor of the law.

II. Capital Perjury and Other Perjury in Anglo-American Jurisprudence

Dr. Assa'ad-Faltas, an absolute opponent of capital punishment in all cases, cites *Furman v. Georgia*, 408 U.S. 238, 334-5 and footnotes 6, 13 and 17, recounting capital and physical punishments for perjury:

"The Capitall Lawes of New-England," dating from 1636, were drawn by the Massachusetts Bay Colony and are the first written expression of capital offenses known to exist in this country. These laws make the following crimes **capital offenses**: idolatry, witchcraft, blasphemy, murder, assault in sudden anger, sodomy, buggery, adultery, statutory rape, rape, manstealing, **perjury in a capital trial**, and rebellion. Each crime is accompanied by a reference to the Old Testament to indicate its source. It is not known with any certainty exactly when, or even if, these laws were enacted as drafted; and, if so, just how vigorously these laws were enforced. We do know that the other Colonies had a variety of laws that spanned the spectrum of severity.

[fn 6] Indeed, the first federal criminal statute, enacted by the First Congress, prescribed 39 lashes for larceny and for receiving stolen goods, and one hour in the pillory for perjury. Act of Apr. 30, 1790, §§ 16-18, 1 Stat. 116.

[fn 17, 13] The ... incident giving rise to the provision was the perjury trial of Titus Oates in 1685. Oates was a minister of the Church of England who proclaimed the existence of a plot to assassinate King Charles II. He was tried for perjury, convicted, and sentenced to a fine of 2,000 marks, life imprisonment, whippings, pillorying four times a year, and defrocking.

Thus vigilance against perjury is necessary for a civilized moral society and a sound legal system.

III. The Underlying Conviction was Procured with Perjury¹

Dr. Assa'ad-Faltas after-discovered that the City's only two witnesses LIED about material facts and that CMC's Judge Solomon had relied on his own conclusion, unsupported by any facts that Dr. Assa'ad-Faltas was "not right" in testifying that Columbia's Police Department (CPD) was contacting her and her false accusers over three hours after the alleged incident. CMC's Judge Solomon relied on Charlene Crouch's purported neutrality *and reliability*. The CPD incident reports ending circa 10:00 pm on Friday, 11 September 2009, support of Dr. Assa'ad-Faltas' truthfulness, are after-discovered as they *could not have been* presented during trial **before** Judge Solomon indicated his intended condemnation of Dr. Assa'ad-Faltas.

Even if Dr. Assa'ad-Faltas' *counsel* could have presented or researched some of what is now presented, **this is an unusual case**: Dr. Assa'ad-Faltas was, not only forced to have *a specific counsel*, of whom she had *before trial* complained as ineffective, Dr. Assa'ad-Faltas was under penalty of contempt of court if she even orally contacted that forced counsel or suggested a defense strategy to him.

A. Charlene Crouch's After-Discovered Perjury

Crouch, LIED about: (1) her conviction record and (2) her having called police herself. In a sworn 17 November 2009 statement to CPD's "Investigator" Amanda Blanton, Crouch affirmed that it was "Dinah" who had called police. No police call *by Crouch* was produced in discovery in any case. After the trial, it was discovered that Crouch continued to give Charles White sexual favors in return for money and that Crouch did so at White's 300 Byron Road address owned by Steele, from which address Crouch was on trespass notice after her 22 April 2012 public drunkenness arrest at that address and her **18 May 2012 conviction of same**. Crouch lied for Steele in return for Steele not enforcing the no-trespass notice.

B. Dinah Steele's After-Discovered Perjury

The following is Steele's sworn testimony or affidavits or reports in a chronology of occasions:

On Friday, 11 September 2009:

minutes 00:00 - 00:06: **Automated Recording**: Friday, September 11th 2009. The time: 7:11 p.m.

minutes 00:07 - 00:09: **Dispatcher**: 911. What is your emergency?

minutes 00:10 - 00:38: **Dinah Steele**: Yeah. This is Dinah Steele. I'm at 600-5953. I'm located at, eh-hum, 300 Byron Road. I'm the owner of the building. I'm having a problem with a, a tenant that I'm evicting and she's **come over here trespassing**. I've already signed a, a courtesy summons about the trespassing. **And she came over here and harassed me and pushed on me**, eh-hum, again. So, I'd like an officer to come over here, please.

¹ Please also see Dr. Assa'ad-Faltas' motions to the U.S. Court of Appeals for the Fourth Circuit (given to CMC's Judge Solomon on 25 July 2013 before Teresa Ingram' jury trial) and Dr. Assa'ad-Faltas' submissions to the Circuit Court and to SC's Supreme Court.

On 10 November 2009, in a TRO hearing before Lykesland Magistrate Davis:

[16 -- page 92, line 2] Let's see, here. On September 11th, I was working over there on the 300 building between the two buildings. They are very narrow. I was over there scraping some peeling paint from the side of the building, and I caught her coming around out of the corner of my eye, and I immediately looked up at her, and I said, "Marie, you need to leave me alone." *And she had a paper in her hand.* And I said -- and **she kept shoving it at me and shoving it at me.** And I said, "Marie, you have -- you, you know all legal documents are supposed to go through the attorney. You need to leave me alone." [3-12] And she started approaching me, and I started backing up because I couldn't get around her. I threw my hands up in the air and started yelling, "Marie, get away from me. Get away from me." And I retreated to the back side of the building, in full retreat now. I am in good shape. I am in good shape, and I could not get away from this woman. ***She ended up slamming me three times in the chest with that piece of paper,*** which knocked me back. And there were three witnesses to that event. There was a police report --

[13] Dr. Faltas: Objection.

[14] Ms. Steele: -- for a simple assault.

[15] The Court: Excuse me.

[16-17] Dr. Faltas: Unless the three witnesses are here, she cannot say that.

[18] The Court: Cannot say what?

[19-21] Dr. Faltas: She cannot say that there were three witnesses to that event unless the three witnesses are here.

[22] The Court: Objection overruled.

[23] Dr. Faltas: Exception.

[24] The Court: So noted.

[20-24] By Dr. Faltas: Q. Did that letter also say that you -- that the city offered to put sewer taps on your property and that you'd have to connect -- to hire a plumber at your own expense to connect to them or --

[25] A. There was a letter issuing that, yes.

[page 103, line 3] Q. And did the letter say that the other option is for you to negotiate an easement with me? Is that correct?

[4] A. That is not of the city's right.

[5] Q. I asked, I was asking was that in the letter?

[6] A. There was something in there about that.

[7] Q. Yes.

[8-10] A. I then gave them a letter saying that it was in legal dispute and that it would be taken care of in, in law.

[11-13] Q. Okay. Did you ever do an estimate as to how much it would cost you to connect -- to reconnect the sewer?

[14] A. No, I have not.

[15-16] Q. Did you have any idea how much an easement would cost?

[17] A. I have no idea.

[18-19] Q. You've never seen from me anything saying how much an easement would cost?

[20-21] A. Yeah, you came up with something ridiculous, something like \$5,000.

[22] Q. Why is that ridiculous?

[23] A. I'm not going to accept that.

[24-25] Q. Okay. So you think you have the right to keep your sewer lines on my land when I don't want them there.

[page 104, line 1] A. Yes, I do.

[2-3] Dr. Faltas: If that's not motive, Judge, I don't know what is?

[4-5] The Court: Now's not the time for you to make a closing argument.

[24-25] Q. Didn't you testify that you asked them about whether my mother is really a citizen?

[page 113, line 1] A. Mm.

[2-4] Q. You testified to that. There is a record. That's why it's being recorded. Did my mother harass you?

[5] A. No.

[6] The Court: You're getting --

[7-8] Dr. Faltas: Q. Did you ever --

[9] A. I don't know the --

[10-12] The Court: -- excited again. I will cite you for contempt if you raise your voice again. We're not getting into argument with witnesses.

[13] Dr. Faltas: Judge --

[14] The Court: Specific questions and answers.

[15] Dr. Faltas: Judge, I am --

[16] The Court: This is not a fishing expedition.

[17-20] Dr. Faltas: *This, this is a very legitimate question because that's to prove that they are going after my mother even though my mother didn't even do anything to them.*

[21-22] The Court: All right, any further questions --

[23] Dr. Faltas: Yes.

[22-25] Q. *I'm sorry, I'll, I'll make the question clear. I'm sorry, I'm sorry. So you testified that I -- did I ever enter your shop?*

[page 116, line 1] A. No, you did not.

[2-3] Q. Okay. Isn't it true that at one time, you invited me to come to your --

[4] A. No, I did not.

[5-7] Q. All right. I was waiting for this. Could you please write the words "Dinah Steele" in capital and write your telephone number on a piece of paper.

[8] A. Yeah.

[9] Q. Thank you.

[10-11] The Court: Why would you like for her to write her name and telephone number?

[12-14] Dr. Faltas: *Because I want the -- you, the Court, to compare it. Judge, can you let me, give me latitude, please? Can you give me latitude?*

[15-18] The Court: No, ma'am. I will not give you latitude. If you have a document to ask her to take a look at it and see, "Is this your handwriting?" that's fine. That's all you have to do.

[19] Dr. Faltas: *But can I get it back?*

[20] The Court: Get what?

[21-22] Dr. Faltas: *Get that, that piece of paper back.*

[23] The Court: Sure.

[24-25] Dr. Faltas: *Thank you. May I show it to the Court first?*

[page 117, lines 1-2] The Court: No, just ask her if she recognizes this.

[3-4] Dr. Faltas: *Well, may I just explain to the Court that I (indistinct) --*

[5] The Court: Let her explain.

[6-7] Dr. Faltas: *No, I am, I am trying to explain to the Court --*

[8-9] The Court: Well, if you're going to introduce it as evidence, I don't need to see it.

[10-13] Dr. Faltas: *I'm just saying could, could we please do it like this because I don't want her to see that other (inaudible). That other part is in my handwriting.*

[14] The Court: Oh.

[15-16] Dr. Faltas: *I wrote someone else's number on it. I just want her to concern herself --*

[17] The Court: Do you recognize that?

[18-19] Ms. Steele: Yeah, that's my name and my, the shop telephone number.

[20] The Court: Okay. Did you write that?

[21] Ms. Steele: It looks like my handwriting.

[22] The Court: Okay.

[23] Ms. Steele: That's the shop number.

[24] The Court: See how easy that is?

[25 -- page 118, line 3] Ms. Steele: She had asked me several times to cut her hair, and I refused 1 to do it at the -- she wanted me to do it at, on the balcony, and I would refuse to do it.

[4 -6] By Dr. Faltas: Q. Did you instead write your name and number, your name and shop telephone number and tell me to call --

[7-12] A. I did. I did. I told you, "I will not cut your hair on the balcony," that you, if you wanted -- yeah, I did. If you wanted to come to the shop, you were welcome to come to the shop. That was the shop of the number -- the number to the shop. But I was not going to cut your hair out there on the balcony.

[13-15] Q. Ma'am, the question passed before I did this, I asked you, "Did you invite me to come to your shop?" and you said no. And now, I impeached you.

[16] A. That's a huge impeachment.

[17] Q. It is.

[18] The Court: Next question?

[24 – page 123, line 1] **A. No, you didn't** -- look, you don't understand. You're pulling into the driveway, and then you're pulling back out. **You're not turning your car around, lady.**

[2-3] The Court: Now calm now. And your next question?

[4-6] **By Dr. Faltas: Q. And you said that happened only once, or a hundred times, or what?**

[7] **A. I've seen you that time.**

[8-10] **Q. Do you have any idea whether it ever happened any other time? Do you have personal knowledge whether it happened another time?**

[11] **A. No.**

[12] **Q. Did you see me inside the car?**

[13] **A. No.**

[14-15] **Q. Okay. So you just see a car with an Obama bumper sticker, and you think it's --**

[16] **A. I saw your vehicle.**

[17] **Q. You said you don't know its --**

[18-19] **A. I saw your vehicle. I don't know what your license tag number is, but I recognize your vehicle.**

[20-21] **Q. Is there anything different about my vehicle other than --**

[page 130, line 1] The Court: So noted.

[2-5] **By Dr. Faltas: Q. And then, you admitted that I was trying to give you a letter, but you weren't wanting to accept that letter. Isn't that --**

[6-7] **A. Now, which, which, what -- you're going to have to clarify this.**

[8-9] **Q. In September 2009, you were trying to come to my apartment and photograph it. Isn't that correct?**

[10-23] **A. We were doing inspections on all the apartments, and you denied us entry. You were given a written letter by certified mail and one by your doorway that we would be doing a yearly inspection which would have included the inspection of the smoke alarms and the fire extinguishers, and we were going to be changing all of the furnace vents -- the filters, which we did, everybody's but yours because there was a huge sign on your door saying, "Do not enter. Criminal prosecution," a sign this big all**

the way down the door. We knocked on the door. You refused to answer. we called the fire department to let them know that we had no way of checking on your fire extinguisher to make sure that it was up to date. They took note to it.

[24] **Q. Uh-huh.**

[25 – page 131, line 1] **A. They said we would not be held accountable for your --**

[2-3] **Q. You couldn't, you couldn't just have left a new fire extinguisher outside my door.**

[4-5] **A. And we were also checking for leaks and stuff up underneath the sinks. It's preventative.**

[6] **Q. Mm-hmm.**

[7] **A. And you would not allow us in there.**

[8-9] **Q. Isn't it true that you came in December 2008 and changed the toilet tank in my apartment?**

[10-16] **A. We did.** We had a -- I don't know about that date, no. **I have idea about the date.** But we had a water problem with that building, and we checked -- we sent letters out to everyone in that building saying that we would do an inspection, and at that time, there were toilets, and yours was one of them, which we made a repair to.

[17] **Q. Did I give you any problems coming in?**

[18] **A. You did not.**

[19-20] **Q. And isn't it true that there were other things that were wrong in the apartment?**

[21] **A. Uh, you may want to refresh my memory.**

[22-25] **Q. For example, isn't it true that the sink that you had caulked had completely -- the caulk was gone, and the sink was completely lopsided? Did you work on the sink?**

[page 132, lines 1-4] **A. I remember working on the sink. I don't, I don't necessarily remember that specific time. I remember working on it before you entered the apartment, before you leased the apartment.**

[5-6] **Q. But when I was in the apartment, I gave you no problem when you came in to repair the --**

[7] **A. You gave us lots of problems.**

[8-9] **Q. I'm talking about this particular time. I gave you no problem --**

[10-11] **A. You mean to enter your apartment? Is that what you're referring to?**

[12] **Q. Didn't you testify that I gave you no --**

[13-14] **A. I'm, I'm -- you're trying -- I need you to clarify the question.**

[15-16] **Q. To enter it and to help you fix it, fix what needed to be fixed.**

[17-19] A. That one time that we had that water problem, we did not have a problem. You did not give us any problem entering the apartment that one time.

[20] Q. And that was December 2008.

[21] A. I don't remember the date.

[22-23] Q. Okay. If were to testify that it was December 2008, you'd --

[24] A. I can't, I can't, I can't say.

[25] Q. Okay. But you have -- all right, fine.

[page 133, Line 1] The Court: Next question. You have --

[2] Dr. Faltas: I am, I am, I am.

[3-4] The Court: You've asked that question five times.

[5-6] Dr. Faltas: All right, Judge, I'm, I'm, I'm -- okay.

[7-9] By Dr. Faltas: Q. Did I tell you when I rented from you that I do not use the air conditioning?

[10] A. No, you did not.

[11-12] Q. Did I not request you to turn it off as soon as I changed the power to my --

[13] A. I don't recall.

[14-15] Q. Well, there is a difference between I did not and you don't recall.

[16] A. I don't recall that.

[17-19] Q. Okay. And so did, would, did there come another time when I told you that the screen door on the balcony was loose?

[20] A. Yes.

[21] Q. And did you come and fix it?

[22] A. We did.

[23] Q. And did I give you any problems?

[24] A. No.

[25] Q. Okay. And after that, it went loose again.

[page 134, line 1] A. Yes.

[2] Q. But you didn't fix it.

[3-4] A. No, we didn't. You were already -- should have been out of the apartment by then.

[5-6] Q. Have you continued to demand and receive \$550 rent from me?

[7] A. The court is requiring you.

[8] Q. Did you receive that money?

[9-10] A. I have received it every, every month. It is court mandated.

[11] Q. After --

[12] A. I would prefer that you leave.

[13-14] Q. But even though you were getting my money, you weren't fixing things.

[15-19] A. You, you had complained about the screen. We did not want to have any contact with you. We told you we would not fix the screen, that it was not considered an emergency, that you had been evicted, and you needed to leave.

[20-22] Q. And with the screen door loose and the sliding door loose, bugs can get in, mosquitoes, in summer. Yes or no?

