

No. 2022-000339

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SC Court of Appeals

1 / 101

BOOK 245 - OF 0734

F

DISCHARGE

STATE OF SOUTH CAROLINA

IN THE COURT OF

COUNTY OF Richland

GENERAL SESSIONS

The State

vs

Charlene Crouch

Warrant Number

1902825

Indictment Number

0000GS40

Charge

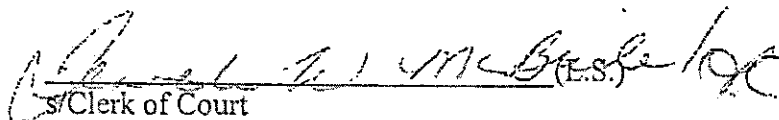
Assault / Assault & Battery 2nd degree

By Jeanette W. McBride, Clerk of Court in and for the County and State aforesaid.
To the Keeper of the Jail for said County, GREETING:

FORASMUCH AS Charlene Crouch is in your custody on the above noted charge
only, BENCH WARRANT HAS BEEN VACATED BY THE HONORABLE JUDGE
KINARD 12/13/2012.

THESE ARE, THEREFORE, to authorize and require you that if the said do
remain in jail for no other cause, then you forbear to detain him any longer, but suffer him
to go at large; herein fail not, upon the pain of penalty which will fall therein.

GIVEN under my Hand and Seal, this date, Thursday, December 13, 2012.


Clerk of Court

2 / 101 NOV 15 2012

STATE OF SOUTH CAROLINA	)	BENCH WARRANT CLERK
	)	
COUNTY OF RICHLAND	)	THE STATE VS. CHARLENE CROUCH
	)	INDICTMENT #: (PU) GS40I902825
COURT OF GENERAL SESSIONS	)	CHARGE: A & B 2 ND

To all the Sheriff's Deputy Sheriff's Constables, and other Peace Officers of the State:

WHEREAS, as the term of the aforesated Court November 2, 2012, it was among other things ordered by Judge Deandrea Benjamin that a Bench Warrant should be issued for the arrest of **CHARLENE CROUCH**, who being under recognizance to appear, fails to answer when called on October 25, 2012 FOR APPEARANCE DATE.

IT IS THEREFORE, ORDERED that you make diligent search for above named and immediately arrest him and deliver him to the County jail where he will be safely held until he may be brought before this Court, or otherwise discharged by due course of the law.

IT IS FURTHER ORDERED, that the County Jailer notify the Clerk of Court immediately, during normal operating hours of the Office of the Clerk of Court, that the above named is in Custody.

WITNESS, THE CLERK OF COURT for the County of Richland, on the 7 day of November, 2012

Charmy V. Kelly
CHIEF DEPUTY CLERK OF COURT

Court: GENERAL SESSIONS

Home Address: 337 BYRON RD APT 2 COLA, SC 29209

Sex: F Race: W DOB: 11-2-68 Height: 5'1" Weight: 159

Eyes: GRN Hair: BLN Social Security Number: 249-49-7878

Business Address (if known): PHONE: 553-2524

Driver License # Warrant Nos. I902825

ASOL: 91

AGENCY: RCSD

DATE SERVED: 12-13-12

SERVED BY: Q. L. S. 5711

-OR-

REASON FOR RETURN: _____

RETURN: _____

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BOOK 245 - OF 0901

STATE OF SOUTH CAROLINA	)	BENCH WARRANT CLERK
	)	
COUNTY OF RICHLAND	)	THE STATE VS. CHARLENE CROUCH
	)	INDICTMENT #: (PU)
COURT OF GENERAL SESSIONS	)	CHARGE: A & B 2 ND

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Driver License # Warrant Nos. 1902825

ASOL: 91

AGENCY: RCSD

DATE SERVED: _____

SERVED BY: _____

-OR-

REASON FOR RETURN: _____

RETURN: _____

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DISCHARGE FROM JAIL

SCREENING SHEET

1. Prepare this case for the Grand Jury: _____
1. Name of Defendant: **Charlene Crouch**
2. DP or Warrant Number: **1902825**
3. Charge: **Assault / Assault & Battery 2nd degree**
4. Officer/Agency: **K Chamberlain / Richland County Sheriff**
5. Please Subpoena: _____

Reviewed by: _____
Date: _____

OR

Pending Unindicted

ASOL # 91

DISPOSITION

☐	☐	☐	☐	☐	☒	☐	☐
Dism. NP	Remanded	Dismissed At Prelim	Failure to Appear	PTI	Restore	Judicial Dismissal	Other