[23-25] A. You had not made a complaint about the sliding glass door. You made a complaint about the screen. We told you it was not an emergency.

[page 135, lines 1-2] Q. So you don't fix things unless they were an emergency.

[3] A. We fix everything.

[4-5] Q. But for me, you don't fix it unless it's an emergency.

[6-7] A. We don't want to have any contact with you, Marie.

[8-9] Q. Could you have sent somebody? Could you have --

[10] A. We're not going to, Marie.

[11] Q. Okay.

[12] A. We're not going to fix your screen door.

[13-15] Q. And yet, and yet, even though you claim you did not want a contact with me, you insisted that you wanted to come into my apartment --

[16-17] A. That was for the yearly inspection that is basically required by the fire department, Marie.

[18-19] Q. Did you do an inspection the year before that day?

[20-22] A. Not on that day, no, but we do. Once a year, we check the fire extinguishers. We go through and we make inspections.

[23] Q. No, you hadn't done -- did you write --

[24] The Court: You cannot argue with her answers.

[25] Dr. Faltas: Okay, sorry, sorry.

[page 136, lines 1-3] By Dr. Faltas: Q. Did you write to the tenants notices about a yearly inspection before?

[4] A. I don't recall.

[5-7] Q. Okay. And isn't it true that you were trying to come on Labor Day, and I was trying to tell you, "No, you cannot come in on Labor Day?"

[8] A. Yeah, and we rescheduled it.

[9-12] Q. And isn't it true that I was just trying to give you the letter that -- isn't it true that my lease says that you can only come in my presence unless it's an emergency where you cannot contact me?

[13-14] A. Yes. And you were there, and you still wouldn't let us in, Marie.

[15] Q. My question is --

[16] A. It does say that. And again, you were there.

[17] Q. My --

[18-19] A. We knocked on your door, and you would not allow us in.

[20-21] Q. And my question is didn't I, wasn't I trying to give you a letter telling you --

[22] A. On the day that you assaulted me.

[23] Q. I didn't assault you.

[24] Dr. Faltas: Judge --

[25] The Court: Uh.

[page 137, lines 1-2] Dr. Faltas: Well, okay, sorry. But she cannot --

[3] The Court: Do not --

[4] Dr. Faltas: Okay.

[5-7] The Court: She can explain her answers, and I'm going to give you about nine more minutes, and it'll be 12:00 noon.

[8-9] Dr. Faltas: She cannot make legal conclusions. She cannot --

[10-12] The Court: She can explain her answers. You can ask her a question, she can answer it yes or no, and she can explain her answers.

[13] Dr. Faltas: But -- well, exception to --

[14] The Court: So noted.

[15-18] By Dr. Faltas: Q. Isn't it true that your lawyer doesn't represent you in any matter except what the insurance company hired --

[19] The Court: That is immaterial to this case.

[20-21] Dr. Faltas: Okay, she said that, she said that the letter needed to go to her lawyer.

[22-23] The Court: That is immaterial to this case. I don't even care anything about that.

[24] Dr. Faltas: Judge, she test --

[25] The Court: Next question.

[page 138, lines 1-2] By Dr. Faltas: Q. You basically didn't want to take the letter.

[3] A. All you had to do was drop the letter, Marie.

[4-7] Q. And then you were going to claim that you didn't get it. Isn't it true that the letter said I cannot be available on the 14th, but I will work with you --

[8] A. It did.

[9] Q. -- on the 21st?

[10-14] A. And you were still there. You were there the day we did the inspection. You were out there taking photographs of us through your window. You had photographs of us, what, taking the fire extinguishers out of the truck?

[15-17] Q. And my question to you is what would have been so impossible about your leaving a new fire extinguisher outside --

[18-19] A. Again, as I have already testified to, we were also checking for leaks underneath sinks.

[20] Q. Okay. Hadn't you done that in December 2008?

[21] A. We had.

[22-23] Q. Did you have any reason to think there would be leaks inside -- in the sink?

[24-25] A. Again, Marie, we were just doing inspections. We did them to all of them, Marie --

[page 139, line 1] Q. And yet --

[2] A. -- all of the --

[3] Q. -- had there been --

[4] A. -- all of them.

[5-6] Q. -- had there been a leak, would you have fixed it?

[7] A. Yes, we would have.

[8-10] Q. And why wouldn't you fix the screen door when I was telling you that the screen door is loose? Why would you --

[11] A. Because it wasn't an emergency, Marie.

[12] Q. And why --

[13-15] A. It doesn't deal with the water issues. It doesn't, it doesn't, it's not going to rot out the cabinets.

[16-17] Q. So you care only about your cabinets, but you don't care about my comfort. In fact, you testify --

[18] A. I don't care about your comfort.

[19-20] Q. And you claim I am the one denying other tenants the peaceful enjoyment.

[21] A. Definitely.

[22] Q. Okay.

[23] A. I don't claim it. I know it.

[24-25] Q. Have you ever, have you ever seen me enter Building 300?

[page 140, lines 1-5] A. Not enter the building, but I have seen you on the property. I have told you, looked you straight in the eye, "You are trespassing onto the property of the 300. You need to go back over to your apartment and stop harassing us."

[6] Q. We --

[7] A. I was an eyewitness --

[8] The Court: Calm down.

[9-10] By Dr. Faltas: Q. And we agreed that there is no marking.

[11] A. There is no marking.

[12-13] Q. And we agreed that the mailboxes are opposite the 300 building.

[14] A. They are.

On 2 December 2009, after Dr. Assa'ad-Faltas' false arrest for "harassing" Steele, Steele opposed Dr. Assa'ad-Faltas' bond by pretending to then CMC "Judge" Burns:

[minute C 01:37] B.J. Burns: And this is nowhere near this building?

[minute C 01:40] Dinah Gail Steele: No. **** And then I said we started getting complaints that she was, hmm, hmm, addressing herself as if she was the landlord or the owner and she was ejecting people from the parking lot. [minute C 02:43] So we ended up giving her a do not trespass onto the 300 building. [minute C 02:47] She lives in the 304 building. [minute C 02:49] The buildings are right side by side. [minute C 02:50] That was the only way I could protect the people in the next building since I couldn't do anything about her being there. [minute C 02:57] The law is allowing her to stay there during her appeal. [minute C 02:59] So, at least I tried to protect the people over to the next building. [minute C 03:03] That didn't seem to work at all. [minute C 03:05] She was detaining them with her vehicle, blocking them in. [minute C 03:10] I mean you can even imagine: these people were getting, getting out of their apartment, getting into their car to go to work in the morning and she's pulling her car directly behind them preventing them from leaving. And then --

[minute C 03:19] B.J. Burns: Did she even know them?

[minute C 03:20] Dinah Gail Steele: Yes, she knows them. [minute C 03:22] Everybody's lived there for years, you know. [minute C 03:26] Hmm, and any, anyway, you can imagine how it would escalate when, you know, they sit there and wait and they look in the rear-view mirror and, you know, she doesn't move; and then they finally get out of the car. [minute C 03:37] And you can see where this would escalate; and she's still not moving. [minute C 03:40] So, and this happened repeatedly. [minute C 03:44] Hmm, I was assaulted on the property on September 11 late in the evening about seven o'clock. [minute C 03:51] I was working on the 300 Building. [minute C 03:52] She trespassed on to that property in order to get to me; **and she was trying to serve me with a paper saying that I could not**, we were doing inspections of the apartments, like for, inspections for the fire, hmm, extinguishers, filters, leaks under the sinks, those kinds of yearly inspections. [minute C 04:08] And she was trying to give me a paper saying that I wasn't allowed in her apartment.

[minute C 04:13] And, you know, like I said, she's already had a lot of problems. [minute C 04:18] I didn't want any contact with her. [minute C 04:20] You know, **I put my hands up** and I said: You know, Marie, you need to send any paper that you got to the attorney and **I started backing up because the buildings are so close** together you can't get around each other. [minute C 04:33] It's too narrow. [minute C 04:36] I **started backing up** so I didn't have any contact with her. [minute C 04:35] But she slammed me three times in the chest with that paper in her hand. [minute C 04:38] I've got witnesses to that. [minute C 04:39] Hmm, then we called the police and they, they made a complaint. [minute C 04:42] But the harassment and the stalking didn't ---

[minute C 04:46] **B.J. Burns:** (interposing) [] Is that still pending?

[minute C 04:47] **Dinah Gail Steele:** Yes, ma'am.

[minute C 04:48] **B.J. Burns:** What's that still pending?

[minute C 04:55] **Dinah Gail Steele:** Simple assaulting.

[minute C 04:56] **B.J. Burns:** And that happened in September?

[minute C 04:55] **Dinah Gail Steele:** September 11th.

[minute C 04:56] **B.J. Burns:** I'm assuming that means there's been

<http://sdrv.ms/10KMX41> [minute D 00:00] **B.J. Burns:** she's requested a jury trial. Correct?

[minute D 00:04] **B.J. Burns:** And what is your bond on that?

[minute D 00:06] **Dr. Assa'ad-Faltas:** There was no bond

[minute D 00:08] **B.J. Burns:** It was summoned back to court?

[minute D 00:10] **Dr. Assa'ad-Faltas:** I'm sorry, ---

[minute D 00:10] **B.J. Burns:** (interposing) Do you know, Mr. Briggs, if she was summoned back to court?

[minute D 00:11] **Orin G. Briggs:** I was not involved in that aspect but if she says that she didn't; if she said it was a PR bond, it would be, Your Honor. She wouldn't fib about that.

[minute D 00:22] **Dr. Assa'ad-Faltas:** May I say something, Your Honor?

[minute D 00:24] **B.J. Burns:** I just want to know that one thing, what was, what is your bond?

[minute D 00:27] **Dr. Assa'ad-Faltas:** On a courtesy summons there is none because a courtesy summons ---

[minute D 00:30] **B.J. Burns:** (interposing) All right. That's all I need to know.

[minute D 00:32] **Dr. Assa'ad-Faltas:** There was no bond

[minute D 00:33] **B.J. Burns:** All right. Got it.

[minute D 00:35] **Dinah Gail Steele:** We now have a total of four restraining orders against her, Your Honor: myself, my husband, and Teresa Ingram's, and Charlene Crouch. [minute D 00:46] Hmm, if we can at least, these things have escalated to assaults and, hmm, you know, I mean, it's, it's just like continuously getting worse. [minute D 00:56] And we, we are fearful.

[minute D 00:58] **B.J. Burns:** All right.

[minute D 00:59] **Dinah Gail Steele:** **We're very fearful. What will be the next step?**

[minute D 01:02] **B.J. Burns:** All right. Have you been informed of when, hmm, have you gotten a letter yet about the jury trial on the simple assault?

[minute D 01:09] **Dinah Gail Steele:** No, Your Honor.

[minute D 01:10] **B.J. Burns:** When it's coming up, were you at the bond setting for that?

[minute D 01:12] **Dinah Gail Steele:** Hmm. There was none. They didn't set up a bond for her on that.

On 17 December 2009, Steele so addressed SC Circuit Judge James:

[22-25] **The Court:** All right. Ms. Steele, you're an alleged victim in this case. I'm going to allow you to speak, as the law permits. Ms. Faltas, I want you to hear all this because this is part of the proceeding.

[page 47, line 1] **Dr. Faltas:** May I just---

[2] **The Court:** No, ma'am, you may not.

[3-6] **Dr. Faltas:** ---note an objection that none of this is sworn? None of this is sworn, and I object to things being said and accepted by the Court that are not under oath and especially by Investigator Blanton---

[7] **The Court:** Your exception is noted.

[8-9] **Dr. Faltas:** ---that are not even in her personal knowledge.

[10] **The Court:** Your exception is noted.

[11] **Dr. Faltas:** She has not witnessed---

[12] **Officer in the courtroom:** Ma'am.

[13-14] **The Court:** Your exception is noted. All right. Thank you. Yes, ma'am?

[15-17] **Ms. Steele:** Your Honor, Ms. Faltas was evicted from my apartment for harassment. That was the reason why she was evicted. The laws allowed her---

[18] **The Court:** She's already been evicted?

[19-21] **Ms. Steele:** She has been evicted, but the law is allowing her to stay there because she is -- her -- the decision of the court is being appealed.

[22] **The Court:** All right.

[23 -- page 48, line 25] **Ms. Steele:** [23 -- page 48, line 5] She filed an appeal. So that's why she's been allowed to stay here. But during this time she just picked up the harassment. I mean, she is unlawfully detaining these renters. Where these people are leaving early in the morning, she's getting -- they're getting into their cars. She's pulling her vehicle directly behind their vehicle which they cannot leave. She will not move her vehicle. [6-11] So you can see they're looking in their rear-view mirror. As they're finally getting out of their car, she's still not moving. She's taking photographs of their vehicles, their tag numbers, anybody else that's in the car. Those -- the people that are getting out of the car -- you can see how quickly this would escalate. [12-16] We've got four restraining orders right now against this woman. Two are from tenants: myself and my husband. I mean, the harassment has just been horrendous. Every time we go over there, she calls the police on us, whether or not we're cutting the grass or doing any kind of maintenance. [17-25] The maintenance people that we have hired to go over there have been harassed by this -- the last person was an electrician about this particular cord that she's referring to. She made the complaint. We hired the electrician to fix it. She harassed this man while we stood out there from 10 in the morning until 1:30 in the afternoon until he completed it, and I know she took at least 50 to a hundred photographs of this man, you know, doing his work, just nonstop harassment.

[page 49, line 1] **The Court:** All right.

[2-6] **Ms. Steele:** The police are there all the time, sometimes as many as three times a day. And since she has the order for her not to come back to the apartment, it's like somebody cut the lights out. We don't have any problems. It is peaceful.

[7-10] **The Court:** All right. All right. Ms. Faltas, I'll give you some time to get your things out of your apartment. Your eviction decision, you're appealing that? Is that correct?

[11-17] **Dr. Faltas:** And it was not based on harassment, Your Honor. Yes, Your Honor, it has been appealed. The appeal stays it. I don't think -- what has happened is that my position was that they gave the eviction notice in bad faith. There was a jury trial convened. The plaintiff -- they took it two days and a half to present her case. I was not allowed to put a defense at all, at all.

[18-19] **The Court:** All right. All right. My question, ma'am, you've answered it. You've appealed that decision.

[20] **Dr. Faltas:** Yes, Your Honor.

[21] **The Court:** Okay.

[22-24] **Dr. Faltas:** And I want again to put an exception to the Court entertaining unsworn testimony that I'm not allowed to Cross-examine. This is what happened at the---

On 29 December 2009, Steele filled out this form, which Dr. Assa'ad-Faltas saw for the first time, but was never allowed to copy, on 12 November 2010. She read it into the record:

1:44:56 to 1:47:58, Marie: There is a file called "Dinah Steele Mason Statement and Report." There is a fax dated 10 slash 08 slash 2009 at 15:18. It has page 6-8 to Gwedolynn Bouie from Dinah Steele. I do not have that. I need a copy of it. Another titled from Dinah Steele to Lynn Matthews. I need that.

There is a "South Carolina Victim Impact Statement" that is filled by Dinah Steele and claims that Larry Mason is her representative and husband; and her e-mail address is NobleBlond@BellSouth.net. She lists four telephone numbers: 800, 803-600-5953, 803-787-4454; and again 803-600-5953 and 803-331-1000. It is signed apparently before Francis Reynolds on the front and back. It says: "Did you suffer any physical injury?" And the answer is "NO." Then "Have you noticed any change in you life style since this happened? This may include personal habits, close relationships, the amount of tension and nervousness or you ability to work. Please describe." It says "weight loss" comma "mental and emotional strain" and it's signed on 12/21/2009. I do need a copy of that. "Did you receive any mental health counseling as a result of this crime?" The answer is "NO." And it continues: "If not, are you interested in receiving counseling?" It is left blank. **I definitely need a copy of this front and back.**

1:47:58 to 1:52:10: Sounds

1:52:10 to 1:52:12: Marie: What happened? It stopped.

1:52:12 to 1:52:33: Sounds

1:52:33 to 1:52:37: April: the secretary and she said she didn't know.

1:52:37 to 1:52:52: Marie: Uh. Each. And then I don't know what happened to the recording; but, first I need to get some answer as to whether I can stay after you leave.

1:52:52 to 1:52:57: Officer: You can't. Not this time

On 7 January 2010, this was reported to SC Circuit Judge James:

[21 - page 14, line 1] Dr. Faltas: Yes, Your Honor, if the Court agrees. Yes, absolutely and they can be supervised by anyone the Court assigns so the Court will know that I'm not committing any of those offenses until the trial or until the charges are dismissed based on whatever reason.

[2] The Court: All right, Ms. Weiss?

[3] Dr. Faltas: Thank you, Your Honor.

[4-10] Ms. Weiss: Yes, Your Honor. May it please the Court. Just to go over kind of a procedural background very quickly. Well, first of all, I want to let you know that present in the courtroom today are Larry Mason and Teresa Ingram. Teresa Ingram is one of the named victims. Larry Mason is the husband of one of the other victims.

[11] The Court: Are they on the back row?

[12-16] Ms. Weiss: They are on the back row Your Honor with my Victim Advocate and the investigator in this case, Investigator Blanton from the City of Columbia in case you need to hear from her. And the other victim Donna Steele Mason had some difficulties yesterday and ...

[17] The Court: With who?

[18-20] Ms. Weiss: With some stress and had to seek medical attention and was unable to be here today, but her husband is here on her behalf.

[21-22] The Court: Is that the lady who spoke at the last hearing?

[23 - page 16, line 4] Ms. Weiss: Yes, Your Honor. Your Honor the, I know we're not here for these things, but I just want to point them out. The Defendant has filed a Habeas Corpus petition with the Circuit Court, I've answered that, so that is clearly not before you today on issues on that. The motion to reconsider, I mean the motion, the preliminary injunction order by Judge Lee that the Defendant is ask you to consider is currently under reconsideration filed by Andy Delaney, the attorney for the Defendants, the Masons in that case. So that's currently under reconsideration. After being filed by Andy Delaney on that case. I just want the Court to be aware of that. We did have a preliminary yesterday after approximately two hours of that. Both charges were held over to General Sessions. As far as Your Honor's order for the two three hour periods, Sgt. Drouse [sic] of the City of Columbia did speak with Dr. Faltas, set up two three hour periods. One was yesterday from nine to twelve. The other was prior to Christmas, was from about eleven to two, prior to the holidays. Prior to us returning to Court, Dr. Faltas was given those two three hour periods. It's my understanding she did come an hour late for the first one, but was given time to go in there. And then for the second one yesterday, was also thirty minutes late, but she did get those two three hour periods. She did take things from her apartment, she did not come with anything

other than her vehicle and herself to do that. But she was given access with law enforcement supervision to get whatever she needed from her apartment. So, that has been provided to her.

[5-12] **The Court:** Here's what she's asking for, what I've been able to gleam from her filing, she was evicted because of some perceived harassment. That is true. Granted that Order. She appealed that, so she still has possessory rights. Then she gets arrested for harassment in the first degree and one of the conditions of the bond is that she can't go back to the apartment at all without a police escort.

[13] **Ms. Weiss:** Yes, Your Honor.

[page 23, line 1] **The Court:** Let me ask you this question. [2] **Dr. Faltas:** Okay. [3-12] **The Court:** First of all, we're almost finished and I'm going to stop okay. We've got about one more minute. I'm going to ask you this question. I'm not inclined to lift this restriction. If I did, would you take the position that you would have the right to do anything but park in your space and go in your apartment, sleep, eat and come back out and go to work or wherever you go the next day. Do you think you would have the right to take photographs, talk to anybody else on the premises or do anything?

[13-23] **Dr. Faltas:** No, because there is a retraining order in place from the Magistrate. That's one thing, the other thing is, **she says that Ms. Steele had to be treated yesterday for some kind of stress. Well I've been away for forty days now.** So if she's having stress, it's because of something else. So my putting, their putting me away didn't help whatever claim Ms. Steele has of stress. If she suddenly, after my being forty days away from my apartment, she's suddenly being yesterday treated for stress, then she has other reasons of stress and ...

[24] **The Court:** Thank you.

[25] **Dr. Faltas:** Thank you.

[page 24, lines 1-3] **The Court:** All right that will conclude --- Do the victim's [sic] want to say anything? Alleged victims and that will be Mr. Mason did speak at the last time.

[4-7] **Ms. Weiss:** I believe Ms. Ingram would like to address the Court and I apologize. I don't know court room decorum as to where she should be. I just need to know where she needed to be in this courtroom.

[8-9] **The Court:** She can come on up. We don't have that restriction here.

[10-12] **Dr. Faltas:** Your Honor, may I for the record, just interpose an objection that she needs to be sworn if she ...

[13] **The Court:** No, she's not going to be sworn.

[14] **Dr. Faltas:** All right, then I ...

[15-16] **The Court:** And your objection is noted for the record.

[17] **Dr. Faltas:** Do I get to cross examine her?

[18-19] **The Court:** No ma'am, you do not. All right, yes ma'am, your name?

[20] **Ms. Ingram:** I'm Teresa Ingram.

[21] **The Court:** All right and your occupation?

[22-24] **Ms. Ingram:** I'm with the Mentor Network. It's called the Direct Service Employers. I guess that would be like a residential specialist.

[25] **The Court:** Do you live in this apartment complex?

[page 25, line 1] **Ms. Ingram:** Yes sir.

[2-3] **The Court:** All right, tell me what you want to tell me.

[4-6] **Ms. Ingram:** Well, she has constantly harassed myself and the other tenants that's there and we're actually in two different buildings and ----

[7] **The Court:** What does she do?

[8] **Ms. Ingram:** The constant pictures and name calling.

[9] **The Court:** What does she call you?

[10-19] **Ms. Ingram:** Prostitute, everybody in Columbia, from the Sheriff's Department to the Commissioner of HUD, the Fire Department, everyone in Columbia has been dispatched to that particular

address, comes with the intentions of meeting a prostitute. She said that in court several times, to the point where I had to personally ask the Judge or Ms. Steele personally asked the Judge to not allow her to continuously say that. She blocks my entrance and exits from leaving the apartment.

[20] **The Court:** How does she do that?

[21] **Ms. Ingram:** With her car.

[22] **The Court:** Okay.

[23 – page 26, line 13] **Ms. Ingram:** With her car. She takes pictures of myself and my guests, kids, sometimes I have my girlfriends little girl. She comes out with a camera and scares the kids. They're crying and trying to run from her. My parents that comes, and I know that she knows that these are my parents, my uncle, well my father and two uncles came and she's outside like blocking them, snapping pictures, telling me that my father and my uncle are my clients. So and since she has been gone, it has been peaceful and I would not like to have her back. She has stalk me, she has physically assaulted me and she ... a restraining order has been issued and as a matter of fact, this morning when she noticed that I came to court, she flipped me the bird. So the harassment never stops.

[13] **The Court:** All right, your name please ma'am?

[14-15] **Ms. Reynolds:** I'm Francis Reynolds, I'm the Victim Advocate.

[16-17] **The Court:** All right, okay, anything you want to say ma'am?

[18] **Ms. Reynolds:** No, sir.

[19-20] **The Court:** Okay, I'll give you one minute for the last word.

[21-25] **Dr. Faltas:** Your Honor, I have pictures which have been referenced in Judge Lee's order of Ms. Ingram and her guests pointing fingers, doing this and in fact it was Ms. Ingram who did that on the way to court to me. I do not ...

[page 27, line 1] **The Court:** Did you call her a prostitute?

[2] **Dr. Faltas:** No sir, I ...

[3-4] **The Court:** All right. Did you flip her the bird this morning?

[5-13] **Dr. Faltas:** No, Your Honor, I never did, ever. In fact, I have pictures of her and one of her guests doing that and these are the ones Judge Lee referenced in addition. That she says I'm blocking, it shows her with a wire coat hanger attaching a car to a truck in a non safe and illegal way and then pulling the other exit. There are two wide exits. I couldn't have possibly done that and these pictures were presented to the Magistrate.

[14-17] **The Court:** All right, that will conclude the hearing this morning. All right, thank you. I will advise you of my ruling. And Ma'am, Dr. Faltas, your fax number is disabled?

Steele claimed Dr. Assa'ad-Faltas had "shoved," not Steele, but a paper *at Steele*, and pushed, not Steele, but pushed a paper "on" Steele. In one version Steele claims Dr. Assa'ad-Faltas "slammed" Steele with the piece of paper three times in the chest; but in trial, Steele thrice denied that she was hit with the paper:

[page 36, 16] **Q. And she was trying to give it to you?**

[17-18] **A. Uh-huh.** Didn't mean she could slam me in the chest with it. Doesn't mean she can assault me with it.

[19] **Q. She hit you with it in the chest?**

[20-21] **A. No, no, no, no.** I would be glad to demonstrate what she did on you as long as I'm not ---

[22] **Defendant Faltas:** Okay. Okay. Please, please.

[23-24] **The Court:** Dr. Faltas, you wait. You answer his questions.

[25] **A.** Yes, sir.

Most significantly, if Steele were truly afraid of Dr. Assa'ad-Faltas, Steele would have been seeking to go into Dr. Assa'ad-Faltas' apartment and **would not have knocked on it after the alleged "assault."**

Further, if Steele's "stress" were in any way related to Dr. Assa'ad-Faltas, Prosecutor Weiss in 2010, and after her CACA Fernandez in 2010-2013 had a duty to produce Steele's medical reports in discovery.

Crouch was a crucial false witness against Dr. Assa'ad-Faltas. The City presented her as having "no dog in this fight" but having testified due to strength of "character." Crouch's role in the conviction and unusually harsh sentence is in CMC Judge Solomon's own words at Transcript pages 126-7:

[14] Defendant Faltas: They were resolved in my favor.

[15-17] Mr. Briggs: She won one of them in circuit court and then they were dismissed, Your Honor. It continues. It continues, this animosity here. And I don't know why (inaudible)--

[18-19] Defendant Faltas: It doesn't continue. I haven't done anything to them. I haven't done --

[20-24] Mr. Briggs: Shut up. Your Honor, I would ask this, the Court asked Mr. Hernandez when at any time during this time did Dr. Faltas do anything except defend herself when other people tried to harass her?

[24 - page 127, line 3] The Court: Mr. Fernandez is not a witness and I'm not going to ask it. ***** I'm not aware of the allegations of the harassment charge. I wasn't involved in them, I haven't seen those pictures or videos or anything involving that case. I wasn't there.

[4-5] Mr. Briggs: But you can admit they were dismissed, Your Honor.

[6 - page 128, line 14] The Court: [6-14] She's told me and I accept it. I'm actually a little more concerned about whether or not she accepts any responsibility in some of her testimony during the trial, including and going as far as to say and providing the pictures of the side of the home and indicating that any of the witnesses interviewed by the police either were not witnesses and were flat lying or actually being coerced by the police as to make up lies to get a warrant taken out against her which I find to kind of be just not - it just doesn't sit right because the cops didn't then write a ticket. [15-21] And if they sat out there for three hours to talk people into a story so that they could have a right to prosecute her, they would have written a ticket. *You know, the lady says clearly where she was sitting and what she saw. Her testimony is actually less than the alleged victim which is common when you have two people from different perspectives and then Dr. Faltas says everybody is lying they went around to the back of the house. That's enough.* [22 - page 128, line 14] The answer is based on all that I have heard and based on all that has been argued in terms of the sentencing I am inclined not to follow the recommendation of Mr. Lupton. ***** I'm not going to put any restrictions on you. ***** I am not convinced that if I did any suspended sentences that I would do anything other than create more issues than we solved. Accordingly there will be no suspended sentence. The sentence of the Court will be twenty days consecutive to the thirty days previously ordered. Now we've got issues regarding appeal. I previously advised you that I will allow you to apply for an appeal bond.

The City had LIED about Crouch's criminal record before trial, as evidenced in transcript pp 6-7:

[page 6, line 1] The Court: Anything further, Mr. Lupton?

[2-12] Mr. Lupton: [2-9] Your Honor, we had the -- I think that the record is from the selection and my objection to two juries from the same pool is covered but I just want to make sure that that's covered. I understand your ruling and we are going forward. And then in case there's no break between witnesses, I wanted to settle Ms. Crouch's testimony. My understanding is that it's just going to be Ms. Steele and Ms. Crouch. And Ms. Crouch's record from previously she has a grand larceny conviction that is impeachable. [10-12] She has a CDV conviction that would not be. There was a 2006 arrest for drugs with no disposition. I can't recall what happened with that but we've got her here.

[13] The Court: All right. Do you have a copy of her record?

[14-15] Mr. Lupton: Mr. Fernandez had that last time and showed it to me but I did not have ...

[16] The Court: Was she found guilty on -

[17-18] Mr. Fernandez: No, she just relayed that it was dismissed.

[19] The Court: How old is the grand larceny?

[20] Mr. Lupton: 2007, Your Honor.

[21-23] The Court: All right. Will allow testimony of impeachment regarding the grand larceny. I will not allow any reference to the CDV or the drugs.

[24 - page 7, line 2] Mr. Lupton: Additionally, Your Honor, there was a -- April of 2012, some city charges that at the time of the last trial were not disposed of. I do not know. I think that they have been disposed of since.

[3-4] Mr. Fernandez: I don't know. We have access to the database. Certainly we can pull it up.
[5] (inaudible)

[6] Mr. Fernandez: They have not been disposed of yet.

[7] Mr. Lupton: Still pending?

[8-9] The Court: All right. No reference to any city charges still pending.

[10-12] Mr. Lupton: And then an assault, second, from June of 2012. That was showing on the rap sheet, an arrest from June 19, 2012, Richland County.

[13-14] Mr. Fernandez: She doesn't seem to be a ware of it, Your Honor, or at least hasn't been to court for it.

[15-16] Defendant Faltas: *She doesn't seem to be aware of it? She's -*

[17] The Court: No reference to the assault, second.

[18-20] Mr. Lupton: All right. The city charges, Your Honor, I would move to be allowed to impeach based on potential of seeking leniency on those charges for her testimony in this case.

[21] The Court: No, sir, I'm not going to allow it.

[22] Mr. Lupton: All right.

CPD incident report 120011529 proves: (1) the City LIED about Crouch's public drunkenness charge being "still pending" a year after she had pled guilty to it; (2) **Crouch's public drunkenness conviction (after her DUI conviction) impeaches her reliability as a witness;** (3) **the offense was at Steele's quadriplexes;** and (4) **Crouch was issued a no-trespass notice, which made Crouch permanently beholden to Steele, the landlady of Crouch's "benefactor" Charles White:**

The reporting officer was dispatched in reference to a subject banging on windows at the apartment. Upon arrival on scene, the reporting officer observed listed vehicle parked with the front half over a curb and in a grassy area and the rear end of the vehicle blocking part of the driveway. The driver's door was open. Upon arrival on scene, the reporting officer made contact with listed subject who was highly intoxicated. The subject had a high odor of alcoholic beverage about her breath and person and was unsteady on her feet. Reporting officer made contact with the original caller who requested that the subject be placed on trespass. Subject was arrested for drunkenness and transported to Alvin S. Glenn. Elgins towed the vehicle.

Knowing the foregoing, the City LIED about Crouch's bias, as evidenced in transcript pp 86-89:

[3] The Court: Thank you, sir. Mr. Fernandez. *****

[7-17] Mr. Fernandez: ***** Counsel spent much time talking about the difference between criminal definition and civil definition. *In South Carolina the definitions of assault and battery are interchangeable. There are many definitions and they all provide some insight as to what is and is not permitted. Just because it's civil or criminal that really has to do with the burden of proof rather than the actual definition of what constitutes an assault.* ***** A violent injury just means that it's some-

thing that is forceful and unwanted. And an injury can be anything from a flick of a wrist to a stabbing in the heart. ***** As far as innocence or guilt are concerned, we had two witnesses, Dinah Steele, Charlene Crouch. Both testified generally [page 88] to the same thing. There was a pushing, there was a shoving. All counsel can argue is the severity of it but it's clear that the defendant did initiate it, did approach Ms. Steele who was not interested in any contact with her whatsoever. Whether she backed away or was pushed away, the result was the same. ***** weighing the credibility of the witnesses, Charlene Crouch and Dinah Steele have endured, [...], have endured much difficulties in dealing with Marie Faltas. The fact that they are here today and came forward and saw these cases through to their conclusion certainly speaks to their character. Dinah Steele for whatever you want to argue, whatever counsel wants to argue about whatever motivations or changing in the story, we have an independent witness who has no dog in the fight, who apparently was -- even the defendant testified that was on good terms with her, speaking terms. They were exchanging stories. Charlene Crouch has no reason to come here and say anything, saw everything in plain [page 89] sight, saw exactly what Dinah Steele saw which is the shoving, forceful shoving that actually pushed Ms. Steele back three times.

Charlene Crouch's "character" is that of an admitted sexual batterer of a vulnerable adult:

That on or about DECEMBER 23, 2011, while at 7005 JOHN EDWARD STREET in the LYKESLAND Magisterial District of Richland County it is believed that one CHARLENE CROUCH did commit the crime of ASSAULT AND BATTERY, 2ND DEGREE because she willingly and unlawfully put her hand on the victim's (24 years or age vulnerable adult) penis over his clothing without his permission or consent. The victim was interviewed by the Assessment Resource Center and disclosed this information and identified the defendant by name.