Explain: _____

Bench Warrant Served: **12/13/2012**

Bench Warrant Vacated: **12/13/2012**

Bench Warrant Recall: **12/13/2012**

OR

Date of Failure to Appear:

Date Bench Warrant Issued:

Solicitor: *April Sampson*
APRIL SAMPSON

Date: December 13, 2012

(Handwritten mark)



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Richland County Fifth Judicial Circuit Public Index



Richland County Home Page Online Payments Public Index City of Columbia Municipal Ct S.C. Judicial Department Summary Ct Dockets

Switch View					
State of South Carolina vs Charlene Crouch					
Case Number:	I902825	Court Agency:	Richland County General Sessions	Filed Date:	07/05/2012
Case Type:	Richland-Clerk	Case Sub Type:		Disposition Judge:	Barber, James R. III
Status:	Disposed	Assigned Judge:	Davis, Michael Ronald	Arrest Date:	06/19/2012
Disposition:	Pled Guilty	Date Received:	07/05/2012	No Bill Date:	
Disposition Date:	07/11/2013	True Bill Date:	03/13/2013	Waiver Date:	
Law Ent. Case:	#1201805812-R1	Indictment Number:	2013GS4001496		
Prosecutor Case:					
Probation Case:					

Case Parties							
Click the icon to show associated parties.							
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Chamberlain, K	5623 Two Notch Road Columbia SC 29223				Officer		07/05/2012
Crouch, Charlene	337 Byron Rd Apt 2 Columbia SC 29209-1550				Bond Entity		07/05/2012
Crouch, Charlene	337 Byron Rd Apt 2 Columbia SC 29209-1550	White	F	1968	Defendant		07/05/2012

Charges			
Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Crouch, Charlene	3413-Assault / Assault & Battery 2nd degree	3413-Assault / Assault & Battery 2nd degree	07/11/2013

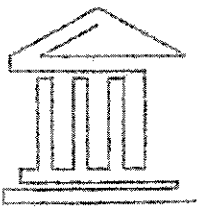
Sentencing							
And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	1 year suspended with probation for 1 year. PTUP: 120 hours. Appointed PD requires \$500 paid to Clerk during probation						

Actions						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Crouch, Charlene	Active - Probation	Filing		07/15/2013-16:07		
Crouch, Charlene	Service/Certificate Of Service	Filing		06/24/2013-15:32	07/11/2013-15:32	
Crouch, Charlene	Service/Certificate Of Service	Filing		06/24/2013-15:32	07/11/2013-15:32	
Crouch, Charlene	Motion/Reciprocal Discovery	Motion		06/24/2013-15:31	07/11/2013-15:31	
Crouch, Charlene	Motion/Reciprocal Discovery	Motion		06/24/2013-15:31	07/11/2013-15:31	
Crouch, Charlene	Discharge Issued	Filing		12/13/2012-11:28	07/11/2013-11:28	
Crouch, Charlene	Discharge Issued	Filing		12/13/2012-11:28	07/11/2013-11:28	
Crouch, Charlene	Order/Vacate Bench Warrant	Filing		12/13/2012-10:19	07/11/2013-10:19	
Crouch, Charlene	Order/Vacate Bench Warrant	Filing		12/13/2012-10:19	07/11/2013-10:19	
Crouch, Charlene	Order/Bench Warrant	Order		10/02/2012-14:56	11/08/2012-14:56	
Crouch, Charlene	Order/Bench Warrant	Order		10/02/2012-14:56	11/08/2012-14:56	
Crouch, Charlene	Motion/Discovery and Disclosure of Evidence, cert of ser	Motion		06/29/2012-12:37	11/08/2012-12:37	
Crouch, Charlene	Motion/Discovery and Disclosure of Evidence, cert of ser	Motion		06/29/2012-12:37	11/08/2012-12:37	

Financials				
Summary				
Fine/Costs:	\$648.90	Total Paid for fine/costs:	\$648.90	Balance Due:
				\$0.00
Costs				
Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to State 44%	AFINES	\$0.00		\$0.00
Fine to General Fund	AFNEGF	\$0.00		\$0.00
Victim Services Asm 38.0013% / 5.7831%	ASHVIC	\$0.00		\$0.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$100.00		\$100.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$25.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$5.00
State Assessment	STAASM	\$0.00		\$0.00
Office of Indigent Defense \$500	OIDSUR	\$500.00		\$500.00
Collection Fee 3%	CFF3%	\$18.90		\$18.90

Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
11/22/2013	2677980	C40PFALCON	PY	\$486.90
11/01/2013	2677672	C40ABORER	PY	\$112.00
10/01/2013	2677201	C40BMETTS	PY	\$50.00

Bonds							
Bond Information							
Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount
2012B401021205151	06/19/2012		Shealy	Personal Recognizance	\$5,000.00		\$0.00
2012B401021205151	06/19/2012		Shealy	Personal Recognizance	\$5,000.00		\$0.00
Post Information							
Bond Id	Bond Type	Amount	Date Posted	Posted By			
2012B401021205151	Personal Recognizance	\$5,000.00	06/19/2012	Crouch, Charlene			
2012B401021205151	Personal Recognizance	\$5,000.00	06/19/2012	Crouch, Charlene			



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LUPTON LAW FIRM

140 Gibson Road
Lexington, SC 29072

803-358-7208 office
803-358-7233 fax
LuptonLawFirm.com

Theodore N. Lupton
Michelle Q. Lupton

January 24, 2013

Davis Fernandez
City Attorney
City of Columbia
1 Justice Square
Columbia, SC 29201

State v. Dr. Marie Faltas – Warrant No.s 388303FK, 37025FK, L066971, L066954, and
201310

Dear Mr. Fernandez:

I have been appointed to represent Dr. Faltas pursuant to the Attached Order. Please note me as attorney of record for the above cases. Please send all future communications and notices to me concerning this case.

Enclosed please find my discovery request. Please send all discovery material to me at the above address, or to my e-mail address: Ted@LuptonLawFirm.com.

Additionally, as we discussed, I cannot see any options for working this case out. My client is insistent on the charges either being dismissed, or called for trial as soon as possible. It is my understanding that only Judge Carl Solomon can hear these cases, so I am requesting they be placed on the docket for his next term, and that any that are not reached be carried over to his next docket until we reach them all.

I look forward to working with you on this case.

Sincerely,

Theodore N. Lupton
Attorney for the Defendant

Enclosure

Cc City Clerk of Court

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
STATE OF SOUTH CAROLINA

v.

Dr. Marie Faltas,
Defendant.

) IN THE MUNICIPAL COURT
) CITY OF COLUMBIA

) RULE 5 MOTION

) Warrant/Indictment No.

388303FK, 37025FK
L066971, L066954
201310

Pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure, the Defendant requests the following information:

(A) Statement of Defendant. Any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution; the substance of any oral statement which the prosecution intends to offer in evidence at the trial made by the defendant whether before or after arrest in response to interrogation by any person then known to the defendant to be a prosecution agent.

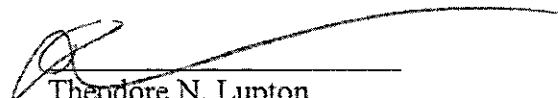
(B) Defendant's Prior Record. A copy of the defendant's prior criminal record, if any, within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution.

(C) Documents and Tangible Objects. Copies of any books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the prosecution, and which are material to the preparation of the defendant's defense or are intended for use by the prosecution as evidence in chief at the trial, or were obtained from or belong to the defendant.

(D) Reports of Examinations and Tests. Copies of any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the prosecution, and which are material to the preparation of the defense or are intended for use by the prosecution as evidence in chief at the trial.

(E) Names and contact information of witnesses. Names, addresses, and phone numbers of any witnesses to the alleged offense, or who have inculpatory information concerning this case and the State intends to use them as a witness to prove its case; or who have exculpatory information concerning this case regardless of the State's intention to use them as a witness.

Respectfully submitted:


Theodore N. Lupton
Attorney for the Defendant

Columbia, South Carolina

Date: 1-24-13

STATE OF SOUTH CAROLINA)
)
 CITY OF COLUMBIA)
)
 STATE OF SOUTH CAROLINA)
)
 v.)
)
 MARIE FALTAS,)
 Defendant.)
 _____)

IN THE COLUMBIA MUNICIPAL COURT
 FIFTH JUDICIAL CIRCUIT
 Warrant No. 388303FK, 37025FK, L066971,
 L066954, and 201310

Certificate of Service by Mail

RECEIVED

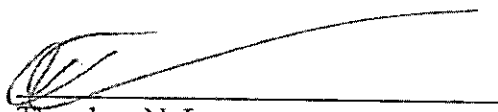
FEB 21 2013

VL

The undersigned, Theodore N. Lupton, hereby certifies that the below party was served with defendant's reciprocal discovery in the form of one data DVD labeled "Faltas Recip Rule 5," a copy of which is attached hereto, by depositing it in the US Mail, postage pre-paid, on this date and addressed to the below address:

David Fernandez
 Office of the City Attorney
 P.O. Box 667
 Columbia, SC 29202

And by hand delivery to the City of Columbia Municipal Court.