=====

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MARCH 13, 2013, the Grand Jurors of Richland County present upon their oath: **ASSAULT AND BATTERY SECOND DEGREE**

That Charlene Crouch did in Richland County on or about 2011-12-23, commit an assault and battery in the second degree upon the victim, NICHOLAS STANTON, by injuring or attempting to injure the victim with the present ability to do so, and the act involved the non-consensual touching of the private parts of Nicholas Stanton, either under or above his clothing. All in violation of Section 16-3-600 (D), SC Code of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

[s/] DAN JOHNSON, SOLICITOR

By 25 April 2013, Charlene Crouch had had an arrest, a bond hearing, a probable cause hearing, two appearances in General Sessions, a bench warrant, and an indictment, yet she did not correct Assistant City of Columbia Attorney (ACA) David Fernandez when he represented to the court that "She doesn't seem to be a ware of it, Your Honor, or at least hasn't been to court for it," *supra*.

Nor did Crouch correct ACA Fernandez' misrepresentation to the court that the public drunkenness charges **"have not been disposed of yet,"** *supra*. CMC had intentionally withheld that disposition from South Carolina's State Law Enforcement Division ("SLED") which compiles "rap sheets." CMC is completely owned and operated by the City of Columbia without any state input or control.

Crouch had been attempted to be "developed" as a false victim of Dr. Assa'ad-Faltas' "harassment."

Discovery Dr. Assa'ad-Faltas was allowed to see but not copy on 10 November 2010 included several rap sheets pulled on Charlene Crouch by CPD "Investigator" Blanton and even by CMC "Chief Judge" Dana Turner prior to hearings on the other false charges against Dr. Assa'ad-Faltas, *supra*.

Wherefore, this motion must be granted because, if courts become game parlors for perjury, they are not courts at all.

Respectfully submitted on Friday, 31 January 2014 with a file-stamped copy served by hand-delivery to Columbia Assistant City Attorney ("CACA") David Fernandez, another hand-delivered to CMC for transmittal to CMC's Judge Solomon, and a third hand-delivered to SC's Attorney General's, all God so willing.

Marie Assa'ad-Faltas, MD, MPH, Defendant *pro se*
As permitted by South Carolina's Supreme Court's 7 November 2013 ORDER
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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE CIRCUIT COURT OF COMMON PLEAS
Appeal No. 2013-CP-40-03522 from CSW L-066971

City of Columbia, South Carolina,
v.
Marie Assa'ad-Faltas, MD, MPH

**Rule 29(b) MOTION to Suspend this Appeal for Initial Thirty (30) Days
To allow Dr. Assa'ad-Faltas to Submit Her After-Discovered Evidence
To the Trial Judge in Columbia's Municipal Court ("CMC").**

Marie Assa'ad-Faltas, MD, MPH, Defendant-Appellant *pro se*, respectfully moves this Court to suspend the above-captioned appeal per South Carolina's Criminal Rule 29(b) for an initial thirty-day period, with directions for CMC to hear and adjudicate Dr. Assa'ad-Faltas' after-discovered evidence in 30 days, so that she may present her after-discovered evidence within the one-year period provided in Rule 29(b):

(b) New Trials Based on After-Discovered Evidence. A motion for a new trial based on after-discovered evidence must be made within one (1) year after the date of actual discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence. A motion for a new trial based on after-discovered evidence may not be made while the case is on appeal ***unless the appellate court, upon motion, has suspended the appeal and granted leave to make the motion.*** Leave of the appellate court is not required if no appeal has been taken or if the appeal has been finally decided in the appellate court. (bold, italics, and bold italics, added for emphasis)

Dr. Assa'ad-Faltas heeds the Honorable Judge Lee's 13 December 2013 open-court directions for parties to not submit additional *briefing* unless Her Honor invites same. But this appeal is practically suspended pending the additional transcripts the Honorable Judge Lee ordered, which transcripts should *still* be prepared for the contemporaneously-filed appeal No. 2013-CP-40-03525; and **the one-year period might expire before the transcripts are prepared or this appeal might not be decided by June 2014.** And Dr. Assa'ad-Faltas had, since June 2013, asked her then-appointed appellate counsel Tristan Shaffer to make this motion. Mr. Shaffer had repeatedly promised, but failed, to do so. So, as soon as she was allowed to proceed *pro se* on these appeals, Dr. Assa'ad-Faltas diligently presents this timely and serious motion.

This motion is also made all more necessary in light of the Honorable Judge Lee's decision to not address Dr. Assa'ad-Faltas' allegations of perjury and concealment of conviction records below. To give full effect to the Honorable Judge Lee's decision to confine the appeal to the legal issues, the factual issues, in light of the after-discovered evidence, must be remanded to the trial court to keep courts as temples of truth.

The public importance of prosecutor-suborned perjury and other prosecutorial misconduct in South Carolina (SC) recently exploded with a despicable letter from SC Attorney General, based on a request signed by *inter alia* SC 5th Judicial Circuit (JC) Solicitor Johnson, SC 1st JC Solicitor Pascoe (whose deputy, Theodore Nichols Lupton, was forced on Dr. Assa'ad-Faltas and lost the case, *possibly deliberately*, for her), and SC 13th JC Solicitor Wilkins, son of former U.S. Court of Appeals for the Fourth Circuit Chief Judge and now Nexsen-Pruett partner William Wilkins. The 12 December 2013 letter made "open and notorious" the prosecutorial mentality of which Dr. Assa'ad-Faltas complained after having been victimized thereby: 13 of SC's 16 JC Solicitors think they have a divine right to falsely accuse people, incarcerate them indefinitely, and commit all manner of constitutional and ethical violations against them **yet** attack SC's best sitting state appellate judge because His Honor dared said the obvious: prosecutors should do justice.

The Honorable Judge Lee, whom Dr. Assa'ad-Faltas reveres as SC's best sitting state circuit judge, comes from a family of courage, which Her Honor's and the Honorable Justice Beatty's generation must teach to the generation of K. L. Solomon, R. W. Frierson, and J.M. Childs, *inter alia*, specially now that African American jurists will hear from immigrants the questions Judge Perry once presented to Judge Waring.

Dr. Assa'ad-Faltas knows Rule 29(b) law and procedure, having, in May-July 2005, convinced CMC Judge Dennis, who had bench-convicted Dr. Assa'ad-Faltas of label swapping in April 2002, to vacate that conviction. Dr. Assa'ad-Faltas then successfully defended her Rule 29(b) success *pro se* before SC's Court of Appeals in *City of Columbia v. Assa'ad-Faltas*, No. 2007-UP-193 (SC Ct. App., 26 April 2007).

Dr. Assa'ad-Faltas prefaces this motion by showing this Court that religiously, historically, and legally, perjury (taking the Lord's name in vain and bearing false witness against one's neighbor) has been taken as seriously as, or even more seriously than, murder. And at least the modern story of Crystal Mangum, the stripper who in 2006 falsely accused Duke Lacrosse players of gang rape and in 2013 was convicted of fatally stabbing her boyfriend, is proof that perjury left unpunished may lead to murder.

I. Religiously: A. The Treatment of Perjury in the Holy Commandments

All iterations in the Old Testament prominently forbid perjury; and Leviticus 19:14 specially commands against injuring the defenseless: "Do not insult the deaf or cause the blind to stumble." These are the Commandments in Exodus and Deuteronomy, respectively, with emphasis added:

Exodus 20:1-17 And God spake all these words, saying, [2] I am the LORD thy God, which have brought thee out of the land of Egypt, out of the house of bondage. [3] Thou shalt have no other gods before me. [4] Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth. [5] Thou shalt not bow down thyself to them, nor serve them: for I the LORD thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me; [6] And shewing mercy unto thousands of them that love me, and keep my commandments. [7] **Thou shalt not take the name of the LORD thy God in vain; for the LORD will not hold him guiltless that taketh his name in vain.** [8] Remember the sabbath day, to keep it holy. [9] Six days shalt thou labour, and do all thy work: [10] But the seventh day is the sabbath of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy cattle, nor thy stranger that is within thy gates: [11] For in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the sabbath day, and hallowed it. 12 Honour thy father and thy mother: that thy days may be long upon the land which the LORD thy God giveth thee. [13] Thou shalt not kill. [14] Thou shalt not commit adultery. [15] Thou shalt not steal. [16] **Thou shalt not bear false witness against thy neighbour.** [17] Thou shalt not covet thy neighbour's house, thou shalt not covet thy neighbour's wife, nor his manservant, nor his maidservant, nor his ox, nor his ass, nor any thing that is thy neighbour's.

Deuteronomy 5:6-21 [6] 'I am the LORD your God who brought you out of the land of Egypt, out of the house of slavery. [7] You shall have no other gods before Me. [8] You shall not make for yourself an idol, or any likeness of what is in heaven above or on the earth beneath or in the water under the earth. [9] You shall not worship them or serve them; for I, the LORD your God, am a jealous God, visiting the iniquity of the fathers on the children, and on the third and the fourth generations of those who hate Me, [10] but showing loving kindness to thousands, to those who love Me and keep My commandments. [11] **You shall not take the name of the LORD your God in vain, for the LORD will not leave him unpunished who takes His name in vain.** [12] 'Observe the sabbath day to keep it holy, as the LORD your God commanded you. [13] Six days you shall labor and do all your work, [14] but the seventh day is a sabbath of the LORD your God; *in it* you shall not do any work, you or your son or your daughter or your male servant or your female servant or your ox or your donkey or any of your cattle or your sojourner who stays with you, so that your male servant and your female servant may rest as well as you. [15] You shall remember that you were a slave in the land of Egypt, and the LORD your God brought you out of there by a mighty hand and by an outstretched arm; therefore the LORD your God commanded you to observe the sabbath day. [16] 'Honor your father and your mother, as the LORD your God has commanded you, that your days may be prolonged and that it may go well with you on the land which the LORD your God gives you. [17] 'You shall not murder. [18] 'You shall not commit adultery. [19] 'You shall not steal. [20] **You shall not bear false witness against your neighbor.** [21] 'You shall not covet your neighbor's wife, and you shall not desire your neighbor's house, his field or his male servant or his female servant, his ox or his donkey or anything that belongs to your neighbor.'

B. Treatment of Perjury, Deceit, and Conspiracy in Proverbs

The now-fatherless Dr. Assa'ad-Faltas and her widowed mother unknowingly bought land coveted by Dinah Gail Steele and her consort Larry Wayne Mason. Proverbs 23:10-11 is heard:

Do not move an ancient boundary stone or enter the fields of the fatherless. For their Redeemer is mighty. He will plead their case against you.

Proverbs 1:10-14 opens:

My son, if sinners entice you, Do not consent. [11] If they say, 'Come with us, Let us lie in wait for blood, **Let us ambush the innocent without cause;** [12] Let us swallow them alive like Sheol, Even whole, as those who go down to the pit; [13] We will find all kinds of precious wealth, **We will fill our houses with spoil;** [14] Throw in your lot with us, We shall all have one purse,' [15] **My son, do not walk in the way with them. Keep your feet from their path,** [16] For their feet run to evil And they hasten to shed blood.

Proverbs 6:16-19 emphasizes

There are six things that the Lord hates, seven that are an abomination to him: haughty eyes, a **lying tongue**, and hands that shed innocent blood, **a heart that devises wicked plans**, feet that make haste to run to evil, a false witness who breathes out lies, and one who sows discord among brothers.

Proverbs 11:1 and 12:22 reiterate: "A false balance is an abomination to the Lord, but a just weight is his delight." "Lying lips are an abomination to the Lord, but those who act faithfully are his delight." And Proverbs 13:5 diagnoses: "The righteous hates falsehood."

C. New Testament View of False Claims of Mental Illness and Other Verbal Sins

The Pyramids-firm Dr. Assa'ad-Faltas has been falsely accused of being mentally ill and "unstable." Jesus Christ equates that with murder in Matthew 5:21-22:

You have heard the ancient were told "YOU SHALL NOT COMMIT MURDER" ... But I say to you ... whoever says, "You fool," shall be guilty enough to go into the fiery hell.

D. Integration of All Commandments

James 2:10-11 is clear:

For whoever keeps the whole law and yet stumbles in one point, he has become guilty of all. For He who said, "DO NOT COMMIT ADULTRY," also said, "DO NOT COMMIT MURDER." Now, if you do not commit adultery, but do commit murder, you have become a transgressor of the law.

II. Capital Perjury and Other Perjury in Anglo-American Jurisprudence

Dr. Assa'ad-Faltas, an absolute opponent of capital punishment in all cases, cites *Furman v. Georgia*, 408 U.S. 238, 334-5 and footnotes 6, 13 and 17, recounting capital and physical punishments for perjury:

"The Capitall Lawes of New-England," dating from 1636, were drawn by the Massachusetts Bay Colony and are the first written expression of capital offenses known to exist in this country. These laws make the following crimes **capital offenses**: idolatry, witchcraft, blasphemy, murder, assault in sudden anger, sodomy, buggery, adultery, statutory rape, rape, manstealing, **perjury in a capital trial**, and rebellion. Each crime is accompanied by a reference to the Old Testament to indicate its source. It is not known with any certainty exactly when, or even if, these laws were enacted as drafted; and, if so, just how vigorously these laws were enforced. We do know that the other Colonies had a variety of laws that spanned the spectrum of severity.

[fn 6] Indeed, the first federal criminal statute, enacted by the First Congress, prescribed 39 lashes for larceny and for receiving stolen goods, and one hour in the pillory for perjury. Act of Apr. 30, 1790, §§ 16-18, 1 Stat. 116.

[fn17, 13] The ... incident giving rise to the provision was the perjury trial of Titus Oates in 1685. Oates was a minister of the Church of England who proclaimed the existence of a plot to assassinate King Charles II. He was tried for perjury, convicted, and sentenced to a fine of 2,000 marks, life imprisonment, whippings, pillorying four times a year, and defrocking.

Thus vigilance against perjury is necessary for a civilized moral society and a sound legal system.

III. The Underlying Conviction was Procured with Perjury

Dr. Assa'ad-Faltas after-discovered that the City's only two witnesses LIED about material facts and that Karl L. Solomon, who bench-convicted Dr. Assa'ad-Faltas of "assault" and harshly sentenced her had relied on Charlene Crouch's purported neutrality and reliability and on Karl L. Solomon's own conclusion, unsupported by any facts that Dr. Assa'ad-Faltas was "not right" in testifying that Columbia's Police Department (CPD) was contacting Dr. Assa'ad-Faltas and her false accusers over three hours after the alleged incident. While *some* material; *e.g.*, the CPD incident reports ending circa 10:00 pm on Friday, 11 September 2009; in support of Dr. Assa'ad-Faltas' truthfulness *could have been* presented during trial had CMC Judge Solomon indicated his intended condemnation of Dr. Assa'ad-Faltas, they are still after-discovered in that CMC Judge Solomon did not announce their materiality until sentencing. It is also possible to argue that Dr. Assa'ad-Faltas' *counsel* could have presented or researched some of what is now presented. **But this is an unusual case:** Dr. Assa'ad-Faltas was, not only forced to have a *specific counsel* of whom she had *before trial* complained as ineffective, Dr. Assa'ad-Faltas was under penalty of contempt of court if she even orally contacted that forced counsel or suggested a defense strategy to him.

A. Charlene Crouch's After-Discovered Perjury

Crouch, not only lied about her conviction record, she testified she had called police herself. In a sworn 17 November 2009 statement to CPD's "Investigator" Amanda Blanton, Crouch affied that it was "Dinah" who had called police. No police call *by Crouch* was produced in discovery in any case. After the trial, it was discovered that Crouch continued to give Charles White sexual favors in return for money and that Crouch did so at White's 300 Byron Road address owned by Steele, from which address Crouch was on trespass notice after her 22 April 2012 public drunkenness arrest at that address and her 25 April 2012 conviction of same. Crouch lied for Steele in return for Steele not enforcing the no-trespass notice.

B. Dinah Steele's After-Discovered Perjury

While the details are in Dr. Assa'ad-Faltas' motions to the U.S. Court of Appeals for the Fourth Circuit and her previous submissions to this Court and to SC's Supreme Court, the following is Steele's sworn testimony or affidavits or reports in a chronology of occasions:

On Friday, 11 September 2009:

minutes 00:00 - 00:06: **Automated Recording:** Friday, September 11th 2009. The time: 7:11 p.m.

minutes 00:07 - 00:09: **Dispatcher:** 911. What is your emergency?

minutes 00:10 - 00:38: **Dinah Steele:** Yeah. This is Dinah Steele. I'm at 600-5953. I'm located at, eh-hum, 300 Byron Road. I'm the owner of the building. I'm having a problem with a, a tenant that I'm evicting and she's come over here trespassing. I've already signed a, a courtesy summons about the trespassing. **And she came over here and harassed me and pushed on me, eh-hum, again. So, I'd like an officer to come over here, please.**

minutes 00:39 - 00:40: **Dispatcher:** Okay. You said 300 Byron?

minutes **00:41 - 00:44:** **Dinah Steele:** Yes, ma'am. That's right next to the VA Hospital.

On 10 November 2009, in a TRO hearing before Lykesland Magistrate Davis:

[16 - page 92, line 2] Let's see, here. On September 11th, I was working over there on the 300 building between the two buildings. They are very narrow. I was over there scraping some peeling paint from the side of the building, and I caught her coming around out of the corner of my eye, and I immediately looked up at her, and I said, "Marie, you need to leave me alone." *And she had a paper in her hand.* And I said - - and she kept shoving it at me and shoving it at me. And I said, "Marie, you have -- you, you know all legal documents are supposed to go through the attorney. You need to leave me alone." [3-12] And she started approaching me, and I started backing up because I couldn't get around her. I threw my hands up in the air and started yelling, "Marie, get away from me. Get away from me." And I retreated to the back side of the building, in full retreat now. I am in good shape. I am in good shape, and I could not get away from this woman. **She ended up slamming me three times in the chest with that piece of paper, which knocked me back. And there were three witnesses to that event. There was a police report --**

[13] *Dr. Faltas: Objection.*

[14] *Ms. Steele: -- for a simple assault.*

[15] *The Court: Excuse me.*

[16-17] *Dr. Faltas: Unless the three witnesses are here, she cannot say that.*

[18] *The Court: Cannot say what?*

[19-21] *Dr. Faltas: She cannot say that there were three witnesses to that event unless the three witnesses are here.*

[22] *The Court: Objection overruled.*

[23] *Dr. Faltas: Exception.*

[24] *The Court: So noted.*

[20-24] *By Dr. Faltas: Q. Did that letter also say that you -- that the city offered to put sewer taps on your property and that you'd have to connect -- to hire a plumber at your own expense to connect to them or --*

[25] **A. There was a letter issuing that, yes.**

[page 103, line 3] *Q. And did the letter say that the other option is for you to negotiate an easement with me? Is that correct?*

[4] **A. That is not of the city's right.**

[5] *Q. I asked, I was asking was that in the letter?*

[6] **A. There was something in there about that.**

[7] *Q. Yes.*

[8-10] **A. I then gave them a letter saying that it was in legal dispute and that it would be taken care of in, in law.**

[11-13] *Q. Okay. Did you ever do an estimate as to how much it would cost you to connect -- to reconnect the sewer?*

[14] **A. No, I have not.**

[15-16] *Q. Did you have any idea how much an easement would cost?*

[17] **A. I have no idea.**

[18-19] *Q. You've never seen from me anything saying how much an easement would cost?*

[20-21] A. Yeah, you came up with something ridiculous, something like \$5,000.

[22] Q. Why is that ridiculous?

[23] A. I'm not going to accept that.

[24-25] Q. Okay. So you think you have the right to keep your sewer lines on my land when I don't want them there.

[page 104, line 1] A. Yes, I do.

[2-3] Dr. Faltas: If that's not motive, Judge, I don't know what is?

[4-5] The Court: Now's not the time for you to make a closing argument. *****

[24-25] Q. Didn't you testify that you asked them about whether my mother is really a citizen?

[page 113, line 1] A. Mm.

[2-4] Q. You testified to that. There is a record. That's why it's being recorded. Did my mother harass you?

[5] A. No.

[6] The Court: You're getting --

[7-8] Dr. Faltas: Q. Did you ever --

[9] A. I don't know the --

[10-12] The Court: -- excited again. I will cite you for contempt if you raise your voice again. We're not getting into argument with witnesses.

[13] Dr. Faltas: Judge --

[14] The Court: Specific questions and answers.

[15] Dr. Faltas: Judge, I am --

[16] The Court: This is not a fishing expedition.

[17-20] Dr. Faltas: This, this is a very legitimate question because that's to prove that they are going after my mother even though my mother didn't even do anything to them.

[21-22] The Court: All right, any further questions --

[23] Dr. Faltas: Yes. *****

[22-25] Q. I'm sorry, I'll, I'll make the question clear. I'm sorry. I'm sorry. So you testified that I -- did I ever enter your shop?

[page 116, line 1] A. No, you did not.

[2-3] Q. Okay. Isn't it true that at one time, you invited me to come to your --

[4] A. No, I did not.

[5-7] Q. All right. I was waiting for this. Could you please write the words "Dinah Steele" in capital and write your telephone number on a piece of paper.

[8] A. Yeah.

[9] Q. Thank you.

[10-11] The Court: Why would you like for her to write her name and telephone number?

[12-14] Dr. Faltas: Because I want the -- you, the Court, to compare it. Judge, can you let me, give me latitude, please? Can you give me latitude?

[15-18] The Court: No, ma'am. I will not give you latitude. If you have a document to ask her to take a look at it and see, "Is this your handwriting?" that's fine. That's all you have to do.

[19] Dr. Faltas: But can I get it back?

[20] The Court: Get what?

[21-22] Dr. Faltas: Get that, that piece of paper back.

[23] The Court: Sure.

[24-25] Dr. Faltas: Thank you. May I show it to the Court first?

[page 117, lines 1-2] The Court: No, just ask her if she recognizes this.

[3-4] Dr. Faltas: Well, may I just explain to the Court that I (indistinct) --

[5] The Court: Let her explain.

[6-7] Dr. Faltas: No, I am, I am trying to explain to the Court --

[8-9] The Court: Well, if you're going to introduce it as evidence, I don't need to see it.

[10-13] Dr. Faltas: I'm just saying could, could we please do it like this because I don't want her to see that other (inaudible). That other part is in my handwriting.

[14] The Court: Oh.

[15-16] Dr. Faltas: I wrote someone else's number on it. I just want her to concern herself --

[17] The Court: Do you recognize that?

[18-19] Ms. Steele: Yeah, that's my name and my, the shop telephone number.

[20] The Court: Okay. Did you write that?

[21] Ms. Steele: It looks like my handwriting.

[22] *The Court: Okay.*

[23] **Ms. Steele: That's the shop number.**

[24] *The Court: See how easy that is?*

[25 – page 118, line 3] **Ms. Steele:** She had asked me several times to cut her hair, and I refused 1 to do it at the -- she wanted me to do it at, on the balcony, and I would refuse to do it.

[4 -6] *By Dr. Faltas: Q. Did you instead write your name and number, your name and shop telephone number and tell me to call --*

[7-12] **A. I did. I did.** I told you, "I will not cut your hair on the balcony," that you, if you wanted -- yeah, I did. If you wanted to come to the shop, you were welcome to come to the shop. That was the shop of the number -- the number to the shop. But I was not going to cut your hair out there on the balcony.

[13-15] *Q. Ma'am, the question passed before I did this, I asked you, "Did you invite me to come to your shop?" and you said no. And now, I impeached you.*

[16] A. That's a huge impeachment.

[17] *Q. It is.*

[18] *The Court: Next question?*

[24 – page 123, line 1] **A. No, you didn't --** look, you don't understand. You're pulling into the driveway, and then you're pulling back out. **You're not turning your car around, lady.**

[2-3] *The Court: Now calm now. And your next question?*

[4-6] *By Dr. Faltas: Q. And you said that happened only once, or a hundred times, or what?*

[7] **A. I've seen you that time.**

[8-10] *Q. Do you have any idea whether it ever happened any other time? Do you have personal knowledge whether it happened another time?*

[11] **A. No.**

[12] Q. Did you see me inside the car?

[13] A. No.

[14-15] *Q. Okay. So you just see a car with an Obama bumper sticker, and you think it's --*

[16] **A. I saw your vehicle.**

[17] *Q. You said you don't know its --*

[18-19] **A. I saw your vehicle. I don't know what your license tag number is, but I recognize your vehicle.**

[20-21] *Q. Is there anything different about my vehicle other than --*

[page 130, line 1] *The Court: So noted.*

[2-5] *By Dr. Faltas: Q. And then, you admitted that I was trying to give you a letter, but you weren't wanting to accept that letter. Isn't that --*

[6-7] **A. Now, which, which, what --** you're going to have to clarify this.

[8-9] *Q. In September 2009, you were trying to come to my apartment and photograph it. Isn't that correct?*

[10-23] **A. We were doing inspections on all the apartments, and you denied us entry. You were given a written letter by certified mail and one by your doorway that we would be doing a yearly inspection which would have included the inspection of the smoke alarms and the fire extinguishers, and we were going to be changing all of the furnace vents -- the filters, which we did, everybody's but yours because there was a huge sign on your door saying, "Do not enter. Criminal prosecution," a sign this big all the way down the door. We knocked on the door. You refused to answer. we called the fire department to let them know that we had no way of checking on your fire extinguisher to make sure that it was up to date. They took note to it.**

[24] *Q. Uh-huh.*

[25 – page 131, line 1] **A. They said we would not be held accountable for your --**

[2-3] *Q. You couldn't, you couldn't just have left a new fire extinguisher outside my door.*

[4-5] **A. And we were also checking for leaks and stuff up underneath the sinks. It's preventative.**

[6] *Q. Mm-hmm.*

[7] A. And you would not allow us in there.

[8-9] Q. Isn't it true that you came in December 2008 and changed the toilet tank in my apartment?

[10-16] A. **We did.** We had a -- I don't know about that date, no. **I have idea about the date.** But we had a water problem with that building, and we checked -- we sent letters out to everyone in that building saying that we would do an inspection, and at that time, there were toilets, and yours was one of them, which we made a repair to.

[17] Q. Did I give you any problems coming in?

[18] A. **You did not.**

[19-20] Q. And isn't it true that there were other things that were wrong in the apartment?

[21] A. Uh, you may want to refresh my memory.

[22-25] Q. For example, isn't it true that the sink that you had caulked had completely -- the caulk was gone, and the sink was completely lopsided? Did you work on the sink?

[page 132, lines 1-4] A. I remember working on the sink. I don't, I don't necessarily remember that specific time. I remember working on it before you entered the apartment, before you leased the apartment.

[5-6] Q. But when I was in the apartment, I gave you no problem when you came in to repair the --

[7] A. You gave us lots of problems.

[8-9] Q. I'm talking about this particular time. I gave you no problem --

[10-11] A. You mean to enter your apartment? Is that what you're referring to?

[12] Q. Didn't you testify that I gave you no --

[13-14] A. I'm, I'm -- you're trying -- I need you to clarify the question.

[15-16] Q. To enter it and to help you fix it, fix what needed to be fixed.

[17-19] A. **That one time that we had that water problem, we did not have a problem. You did not give us any problem entering the apartment that one time.**

[20] Q. And that was December 2008.

[21] A. **I don't remember the date.**

[22-23] Q. Okay. If were to testify that it was December 2008, you'd --

[24] A. I can't, I can't, I can't say.

[25] Q. Okay. But you have -- all right, fine.

[page 133, Line 1] The Court: Next question. You have --

[2] Dr. Faltas: *I am, I am, I am.*

[3-4] The Court: You've asked that question five times.

[5-6] Dr. Faltas: *All right, Judge, I'm, I'm, I'm -- okay.*

[7-9] By Dr. Faltas: Q. Did I tell you when I rented from you that I do not use the air conditioning?

[10] A. No, you did not.

[11-12] Q. Did I not request you to turn it off as soon as I changed the power to my --

[13] A. I don't recall.

[14-15] Q. Well, there is a difference between I did not and you don't recall.

[16] A. **I don't recall that.**

[17-19] Q. Okay. And so did, would, did there come another time when I told you that the screen door on the balcony was loose?

[20] A. Yes.

[21] Q. And did you come and fix it?

[22] A. **We did.**

[23] Q. And did I give you any problems?

[24] A. **No.**

[25] Q. Okay. And after that, it went loose again.

[page 134, line 1] A. **Yes.**

[2] Q. But you didn't fix it.

[3-4] A. **No, we didn't. You were already -- should have been out of the apartment by then.**

[5-6] Q. Have you continued to demand and receive \$550 rent from me?

[7] A. **The court is requiring you.**

[8] Q. Did you receive that money?

[9-10] A. **I have received it every, every month. It is court mandated.**

[11] Q. After --

[12] A. I would prefer that you leave.

[13-14] Q. But even though you were getting my money, you weren't fixing things.

[15-19] A. You, you had complained about the screen. We did not want to have any contact with you. We told you we would not fix the screen, that it was not considered an emergency, that you had been evicted, and you needed to leave.

[20-22] Q. And with the screen door loose and the sliding door loose, bugs can get in, mosquitoes, in summer. Yes or no?

[23-25] A. You had not made a complaint about the sliding glass door. You made a complaint about the screen. We told you it was not an emergency.

[page 135, lines 1-2] Q. So you don't fix things unless they were an emergency.

[3] A. We fix everything.

[4-5] Q. But for me, you don't fix it unless it's an emergency.

[6-7] A. We don't want to have any contact with you, Marie.

[8-9] Q. Could you have sent somebody? Could you have --

[10] A. We're not going to, Marie.

[11] Q. Okay.

[12] A. We're not going to fix your screen door.

[13-15] Q. And yet, and yet, even though you claim you did not want a contact with me, you insisted that you wanted to come into my apartment --

[16-17] A. That was for the yearly inspection that is basically required by the fire department, Marie.

[18-19] Q. Did you do an inspection the year before that day?

[20-22] A. Not on that day, no, but we do. Once a year, we check the fire extinguishers. We go through and we make inspections.

[23] Q. No, you hadn't done -- did you write --

[24] The Court: You cannot argue with her answers.

[25] Dr. Faltas: Okay, sorry, sorry.

[page 136, lines 1-3] By Dr. Faltas: Q. Did you write to the tenants notices about a yearly inspection before?

[4] A. I don't recall.

[5-7] Q. Okay. And isn't it true that you were trying to come on Labor Day, and I was trying to tell you, "No, you cannot come in on Labor Day?"

[8] A. Yeah, and we rescheduled it.

[9-12] Q. And isn't it true that I was just trying to give you the letter that -- isn't it true that my lease says that you can only come in my presence unless it's an emergency where you cannot contact me?

[13-14] A. Yes. And you were there, and you still wouldn't let us in, Marie.

[15] Q. My question is --

[16] A. It does say that. And again, you were there.

[17] Q. My --

[18-19] A. We knocked on your door, and you would not allow us in.

[20-21] Q. And my question is didn't I, wasn't I trying to give you a letter telling you --

[22] A. On the day that you assaulted me.

[23] Q. I didn't assault you.

[24] Dr. Faltas: Judge --

[25] The Court: Uh.

[page 137, lines 1-2] Dr. Faltas: Well, okay, sorry. But she cannot --

[3] The Court: Do not --

[4] Dr. Faltas: Okay.

[5-7] The Court: She can explain her answers, and I'm going to give you about nine more minutes, and it'll be 12:00 noon.

[8-9] Dr. Faltas: She cannot make legal conclusions. She cannot --

[10-12] The Court: She can explain her answers. You can ask her a question, she can answer it yes or no, and she can explain her answers.

[13] Dr. Faltas: But -- well, exception to --

[14] The Court: So noted.

[15-18] By Dr. Faltas: Q. Isn't it true that your lawyer doesn't represent you in any matter except what the insurance company hired --

[19] The Court: That is immaterial to this case.

[20-21] Dr. Faltas: Okay, she said that, she said that the letter needed to go to her lawyer.

[22-23] The Court: That is immaterial to this case. I don't even care anything about that.

[24] Dr. Faltas: Judge, she test --

[25] The Court: Next question.

[page 138, lines 1-2] By Dr. Faltas: Q. You basically didn't want to take the letter.

[3] A. All you had to do was drop the letter, Marie.

[4-7] Q. And then you were going to claim that you didn't get it. Isn't it true that the letter said I cannot be available on the 14th, but I will work with you --

[8] A. It did.

[9] Q. -- on the 21st?

[10-14] A. And you were still there. You were there the day we did the inspection. You were out there taking photographs of us through your window. You had photographs of us, what, taking the fire extinguishers out of the truck?

[15-17] Q. And my question to you is what would have been so impossible about your leaving a new fire extinguisher outside --

[18-19] A. Again, as I have already testified to, we were also checking for leaks underneath sinks.

[20] Q. Okay. Hadn't you done that in December 2008?

[21] A. We had.

[22-23] Q. Did you have any reason to think there would be leaks inside -- in the sink?

[24-25] A. Again, Marie, we were just doing inspections. We did them to all of them, Marie --

[page 139, line 1] Q. And yet --

[2] A. -- all of the --

[3] Q. -- had there been --

[4] A. -- all of them.