 Theodore N. Lupton
 Lupton Law Firm
 140 Gibson Road
 Lexington, SC 29072

February 21, 2013
 Columbia, SC

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COLUMBIA MUNICIPAL COURT

City of Columbia,

vs.

Marie-Therese Assa'ad-Faltas,
Defendant.

Transcript of Record

Warrant No.: L-066971

-----)

Bench trial held before the Honorable Carl L. Solomon, presiding judge, in the Columbia Municipal Court, Columbia, South Carolina, on April 25, 2013.

Appearances: David A. Fernandez, Esquire
Appearing for the City

Theodore N. Lupton, Esquire
Appearing for the defendant

Transcribed by: Nancy S. Ahrens

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[page 1, line 1] **Mr. Fernandez:** Your Honor, the only issue I have ---

[2-4] **The Court:** We've got the jury coming in. Let's at least get them sworn and in the back. Do you have an issue that has to be addressed before the swearing?

[5-6] **Mr. Fernandez:** No, not really. Just whatever the Court prefers.

[7] **The Court:** Okay. Yes, sir.

[8-22] **Mr. Fernandez:** The charge is simple assault which existed at the time of the assault. **It's a city ordinance. Since then the legislature has enacted in their omnibus bill a couple of years ago assault and battery, third.** I don't know how Your Honor, or if Mr. Lupton has an opinion, wants to proceed. I don't know if Your Honor has a preference on whether we proceed under the city ordinance simple assault or if we just proceed under the assault and battery, third. **I know a lot of judges have been of the opinion that the city ordinance is essentially rendered moot or irrelevant at this point because the legislature has spoken to what should be assault and battery, third.** They are very similar. I think the standard is actually higher for as-

sault and battery, third, but however you want to proceed. If we do assault and battery, third, it would require amending the charge but it's up to the Court. I just want to make this as clean a trial as possible.

[23] **The Court:** Yes, sir. Mr. Lupton.

[24 – page 2, line 1] **Mr. Lupton:** Your Honor, the charge was under the ordinance 14-31. My understanding is that ordinance is still in place, it has not been ---

[2-6] **Mr. Fernandez:** It's still in place and in my experience with the Court even if they write for -- if the ministerial recorders write for city ordinance simple assault that the practice has been to convert it to assault and battery, third, just as a matter of being preempted by state law. Thank you.

[7-13] **Mr. Lupton:** [7-9] Your Honor, I'm certainly happy for the city to concede that it's preempted by state law but -- and Dr. Faltas agrees and urges that the city ordinance is preempted by state law. [10-13] However, the assault, third, was not enacted until after this, cannot cover conduct that occurred before the enactment of the statute so this cannot be tried as an assault, third. You cannot have ---

[14-16] **The Court:** Under your analysis you can't do it under the city because it's preempted and you can't amend to an assault, third, so it's over.

[17] **Mr. Lupton:** Well, I like that argument.

[18] **The Court:** It sounds like that's where you were headed.

[19-21] **Mr. Lupton:** I like that argument but I can only argue those things that I feel are -- those legal issues that I feel are colorable under the law.

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

[23 – page 3, line 5] **Mr. Lupton:** And Dr. Faltas believes that the simple assault is preempted by state law. However, there was no statute at the time. Enactment of a statute later with a savings clause does not extinguish anything that was before and I do not believe that the existence of a state law precludes the city from having a separate ordinance and going forward under that. I think that the City is -- I think that 14-31 is what we've got or nothing. It's 14-31 or it's nothing.

[6-7] **Mr. Fernandez:** I'm fine with that. I just want us to be on the same page. That's all.

[8-9] **The Court:** We will proceed under 14-31. Dr. Faltas, please come in and have a seat.

[10-12] **Defendant Faltas:** Well, that's what I wanted to tell Your Honor. Any movement because I think my knee is fractured (inaudible) with pain so please don't hold me in contempt for that.

[13-14] **The Court:** Don't scream in pain, just sit down in the chair and stay in the chair.

[15] **Defendant Faltas:** Well, I can't help it. I'm sorry.

[16-17] **The Court:** You can help it by not moving so sit in the chair and you don't have to get up.

[18-20] **Defendant Faltas:** Well -- but the movement by sitting from a standing position or turning or anything makes me scream in pain.

[21-23] **The Court:** You are relieved of having to stand when people come in and leave the courtroom so once you sit down you may remain seated.

[24-25] **Defendant Faltas:** Could I have this chair to stretch my leg?