[5-6] Q. -- had there been a leak, would you have fixed it?

[7] A. Yes, we would have.

[8-10] Q. And why wouldn't you fix the screen door when I was telling you that the screen door is loose? Why would you --

[11] A. Because it wasn't an emergency, Marie.

[12] Q. And why --

[13-15] A. It doesn't deal with the water issues. It doesn't, it doesn't, it's not going to rot out the cabinets.

[16-17] Q. So you care only about your cabinets, but you don't care about my comfort. In fact, you testify --

[18] A. I don't care about your comfort.

[19-20] Q. And you claim I am the one denying other tenants the peaceful enjoyment.

[21] A. Definitely.

[22] Q. Okay.

[23] A. I don't claim it. I know it.

[24-25] Q. Have you ever, have you ever seen me enter Building 300?

[page 140, lines 1-5] A. Not enter the building, but I have seen you on the property. I have told you, looked you straight in the eye, "You are trespassing onto the property of the 300. You need to go back over to your apartment and stop harassing us."

[6] Q. We --

[7] A. I was an eyewitness --

[8] The Court: Calm down.

[9-10] By Dr. Faltas: Q. And we agreed that there is no marking.

[11] A. There is no marking.

[12-13] Q. And we agreed that the mailboxes are opposite the 300 building.

[14] A. They are.

On 2 December 2009, after Dr. Assa'ad-Faltas' false arrest for "harassing" Steele, Steele opposed Dr. Assa'ad-Faltas' bond by pretending to then CMC "Judge" Burns:

[minute C 01:37] B.J. Burns: And this is nowhere near this building?

[minute C 01:40] **Dinah Gail Steele:** No. **** And then I said we started getting complaints that she was, hmm, hmm, addressing herself as if she was the landlord or the owner and she was ejecting people from the parking lot. [minute C 02:43] So we ended up giving her a do not trespass onto the 300 building. [minute C 02:47] She lives in the 304 building. [minute C 02:49] The buildings are right side by side. [minute C 02:50] That was the only way I could protect the people in the next building since I couldn't do anything about her being there. [minute C 02:57] The law is allowing her to stay there during her appeal. [minute C 02:59] So, at least I tried to protect the people over to the next building. [minute C 03:03] That didn't seem to work at all. [minute C 03:05] She was detaining them with her vehicle, blocking them in. [minute C 03:10] I mean you can even imagine: these people were getting, getting out of their apartment, getting into their car to go to work in the morning and she's pulling her car directly behind them preventing them from leaving. And then ---

[minute C 03:19] **B.J. Burns:** Did she even know them?

[minute C 03:20] **Dinah Gail Steele:** Yes, she knows them. [minute C 03:22] Everybody's lived there for years, you know. [minute C 03:26] Hmm, and any, anyway, you can imagine how it would escalate when, you know, they sit there and wait and they look in the rear-view mirror and, you know, she doesn't move; and then they finally get out of the car. [minute C 03:37] And you can see where this would escalate; and she's still not moving. [minute C 03:40] So, and this happened repeatedly. [minute C 03:44] Hmm, I was assaulted on the property on September 11 late in the evening about seven o'clock. [minute C 03:51] I was working on the 300 Building. [minute C 03:52] She trespassed on to that property in order to get to me; and she was trying to serve me with a paper saying that I could not, we were doing inspections of the apartments, like for, inspections for the fire, hmm, extinguishers, filters, leaks under the sinks, those kinds of yearly inspections. [minute C 04:08] And she was trying to give me a paper saying that I wasn't allowed in her apartment. [minute C 04:13] And, you know, like I said, she's already had a lot of problems. [minute C 04:18] I didn't want any contact with her. [minute C 04:20] You know, I put my hands up and I said: You know, Marie, you need to send any paper that you got to the attorney and I started backing up because the buildings are so close together you can't get around each other. [minute C 04:33] It's too narrow. [minute C 04:36] I started backing up so I didn't have any contact with her. [minute C 04:35] But she slammed me three times in the chest with that paper in her hand. [minute C 04:38] I've got witnesses to that. [minute C 04:39] Hmm, then we called the police and they, they made a complaint. [minute C 04:42] But the harassment and the stalking didn't ---

[minute C 04:46] **B.J. Burns:** (interposing) [] Is that still pending?

[minute C 04:47] **Dinah Gail Steele:** Yes, ma'am.

[minute C 04:48] **B.J. Burns:** What's that still pending?

[minute C 04:55] **Dinah Gail Steele:** Simple assaulting.

[minute C 04:56] **B.J. Burns:** And that happened in September?

[minute C 04:55] **Dinah Gail Steele:** September 11th.

[minute C 04:56] **B.J. Burns:** I'm assuming that means there's been

<http://sdrv.ms/10KMx41> [minute D 00:00] **B.J. Burns:** she's requested a jury trial. Correct?

[minute D 00:04] **B.J. Burns:** And what is your bond on that?

[minute D 00:06] **Dr. Assa'ad-Faltas:** There was no bond

[minute D 00:08] **B.J. Burns:** It was summoned back to court?

[minute D 00:10] **Dr. Assa'ad-Faltas:** I'm sorry, ---

[minute D 00:10] **B.J. Burns:** (interposing) Do you know, Mr. Briggs, if she was summoned back to court?

[minute D 00:11] **Orin G. Briggs:** I was not involved in that aspect but if she says that she didn't; if

she said it was a PR bond, it would be, Your Honor. She wouldn't fib about that.

[minute D 00:22] **Dr. Assa'ad-Faltas:** May I say something, Your Honor?

[minute D 00:24] **B.J. Burns:** I just want to know that one thing, what was, what is your bond?

[minute D 00:27] **Dr. Assa'ad-Faltas:** On a courtesy summons there is none because a courtesy summons ---

[minute D 00:30] **B.J. Burns:** (interposing) All right. That's all I need to know.

[minute D 00:32] **Dr. Assa'ad-Faltas:** There was no bond

[minute D 00:33] **B.J. Burns:** All right. Got it.

[minute D 00:35] **Dinah Gail Steele:** We now have a total of four restraining orders against her, Your Honor: myself, my husband, and Teresa Ingram's, and Charlene Crouch. [minute D 00:46] Hmm, if we can at least, these things have escalated to assaults and, hmm, you know, I mean, it's, it's just like continuously getting worse. [minute D 00:56] And we, we are fearful.

[minute D 00:58] **B.J. Burns:** All right.

[minute D 00:59] **Dinah Gail Steele:** We're very fearful. **What will be the next step?**

[minute D 01:02] **B.J. Burns:** All right. Have you been informed of when, hmm, have you gotten a letter yet about the jury trial on the simple assault?

[minute D 01:09] **Dinah Gail Steele:** No, Your Honor.

[minute D 01:10] **B.J. Burns:** When it's coming up, were you at the bond setting for that?

[minute D 01:12] **Dinah Gail Steele:** Hmm. There was none. They didn't set up a bond for her on that.

On 17 December 2009, Steele so addressed SC Circuit Judge James:

[22-25] **The Court:** All right. Ms. Steele, you're an alleged victim in this case. I'm going to allow you to speak, as the law permits. Ms. Faltas, I want you to hear all this because this is part of the proceeding.

[page 47, line 1] **Dr. Faltas:** May I just---

[2] **The Court:** No, ma'am, you may not.

[3-6] **Dr. Faltas:** ---note an objection that none of this is sworn? None of this is sworn, and I object to things being said and accepted by the Court that are not under oath and especially by Investigator Blanton---

[7] **The Court:** Your exception is noted.

[8-9] **Dr. Faltas:** ---that are not even in her personal knowledge.

[10] **The Court:** Your exception is noted.

[11] **Dr. Faltas:** She has not witnessed---

[12] **Officer in the courtroom:** Ma'am.

[13-14] **The Court:** Your exception is noted. All right. Thank you. Yes, ma'am?

[15-17] **Ms. Steele:** Your Honor, Ms. Faltas was evicted from my apartment for harassment. That was the reason why she was evicted. The laws allowed her---

[18] **The Court:** She's already been evicted?

[19-21] **Ms. Steele:** She has been evicted, but the law is allowing her to stay there because she is -- her -- the decision of the court is being appealed.

[22] **The Court:** All right.

[23 - page 48, line 25] **Ms. Steele:** [23 - page 48, line 5] She filed an appeal. So that's why she's been allowed to stay here. But during this time she just picked up the harassment. I mean, she is unlawfully detaining these renters. Where these people are leaving early in the morning, she's getting -- they're getting into their cars. She's pulling her vehicle directly behind their vehicle which they cannot leave. She will not move her vehicle. [6-11] So you can see they're looking in their rear-view mirror. As they're finally getting out of their car, she's still not moving. She's taking photographs of their vehicles, their tag numbers, anybody else that's in the car. Those -- the people that are getting out of the car -- you can see how quickly this would escalate. [12-16] We've got four restraining orders right now against this woman. Two are from tenants: myself and my husband. I mean, the harassment has just been horrendous. Every time we go over

there, she calls the police on us, whether or not we're cutting the grass or doing any kind of maintenance. [17-25] The maintenance people that we have hired to go over there have been harassed by this -- the last person was an electrician about this particular cord that she's referring to. She made the complaint. We hired the electrician to fix it. She harassed this man while we stood out there from 10 in the morning until 1:30 in the afternoon until he completed it, and I know she took at least 50 to a hundred photographs of this man, you know, doing his work, just nonstop harassment.

[page 49, line 1] **The Court:** All right.

[2-6] **Ms. Steele:** *The police are there all the time, sometimes as many as three times a day. And since she has the order for her not to come back to the apartment, it's like somebody cut the lights out. We don't have any problems. It is peaceful.*

[7-10] **The Court:** All right. All right. Ms. Faltas, I'll give you some time to get your things out of your apartment. Your eviction decision, you're appealing that? Is that correct?

[11-17] **Dr. Faltas:** And it was not based on harassment, Your Honor. Yes, Your Honor, it has been appealed. The appeal stays it. I don't think -- what has happened is that my position was that they gave the eviction notice in bad faith. There was a jury trial convened. The plaintiff -- they took it two days and a half to present her case. I was not allowed to put a defense at all, at all.

[18-19] **The Court:** All right. All right. My question, ma'am, you've answered it. You've appealed that decision.

[20] **Dr. Faltas:** Yes, Your Honor.

[21] **The Court:** Okay.

[22-24] **Dr. Faltas:** And I want again to put an exception to the Court entertaining unsworn testimony that I'm not allowed to Cross-examine. This is what happened at the---

On 29 December 2009, Steele filled out this form, which Dr. Assa'ad-Faltas saw for the first time, but was never allowed to copy, on 12 November 2010. She read it into the record:

1:44:56 to 1:47:58, Marie: There is a file called "Dinah Steele Mason Statement and Report." There is a fax dated 10 slash 08 slash 2009 at 15:18. It has page 6-8 to Gwedolynn Bouie from Dinah Steele. I do not have that. I need a copy of it. Another titled from Dinah Steele to Lynn Matthews. I need that. There is a "South Carolina Victim Impact Statement" that is filled by Dinah Steele and claims that Larry Mason is her representative and husband; and her e-mail address is NobleBlond@BellSouth.net. She lists four telephone numbers: 800, 803-600-5953, 803-787-4454; and again 803-600-5953 and 803-331-1000. It is signed apparently before Francis Reynolds on the front and back. It says: "Did you suffer any physical injury?" And the answer is "NO." Then "Have you noticed any change in you life style since this happened? This may include personal habits, close relationships, the amount of tension and nervousness or you ability to work. Please describe." It says "weight loss" comma "mental and emotional strain" and it's signed on 12/21/2009. I do need a copy of that. "Did you receive any mental health counseling as a result of this crime?" The answer is "NO." And it continues: "If not, are you interested in receiving counseling?" It is left blank. **I definitely need a copy of this front and back.**

1:47:58 to 1:52:10: Sounds

1:52:10 to 1:52:12: Marie: What happened? It stopped.

1:52:12 to 1:52:33: Sounds

1:52:33 to 1:52:37: April: the secretary and she said she didn't know.

1:52:37 to 1:52:52: Marie: Uh. Each. And then I don't know what happened to the recording; but, first I need to get some answer as to whether I can stay after you leave.

1:52:52 to 1:52:57: Officer: You can't. Not this time

On 7 January 2010, this was reported to SC Circuit Judge James:

[21 – page 14, line 1] Dr. Faltas: Yes, Your Honor, if the Court agrees. Yes, absolutely and they can be supervised by anyone the Court assigns so the Court will know that I'm not committing any of those offenses until the trial or until the charges are dismissed based on whatever reason.

[2] The Court: All right, Ms. Weiss?

[3] Dr. Faltas: Thank you, Your Honor.

[4-10] Ms. Weiss: Yes, Your Honor. May it please the Court. Just to go over kind of a procedural background very quickly. Well, first of all, I want to let you know that present in the courtroom today are Larry Mason and Teresa Ingram. Teresa Ingram is one of the named victims. Larry Mason is the husband of one of the other victims.

[11] The Court: Are they on the back row?

[12-16] Ms. Weiss: They are on the back row Your Honor with my Victim Advocate and the investigator in this case, Investigator Blanton from the City of Columbia in case you need to hear from her. And the other victim Donna Steele Mason had some difficulties yesterday and ...

[17] The Court: With who?

[18-20] Ms. Weiss: With some stress and had to seek medical attention and was unable to be here today, but her husband is here on her behalf.

[21-22] The Court: Is that the lady who spoke at the last hearing?

[23 – page 16, line 4] Ms. Weiss: Yes, Your Honor. Your Honor the, I know we're not here for these things, but I just want to point them out. The Defendant has filed a Habeas Corpus petition with the Circuit Court, I've answered that, so that is clearly not before you today on issues on that. The motion to reconsider, I mean the motion, the preliminary injunction order by Judge Lee that the Defendant is ask you to consider is currently under reconsideration filed by Andy Delaney, the attorney for the Defendants, the Masons in that case. So that's currently under reconsideration. After being filed by Andy Delaney on that case. I just want the Court to be aware of that. We did have a preliminary yesterday after approximately two hours of that. Both charges were held over to General Sessions. As far as Your Honor's order for the two three hour periods, Sgt. Drouse [sic] of the City of Columbia did speak with Dr. Faltas, set up two three hour periods. One was yesterday from nine to twelve. The other was prior to Christmas, was from about eleven to two, prior to the holidays. Prior to us returning to Court, Dr. Faltas was given those two three hour periods. It's my understanding she did come an hour late for the first one, but was given time to go in there. And then for the second one yesterday, was also thirty minutes late, but she did get those two three hour periods. She did take things from her apartment, she did not come with anything other than her vehicle and herself to do that. But she was given access with law enforcement supervision to get whatever she needed from her apartment. So, that has been provided to her.

[5-12] The Court: Here's what she's asking for, what I've been able to glean from her filing, she was evicted because of some perceived harassment. That is true. Granted that Order. She appealed that, so she still has possessory rights. Then she gets arrested for harassment in the first degree and one of the conditions of the bond is that she can't go back to the apartment at all without a police escort.

[13] Ms. Weiss: Yes, Your Honor.

[page 23, line 1] The Court: Let me ask you this question. [2] Dr. Faltas: Okay. [3-12] The Court: First of all, we're almost finished and I'm going to stop okay. We've got about one more minute. I'm going to ask you this question. I'm not inclined to lift this restriction. If I did, would you take the position that you would have the right to do anything but park in your space and go in your apartment, sleep, eat and come back out and go to work or wherever you go the next day. Do you think you would have the right to take photographs, talk to anybody else on the premises or do anything?

[13-23] Dr. Faltas: No, because there is a restraining order in place from the Magistrate. That's one thing, the other thing is, **she says that Ms. Steele had to be treated yesterday for some kind of stress. Well I've been away for forty days now. So**

if she's having stress, it's because of something else. So my putting, their putting me away didn't help whatever claim Ms. Steele has of stress. If she suddenly, after my being forty days away from my apartment, she's suddenly being yesterday treated for stress, then she has other reasons of stress and ...

[24] The Court: Thank you.

[25] Dr. Faltas: Thank you.

[page 24, lines 1-3] The Court: All right that will conclude --- Do the victim's [sic] want to say anything? Alleged victims and that will be Mr. Mason did speak at the last time.

[4-7] Ms. Weiss: I believe Ms. Ingram would like to address the Court and I apologize. I don't know court room decorum as to where she should be. I just need to know where she needed to be in this courtroom.

[8-9] The Court: She can come on up. We don't have that restriction here.

[10-12] Dr. Faltas: Your Honor, may I for the record, just interpose an objection that she needs to be sworn if she ...

[13] The Court: No, she's not going to be sworn.

[14] Dr. Faltas: All right, then I ...

[15-16] The Court: And your objection is noted for the record.

[17] Dr. Faltas: Do I get to cross examine her?

[18-19] The Court: No ma'am, you do not. All right, yes ma'am, your name?

[20] Ms. Ingram: I'm Teresa Ingram.

[21] The Court: All right and your occupation?

[22-24] Ms. Ingram: I'm with the Mentor Network. It's called the Direct Service Employers. I guess that would be like a residential specialist.

[25] The Court: Do you live in this apartment complex?

[page 25, line 1] Ms. Ingram: Yes sir.

[2-3] The Court: All right, tell me what you want to tell me.

[4-6] Ms. Ingram: Well, she has constantly harassed myself and the other tenants that's there and we're actually in two different buildings and ----

[7] The Court: What does she do?

[8] Ms. Ingram: The constant pictures and name calling.

[9] The Court: What does she call you?

[10-19] Ms. Ingram: Prostitute, everybody in Columbia, from the Sheriff's Department to the Commissioner of HUD, the Fire Department, everyone in Columbia has been dispatched to that particular address, comes with the intentions of meeting a prostitute. She said that in court several times, to the point where I had to personally ask the Judge or Ms. Steele personally asked the Judge to not allow her to continuously say that. She blocks my entrance and exits from leaving the apartment.

[20] The Court: How does she do that?

[21] Ms. Ingram: With her car.

[22] The Court: Okay.

[23 - page 26, line 13] Ms. Ingram: With her car. She takes pictures of myself and my guests, kids, sometimes I have my girlfriends little girl. She comes out with a camera and scares the kids.

They're crying and trying to run from her. My parents that comes, and I know that she knows that these are my parents, my uncle, well my father and two uncles came and she's outside like blocking them, snapping pictures, telling me that my father and my uncle are my clients. So and since she has been gone, it has been peaceful and I would not like to have her back. She has stalk me, she has physically assaulted me and she ... a restraining order has been issued and as a matter of fact, this morning when she noticed that I came to court, she flipped me the bird. So the harassment never stops.

[13] The Court: All right, your name please ma'am?

[14-15] Ms. Reynolds: I'm Francis Reynolds, I'm the Victim Advocate.

[16-17] The Court: All right, okay, anything you want to say ma'am?

[18] Ms. Reynolds: No, sir.

[19-20] The Court: Okay, I'll give you one minute for the last word.

[21-25] Dr. Faltas: Your Honor, I have pictures which have been referenced in Judge Lee's order of Ms. Ingram and her guests pointing fingers, doing this and in fact it was Ms. Ingram who did that on the way to court to me. I do not ...

[page 27, line 1] The Court: Did you call her a prostitute?

[2] Dr. Faltas: No sir, I ...

[3-4] The Court: All right. Did you flip her the bird this morning?

[5-13] Dr. Faltas: No, Your Honor, I never did, ever. In fact, I have pictures of her and one of her guests doing that and these are the ones Judge Lee referenced in addition. That she says I'm blocking, it shows her with a wire coat hanger attaching a car to a truck in a non safe and illegal way and then pulling the other exit. There are two wide exits. I couldn't have possibly done that and these pictures were presented to the Magistrate.

[14-17] The Court: All right, that will conclude the hearing this morning. All right, thank you. I will advise you of my ruling. And Ma'am, Dr. Faltas, your fax number is disabled?

Clearly, Steele must have perjured herself several times because her own testimony is self-contradictory. Further, if Steele's "stress" were in any way related to Dr. Assa'ad-Faltas, Prosecutor Weiss in 2010, and after her CACA Fernandez in 2010-2013 had a duty to produce Steele's medical reports in discovery.

Wherefore, this motion must be granted because, if courts become game parlors for perjury, they are no courts at all.

Respectfully submitted on Monday, 23 December 2013 with a file-stamped copy served by postage-prepaid first-class U.S. mail to Columbia Assistant City Attorney ("CACA") David Fernandez, another hand-delivered to CMC for transmittal to Karl L. Solomon, and still a third hand-delivered to SC's Attorney General's, all God so willing.

Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant *pro se*
As permitted by the Honorable Judge Lee's 13 December 2013 open-court ORDER
P.O. Box 9115, Columbia, SC 29290
Cell Phone: (330) 232 - 4164
e-mail: Marie_Faltas@hotmail.com and MarieAssaadFaltas@GMail.com

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

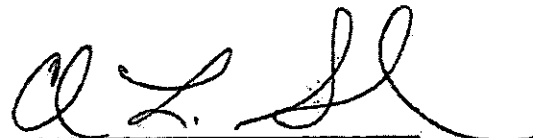
IN THE MUNICIPAL COURT
OF THE CITY OF COLUMBIA

In the Matter of Dr. Marie Assa'ad-Faltas

FINAL STATUS UPDATE

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, I previously provide status updates on April 7, 2013, May 14, 2013, June 17, 2013 and July 22, 2013. As of July 25, 2013 all cases pending involving Dr. Faltas have been concluded. The following is a status update on the final matter:

<u>Defendant/Charge/Courtesy Summons No.:</u>	<u>Status/Disposition</u>	<u>Date</u>
1. Therese Ingram Disorderly Conduct L08175	Jury Trial/Guilty \$470.00 or 30 Days	7/25/13



Carl L. Solomon

Columbia, South Carolina

July 25, 2013

Cc: The Honorable James Barber
The Honorable Dana Turner
Dr. Maria Assa'ad Faltas

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE MUNICIPAL COURT
 OF THE CITY OF COLUMBIA

RECEIVED

In The Matter of Dr. Marie Assa'ad-Faltas

MAY 14 2013

SECOND STATUS UPDATE

S.C. SUPREME COURT

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, I provided a status of all pending cases in the Municipal Court from March 7, 2013 and a schedule to resolve said matters on April 7, 2013. A copy of which is attached as Exhibit A hereto. The following is a status update of all pending cases since April 7, 2013:

City of Columbia v. Dr. Faltas

<u>Charge/Hearing</u>	<u>Status/Disposition</u>	<u>Date</u>
1. Unlawful Acts 1 st Offence Ticket No.: 201310	Jury Trial/Guilty	4/11/13
2. Trespassing Ticket No.: L066954	Dismissed	4/24/13
3. Disorderly Conduct Ticket No.: 38803FK	Jury Trial Waived/Bench Trial	4/24/13
4. Simple Assault Courtesy Summons No.: L066971	Jury Trial Waived/Bench Trial	4/25/13
5. Sentencing Hearing	Unlawful Acts 1 st Offence (30 Days) Notice of Appeal Filed Appeal Bond Granted	4/25/13
	Simple Assault (20 Days) Notice of Appeal Filed Appeal Bond Granted	4/25/13
	Contempt Finding/Vacated	

Other Matters

The cases in which Dr. Faltas is an alleged victim will be set for trial in early June of 2013 if the appointed prosecutor is available. These cases are listed on attachment A.

A handwritten signature in black ink, appearing to read 'C. L. Solomon', written over a horizontal line.

Carl L. Solomon

Columbia, South Carolina
May 14, 2013

Cc: The Honorable James Barber
The Honorable Dana D. Turner
Dr. Marie Assa'ad Faltas

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE MUNICIPAL COURT
	)	OF THE CITY OF COLUMBIA
COUNTY OF RICHLAND	)	

In the Matter of Dr. Marie Assa'ad-Faltas

STATUS UPDATE

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, the following is a status update of all cases pending in the City of Columbia Municipal Court from March 7, 2013 to date and the schedule to resolve said matters:

City of Columbia v. Dr. Faltas

<u>Charge/Hearing</u>	<u>Status/Disposition</u>	<u>Date</u>
1. Status Conference on all charges.	Held. Cases for charges against Dr. Faltas set for trial. City Attorney ordered to refer cases where Dr. Faltas is a listed victim to another prosecuting agency.	3/12/13
2. Trespassing Ticket No.: L066954	Jury Trial/Not Guilty	3/21/13
3. Unlawful Acts 1 st Offense Ticket No.: 20131	Jury Trial Scheduled	4/11/13
4. Trespassing Ticket No.: 37025FK Disorderly Conduct Ticket No.: 38803FK	Jury Trial Scheduled	4/24/13
5. Simple Assault Courtesy Summons No.: L066971	Jury Trial Scheduled	4/25/13

Other Matters

The following cases have Dr. Faltas listed as an alleged victim. These matters will be prosecuted by Lexington County Assistant Solicitor Ricardo Bunge in the City of Columbia Municipal Court. These matters will be set for trial after May 6, 2013.

<u>Warrant/Summons</u>	<u>Charge</u>	<u>Defendant</u>
1. Courtesy Summons No.: L066971	Simple Assault	Larry Mason
2. Courtesy Summons No.: 2012C4021600269	Disorderly Conduct	Anthony Presley
3. Courtesy Summons No.: 2012C4021600270	Harassment 2 nd Degree	Anthony Presley
4. Courtesy Summons No.: 2012C4021600271	Trespassing	Anthony Presley



Carl L. Solomon
Municipal Judge – City of Columbia

Columbia, South Carolina
April 9, 2013

Cc: The Honorable James Barber
The Honorable Dana D. Turner
Dr. Marie Assa'ad-Faltas

[24 - page 113, line 6] **Defendant Faltas:** It's related to the new trial motion that that pretext that things that hold water cannot be, here is a permanent structure that's two feet deep that has no drainage and that holds two feet of water. There is no water in any of those pictures. What there is is grass that was freshly cut yesterday which shows that I'm maintaining it according to the rules established.

[6] **Mr. Briggs:** Go ahead and finish, Marie.

[7-9] **Defendant Faltas:** And on the other side there is also if you see the other property it's got a lot of containers that are -- all right. I've said the new trial motion and -- I'm sorry.

[10-11] **Mr. Briggs:** Have you got some more down here or do you just need to make your summary?

[12-13] **Defendant Faltas:** That's -- I finished, Your Honor. I'm sorry, I didn't mean to take longer.

[14-16] **The Court:** [14] Not a problem. Thank you for your time. [15-16] Officer Hampe, can I get you to stand up, sir. Would you raise your right hand.

[17-18] **T. R. Hampe, after being duly sworn by the Court, testifies as follows:**

[19] **Questions by The Court:**

[20-24] **Q.** Officer Hampe, one issue that has been raised and one thing that has asked of me to do previously was to question you as to what you said to Judge Bogan when he selected his jury -- when jury selection was going on. Can you please tell me what you said to Judge Bogan?

[25 - page 114, line 6] **A.** Yes, sir. I told him, informed him that, if he was unaware, that a couple of years ago that Ms. Faltas came in and that she kept the jury panel list with all the jurors names and addresses on it *and I said I believe she was in contempt of court and I believe she was incarcerated for that.* I didn't say she was, I said I believe she was, Your Honor.

[6] **Q.** Thank you very much. Did you say anything else?

[7] **A.** No, sir.

[8] **The Court:** Thank you very much.

[9-10] **Defendant Faltas:** Your Honor, may I ask that the Court ask him one question?

[11-12] **The Court:** You may ask that I ask him, I'm not sure that I will.

[13-14] **Defendant Faltas:** Okay. May I ask if he came on his own accord or if someone told him to.

[15] **Q.** (by the Court) Did anybody tell you to do that?

[16] **A.** No, sir.

[17] **The Court:** Thank you very much.

[18-19] **Defendant Faltas:** Well, Your Honor, obviously that information was false because I provided Your Honor

[20 - page 115, line 22] **The Court:** We've been through it. I wanted to make sure I made a full record. I have heard the motion for a new trial. It is denied. Now we are down to the point of sentencing. Mr. Fernandez, I think I commended you the last time you made a suspended sentence motion and that you were trying to come up with a conclusion to resolve the case or resolve the issue at the property as opposed to I think you even at that time said I'm not trying to put her in jail. Mr. Briggs, I commend you because you have sent e-mails and solicited people to come up with a solution on correcting the problem and getting a shed and getting the stuff in there. I'm

not here to sentence Mr. Fernandez or Mr. Briggs. I'm here about Dr. Faltas. And

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

the stuff is not what they say it is to be, and if you are going to tell me to do something then I need even greater specificity on what that means. Saying grass and dirt is not enough, I need to know exactly what they want me to do. For the

reasons of my concern about my ability to properly draft a suspended sentence that would be clear enough so that we wouldn't have misunderstandings and alleged ambiguities, the Court is not going to do a suspended sentence. The Court is going to do the following. I am going to impose a sentence of thirty days. I am going to give the defendant the opportunity at the conclusion of what else takes place here to file a notice of appeal and I will immediately have a hearing on an appellate bond so that all that can be addressed before we leave today and assume bond posted Dr. Faltas does not have to start any of her sentence until the appeal is concluded. And if she's right on one or more of the issues that she's raised then that will take care of itself at that time.

[23] Defendant Faltas: Thank you.

[24-25] The Court: Second issue is that of the contempt. Have y'all even gotten the CD yet?

[page 116, lines 1-4] Mr. Briggs: Your Honor, I was called yesterday afternoon and told that it was here by Ms. Hawkins and she said she would leave it downstairs where you pay fines. I just didn't have a chance to go by there.

[5-15] The Court: [5-7] For the sake of not coming back solely, I am going to relieve the contempt finding and just end that issue. I am not going to get into whether you should have had the CD by now. [8-9] We are just going to pull it and that will keep us from having to get you the CD and then come back and argue it. [10-13] Now let's move to -- to the extent necessary because it was a motion made previously at some other point in these proceedings, I don't find anything to be ethically a violation that requires any reporting by the Court. [14-15] Now let's move to the simple assault. Mr. Fernandez, Mr. Lupton, whoever needs to go first.

[16-19] Mr. Fernandez: Yes, Your Honor, I think it's appropriate for the Court to hear from the victim. I'll let her address the Court and, as I said before, I am perfectly happy with the Court's best discretion for sentencing.

[20] The Court: Yes, ma'am, Ms. Steele.

[21 -- page 117, line 12] Ms. Steele: [21 -- page 117, line 7] As I've testified I've been harassed, assaulted and this has been going on for basically years because the trial kept being delayed. I need it to stop and when I came here today knowing that this was the 24th -- 25th that this was going to be the end of it. However it played out, this was going to be the end, I didn't have to deal with this anymore. I don't feel like that. I don't feel like this is ever going to stop now. What she's been saying in court and I'm not an attorney, I'm not a judge, **but what I heard her say was if I file a lawsuit against the city or the state then they can't charge me with anything**, that I'm above the law. That's what I heard. **And we are a nation of laws** and the laws do apply to her but she somehow does not feel that way. I just want to be left alone. [8-10] And just as she said, when I was in court yesterday where I was supposed to be and she was not here and after court I went to mow my grass and she brings that up like something happened over there. [11-12] All I have to do is show up on my property and there's some wild conspiracy going on. It needs to stop. I want some relief. Thank you.

[13] The Court: Thank you, ma'am. Mr. Lupton.

[14-15] Defendant Faltas: Your Honor, may I speak for myself on that?

[16] Mr. Briggs: You wait.

[17-19] The Court: I'm going to let you speak for yourself. You have got to decide whether that's in your best interest or not but I'll let you do it. Mr. Lupton.

[20-25] Mr. Lupton: Your Honor, first of all, I don't think it was explicitly stated but just for the sake of preserving the record **we'll ask that the - her legal arguments concerning jurisdiction of the Court and all that be preserved as part of the record in this case.**

[25 -- page 118, line 1] The Court: So preserved for the simple assault case as well and so denied. Consistent with the last ruling.

[2 -- page 119, line 2] Mr. Lupton: Thank you, Your Honor. With regards to sentencing, Your Honor, in listening to the trial, listening to everything that has occurred in this case and the various other cases, including Ms. Steele's comments to the Court, what I see is the unwanted touching in this situation that led to the conviction produced no physical injury. I understand her anxiety, the breakdown she described to

the Court that occurred later, her frustration, all of that stuff, but I would note for the Court that even what she said today relates not to the specific instance of the assault but to her frustration over everything. The injury for the touching produced no physical injury. The emotional scars that she's described are from charges that have been to court, she's been not convicted for various reasons. It's matters outside this specific case and I'd ask the Court not to impose a thirty-day active jail sentence based upon circumstances that were not directly related to the assault or the severity of the assault. The assault was the serving a paper. Having said that, I am also sympathetic with her desire to have no further contact. I would ask the Court to consider that whatever sentence the Court imposes that the Court suspend that sentence upon no contact, direct or indirect, with the victim or her husband, including going upon the property, either 300 or 304 Byron Street here in Columbia. I believe that that is -- the Court can give not coming within a hundred feet of them, however the Court deems appropriate, but I think that that would give the opportunity for some -- what she's asked for, the not being bothered. Putting Dr. Faltas ---

[3] **Defendant Faltas:** **Enough.**

[4] **Mr. Briggs:** Wait a minute. He's going to give you chance.

[5-6] **Defendant Faltas:** **Mr. Lupton, this is not serving my interests at all. Okay?**

[7] **The Court:** Thank you, Mr. Lupton!

[8] **Defendant Faltas:** All right.

[9] **The Court:** Do you have any further argument.

[10-13] **Mr. Lupton:** [10-11] Your Honor, I would say that putting her in jail is going to give at most twenty-one days of relief if it works. [12-13] Having that sentence suspended will give her a greater period of relief and if it doesn't work then the sentence can be imposed.

[14] **The Court:** Thank you, Mr. Lupton.

[15] **Mr. Lupton:** Thank you, Your Honor.

[16] **The Court:** Yes, ma'am.

[17-18] **Defendant Faltas:** Your Honor, I'm sorry. Mr. Lupton had specifically told me that because he's former friends of the solicitor's office prosecuted me and, first of all, just --

[20] **Mr. Briggs:** Do what you need to.

[21] **Defendant Faltas:** Don't touch me.

[22-23] **Mr. Briggs:** Do what you need to. Do what you need to and don't go off the subject.

[24 -- page 122, line 13] **Defendant Faltas:** [24 -- page 120, line 14] Don't touch me, okay? When he says not within a hundred feet from her, that's my land. My land which they want me to move things from which I was yesterday there cutting the grass, its two feet from her property. Hundred feet would get somebody else's land. There has never been any allegation of any other assault in the four years.

There have been two trespass charges of which I was acquitted. There has been one disorderly conduct of which I was acquitted. What's most important all these harassment lies I was arrested on December 2nd, 2009. There was a five day jury trial before the Honorable Clifton Newman. All these lies were said. I was not given discovery. In fact, she sat here and said she's still taking medication. When I wanted to -- and I testified to that. What Your Honor needs to know is that all this harassment has been brought. I was arrested. I served three days. I was made to be mentally examined. There was a trial where the entire might of the state had all the time to give its evidence.

[115] They listed thirty-six witnesses and the jury didn't believe any of it. [116-20] So they cannot -- it's now dismissed with prejudice. They cannot come back just because Mr. Lupton doesn't like me and he keeps on saying I sympathize with her. *He shouldn't be sympathizing with her. He should be sympathizing with me* and that's why I've been saying from the beginning I don't want him. And once again this is my (inaudible [21-22] But what was I convicted of? Was I convicted of harassment? **No, I was acquitted of harassment.** She says she wants this to stop. [23 -- page 121, line 1] What does she want to stop? Here is Mr. Fernandez saying I have to go to my land every day and make sure there is no water. And then Mr. Lupton says she has to be a hundred feet

from her. Well, as I said my land is two feet from her and that's the issue is all of this. ^[12-14] What you need to look at, I never had an assault conviction before. There was never an assault conviction after that and this harassment that keeps on being brought is *res judicata* and one thing that Mr. Lupton is very ineffective and I would like if Your Honor to order that. In the two banker's boxes I begged him because I saw them. There is this sheet where she signed the victim's in December, 2009, after I was arrested and it said do you have psychological problems. She said no. Do you need medical attention? She said no. She said I'm still taking medication. I asked Mr. Lupton ask her what medication, who prescribed it. The other day in the first trial she said, no, she's not biased against me because I'm an immigrant and she claims she's an immigrant. I begged Mr. Lupton to get the city to subpoena her. These are objective things. ^[15 - page 122, line 13] These are lies. But even as (inaudible) it's your choice to believe them. All I have been convicted of is a simple assault that I never had happen before. They do not allege any assault after that. In fact, I am the one who is alleging they came and assaulted me. So in the four years you need to take into account that this is a first offense, never repeated. The harassment has been tried and I am acquitted of it. They cannot just keep on bringing on me more restrictions to my liberty, more damages, because after they have lost in court they just get here to see it and what is supposed to be my lawyer lets them. *Not only lets them, he stands here and says I'm sympathetic to her. This is not only ineffective assistance, this is counsel working against me.* And I specifically want and I want to ask him to please look at that paper because it's in this court's records and she lied to Your Honor because she signed that victim statement with the solicitor's office and then they remanded it here and it's in there. Did you suffer psychological effects? No. So this is fraud upon the Court. But if Your Honor make it so basic, so basic, it's a simple assault. I have no record of assault, no record of any crime for that matter. There is no allegation that it ever happened again. She says she wants to be left alone. Well, there is no allegation that I did anything to her after that date. Other allegations before and after that date have been tried *and I've been acquitted of them.* So she cannot win for losing just because my counsel hates me.

^[14] The Court: Mr. Fernandez.

^[15 - page 122, line 5] Mr. Fernandez: Your Honor, I feel compelled (inaudible) I haven't heard and I'm going to give Mr. Lupton an opportunity to speak to the Court, too, because I know he's like to. The defendant's unapologetic. She's defiant. I heard that and I'm convinced that the problems aren't going to go away for Ms. Steele. She's very consumed with the lives of others as Your Honor can likely tell. My recommendation is -- I'm fine with what the Court does -- but, you know, it's troubling. The behavior is troubling and I don't know what the answer is quite frankly, Your Honor, and I don't know what an appropriate message is. I can certainly say, not that this is relevant to the sentencing, but her counsel I think has been extraordinarily effective quite frankly. *And I commend him on his representation, that is Mr. Lupton, but I know he wants to maybe clarify some things.* But I'm troubled by her speech here. She seems to have -- doesn't really grasp what this is all about and doesn't seem to have taken any kind of responsibility here.

^[16] The Court: Yes, sir.

^[17 - page 124, line 13] Mr. Lupton: ^[17-17] Your Honor, I feel compelled to address some of the issues for the record. I'd like to note that the questions about documents that are in a banker's box. I do not believe -- I did not ask for any of that to be retrieved and brought down. I do not believe it's relevant. The victim on the stand admitted under cross examination, I impeached her with the fact her testimony about the still on medication from this, that she had not gone until at least January of 2010. So a December, 2009, form would not be relevant. She admitted under oath that at that point she had not sought any treatment. I did not do that. I did not see any relevance to it. I stand by that. The Court was aware of that information. ^[18-24] With regards to the accusations that any personal feelings I have towards Dr. Faltas have caused me to act against her making me ineffective because I was acting against her

best interests trying to get her convicted, those are allegations that she's raised in multiple e-mails that I've been ordered by various judges to see her convicted **and bring up and re-hash and reopen the harassment allegations**. I would categorically deny any of that. [25 - page 124, line 13] I was not told by anyone to come in here and try and sabotage her cases. Had I been told by anyone, any judicial authority to do that as an officer of the Court I would have been compelled to report that and I would have certainly not done so. I have at all times regardless of any feelings I have about Dr. Faltas, or any other client, I have done my duty as an attorney diligently and to the best of my ability. I have in this case -- at this stage I don't feel like I can go into anything even though a lot of this has been broadcast by Dr. Faltas through various parties by e-mail but I will just say that I have done my best. And I would say that is reflected by the fact that out of the four charges that I took to trial for her, I got successful conclusions on three of them. And as far as the harassment information I had gotten that excluded from the trial in this case. That information was --

[14-16] **Defendant Faltas:** [14] **So why does it come in in sentencing?** [15-16] That's a matter of public record. **The harassment was resolved in my favor.**

[17] **The Court:** Thank you, Mr. Lupton.

[18-25] **Mr. Lupton:** Your Honor, I would like to conclude by saying that it was the defendant's decision to go into all those prior allegations. In fact, she waived jury trial because, as she put on the record so I don't feel this is a violation of attorney-client privilege, she explained that she wanted to go into all that and because a jury trial would have barred that that she voluntarily waived that right to voluntarily go into all harassment allegations. So to say that I'm --

[page 125, lines 1-2] **Defendant Faltas:** No, Mr. Lupton, that's not what happened.

[3 - page 126, line 1] **The Court:** We are going to end this right now. Thank you, Mr. Lupton. Dr. Faltas, I was once told when I was a young man the proof is I the puddin'. I don't know said what to Mr. Lupton and when. I know that he has represented you zealously and on yesterday when you didn't show he went out of his way to try to find reasons that you weren't here, including calling hospitals, *et cetera*, until he located where you were because he did not want the Court to take any action against you for not being here. He then represented you well. Even having charges read to the jury not to hold things against you -- I mean. I apologize. On the disorderly I tried that. Even --- we read it but then I ended up addressing it. I'm sorry. We did the first case bench trial. He made argument for there be a charge to go to the jury on the second one but then he made a motion and got the charge kicked out so the second jury never even got to see the charge. So if he's against you, he's hiding it pretty good so I'm just going to leave it at that. That's what I observed. I don't know what you know, I don't know what he knows. I do know that he's been effective and I do know that he persuaded me that you were not guilty of disorderly conduct on legal grounds and I agreed with it and found you not guilty and he got the other charge dismissed because of lack of issue on the indictment, things he did not have to raise and you would have not even seen it if he hadn't because you weren't here. But that's that. Mr. Briggs, did you have something you'd like to say before you start?

[2-13] **Mr. Briggs:** [2] Let me ask her a question and then I'll do it. [3] (pause) [4-13] **Mr. Briggs:** Your Honor, if I could just three sentences as a friend of the Court. Your Honor, this whole thing, all of this discussion between Dr. Faltas and the city started with the allegations of Mason and his wife about the harassment. And I looked at all the pictures, I heard all the tape recordings although I did not represent her in there and, Your Honor, if the paparazzi can do what they can do, she can defend herself from somebody who is harassing her. To me those two harassment charges were the most heinous thing I've ever seen in forty-three years of law practice. Eventually they were dismissed.

[14] **Defendant Faltas:** They were resolved in my favor.

[15-17] **Mr. Briggs:** She won one of them in circuit court and then they were dismissed, Your Honor. It continues. It continues, this animosity here. And I don't know why (inaudible)--

[18-19] **Defendant Faltas:** It doesn't continue. I haven't done anything to them. I haven't done --

[20-24] **Mr. Briggs:** Shut up. Your Honor, I would ask this. the Court asked Mr. Hernandez when at any time during this time did Dr. Faltas do anything except defend herself when other people tried to harass her?

[24 – page 127, line 3] **The Court:** Mr. Fernandez is not a witness and I'm not going to ask it. And his name is Fernandez with an "f." All right. **I'm not a ware of the allegations of the harassment charge.** I wasn't involved in them, I haven't seen those pictures or videos or anything involving that case. I wasn't there.

[4-5] **Mr. Briggs:** But you can admit they were dismissed, Your Honor.

[6 – page 128, line 14] **The Court:** [6-14] She's told me and I accept it. I'm actually a little more concerned about whether or not she accepts any responsibility in some of her testimony during the trial, including and going as far as to say and providing the pictures of the side of the home and indicating that any of the witnesses interviewed by the police either were not witnesses and were flat lying or actually being coerced by the police as to make up lies to get a warrant taken out against her which I find to kind of be just not – it just doesn't sit right because the cops didn't then write a ticket. [15-21] And if they sat out there for three hours to talk people into a story so that they could have a right to prosecute her, they would have written a ticket. **You know, the lady says clearly where she was sitting and what she saw. Her testimony is actually less than the alleged victim which is common when you have two people from different perspectives and then Dr. Faltas says everybody is lying they went around to the back of the house. That's enough.** [22 – page 128, line 14] The answer is based on all that I have heard and based on all that has been argued in terms of the sentencing I am inclined not to follow the recommendation of Mr. Lupton. I am not going to put a hundred foot restriction on you, I'm not going to put any restrictions on you. I've said it several times. I am not convinced that if I did any suspended sentences that I would do anything other than create more issues than we solved. Accordingly there will be no suspended sentence. The sentence of the Court will be twenty days consecutive to the thirty days previously ordered. Now we've got issues regarding appeal. I previously advised you that I will allow you to apply for an appeal bond. I will allow both of you to argue appeal bond and I will rule on it. If you have a notice of appeal, we'll get it filed. If you do not, I will give you until five o'clock tomorrow to get it filed. I think, Mr. Briggs, you already had yours. Mr. Lupton began on one but because his trial was today he needs to put the basis in it and if you've got it to print out fine, but if you need time we'll let you go until five. Mr. Briggs, I'm happy to hear from you on appellate bond.

[15-17] **Mr. Briggs:** Your Honor, I'm going to give you another copy. I can't seem to find the one that was signed in blue ink but I signed this one a second time.

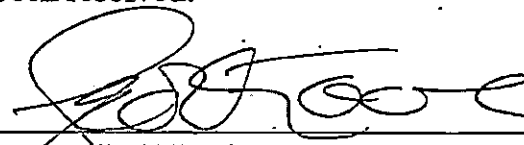
[18] **The Court:** Yes, sir.

The Supreme Court of South Carolina

In the Matter of Dr. Marie Assa'ad-Faltas.

ORDER

Under my authority as the administrative head of the South Carolina Unified Judicial System, I have issued previous orders regarding the handling of cases involving Marie Assa'ad Faltas by the courts of this state. It has come to my attention that Dr. Faltas has several matters pending in the Columbia Municipal Court and that the Honorable Carl L. Solomon is the only judge on that court who is not recused in matters in which Dr. Faltas is involved. Judge Solomon is hereby directed to schedule all pending matters involving Dr. Faltas for an immediate hearing, with no extensions of time to be granted except as reasonably necessary for Dr. Faltas' counsel to complete preparations or upon a showing of extraordinary circumstances. Judge Solomon shall see that these matters are brought to an expedient and final conclusion. To this end, Judge Solomon shall provide status reports to this office every thirty days from the date of this order until all pending litigation involving Dr. Faltas has been resolved.


JEAN HOEFER TOAL
CHIEF JUSTICE

Columbia, South Carolina
March 7, 2013

cc: The Honorable James R. Barber, III
The Honorable Carl L. Solomon
The Honorable Dana D. Turner
Dr. Marie Assa'ad-Faltas

Courtesy Summons

L - 066971 CSW

0926586

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

COLUMBIA

THE STATE

against

MARIE FALTAS

Address: 304 BYRON ROAD, 3

COLUMBIA, SC 29209

Phone: SSN:

Sex: F Race: W Height: 5-06 Weight: 170

DL State: DL #:

DOB: 04/04/1953

Offense: SIMPLE ASSAULT

Offense Code: ABC

Code/Ordinance Sec: 14-31

Courtesy Summons

RETURN

A copy of this Summons was delivered to
defendant
on

Signature of Court/Clerk/Enforcement Officer

RETURN SUMMONS TO:

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

COLUMBIA

Personally appeared before me the affiant

DINAH G STEELE

who

being duly sworn deposes and says that defendant

MARIE FALTAS

did within this county and state on or about (date of incident)

09/11/2009

at (location of incident) 300 BYRON ROAD, COLUMBIA, SC

violates the principal laws of the

State of South Carolina (or ordinance of

☐ County/☒ Municipality of

COLUMBIA

in the following particulars:

DESCRIPTION OF OFFENSE

SIMPLE ASSAULT

14-31

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

AFFIANT STATES THAT THE DEFENDANT WHILE AT 300 BYRON ROAD, COLUMBIA, SC APPROACHED HER AND PHYSICALLY ASSAULTED HER. THE DEFENDANT BECAME VERY HOSTILE AND VIOLENTLY PUSHED HER IN THE UPPER CHEST AREA WITH AN OPEN HAND THREE TIMES AGAINST THE CHEST, WHILE IN THE REAR OF THE RESIDENCE. AFFIANT STATES SHE WAS TRYING TO LEAVE THE LOCATION BUT THE DEF KEPT YELLING AT HER AND FOLLOWING HER. DEF IS KNOWN BY NAME AND SIGHT.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

COLUMBIA

Affiant's Address

1403 HAIGS CREEK DRIVE

ELGIN, SC 29045

Affiant's Telephone

803-600-5953

Courtesy Summons

YOU ARE SUMMONED TO APPEAR BEFORE THE COURT:

at [Place]

CITY OF COLUMBIA

on [Date]

MUNICIPAL COURT

at [Time]

811 WASHINGTON ST

COLUMBIA, SC

IF YOU FAIL TO APPEAR YOU MAY BE TRIED IN YOUR ABSENCE

OR A BENCH WARRANT MAY BE ISSUED FOR YOUR ARREST

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to serve the defendant and require that the defendant appear at the date, time, and place provided above to be dealt with according to law. A copy of this courtesy summons shall be delivered to the defendant at the time of its execution.

Sworn to and subscribed before me

on 09/14/2009

(L.S.)
Signature of Issuing Judge

Judge Code:

403003

Judge's Address

CITY OF COLUMBIA, SC

MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone

Issuing Court:

☐ Magistrate☒ Municipal

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JURY TRIAL SCHEDULE

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