[page 4, lines 1-2] **The Court:** You can talk to your attorney or the court officer about moving it over. You want to put your leg up?

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

[4-6] **The Court:** No, ma'am. We are not going to put your leg up. You are free to sit down and you are relieved from standing but we are not going to put your leg up.

[7-9] **Mr. Fernandez:** Your Honor, to that effect, if it becomes a distraction during trial I will request that the defendant be removed from the courtroom.

[10-12] **The Court:** We will address anything that happens when they happen. Please have a seat. Are there any -- we are proceeding under 14-31. **Are there any other issues before we bring in the jury?**

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

[14-21] **Mr. Lupton:** Your Honor, while we have this opportunity, I'd like to go ahead and cover a few things. The Court instructed myself to seal certain documents. These are the e-mails and medical records and other attachments that were sent to the Court earlier this week concerning a medical request for a continuance. You instructed that so they would be part of the record that they be printed and sealed. I've done that. They were sealed with tape and I'm turning those over to the clerk at this time.

[22] **The Court:** Okay. Thank you for complying with that.

[23 - page 5, line 7] **Mr. Lupton:** Your Honor, additionally, I have provided Dr. Faltas with a copy of your order per your instructions concerning sentencing. I would also like to cover on the record with everyone present in the courtroom the Court's instructions that were made at the pretrial hearing. I can't recall the date but earlier. I think April 12th as well as we were reordered yesterday concerning both sides are prohibited from going into past problems in the simple assault with regards to the harassment and related issues. I want to make sure that that is covered again on the record with all ---

[8] **Defendant Faltas:** May I speak to him, please.

[9] **Mr. Lupton:** --- potential witnesses present.

[10-11] **The Court:** Let him finish speaking and then you may speak to him. Go ahead.

[12-17] **Mr. Lupton:** Your Honor, there is the potential that witnesses on either or both sides could be potentially impeached with prior testimony. I would ask that any prior testimony impeachment that all sides refer to any prior trials or hearings as simply generic at a prior hearing and possibly the way they testified under oath if applicable.

[18-19] **The Court:** Any statement or response or objection to that, Mr. Fernandez.

[20-25] **Mr. Fernandez:** I was present during all the discussions so I think we are all on the same page with what is going to be covered, at least in my case in chief. I expect the same rules apply to the defendant if she decides to testify and, assuming that's the case, I think we can keep this limited to the facts on this date and I would be happy to do that.

[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 aware 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.

[23 - page 8, line 10] **The Court:** I'm going to rule on these other few issues and give you an opportunity to speak to Dr. Faltas. On the -- we previously had motion in *limines* and to some extent agreement that this case would be about

what this case is about today and not about past information. Accordingly, it is the order of the Court that we are to have testimony only about what is going on regarding the date in question, not about past issues between the parties which includes any belief that anybody was harassing anybody, any belief that anybody was on trespass notice, any belief that somebody was trying to get rid of somebody because they bought land, any issues about water pipes and drains. Any of that prior stuff is out. This is about the date in question and whether or not there was a simple assault. Is that understood by all parties.

[11-12] **Defendant Faltas:** No, Your Honor, it's not understood by me.

[13-14] **The Court:** I didn't say that you agree. Do you understand it?

[15] **Defendant Faltas:** No.

[16] **The Court:** What don't you understand?

[17-20] **Defendant Faltas:** What I do not understand is how I could possibly affirm to tell the whole truth if I'm not allowed to do that. Besides this is classical when you instruct the jurors you tell them motives, bias. And then the CD of her having called ---

[21-24] **The Court:** Okay. I understand your argument. The ruling remains the same. If you go into any of those issues that will be contrary to this argument. You are forbidden from doing so and to do so would be to violate the Court's order.

[25] **Defendant Faltas:** Well, then I can't have a jury trial.

[page 9, lines 1-7] **The Court:** The prior trials, we are going to refer to those as previously under oath or prior hearings. We are not going to talk about trials or in any way insinuate what they are. I understand that you have reiterated to your opposition to two juries from the same pool. I have overruled that. Again, I have advised you previously and will inquire now do you have any type of curative charge that you wish to have read?

[8] **Defendant Faltas:** I don't want a jury trial.

[9-12] **Mr. Lupton:** Your Honor, I don't believe it can be cured. Don't think you can unring the bell. However, my client has informed me that she does not want to be tried by a jury, that she wants to go forward as a bench trial.

[13-14] **Defendant Faltas:** Now is it possible if we go forward to a bench ---

[15] **The Court:** Mr. Fernandez?

[16] **Mr. Fernandez:** Could I have a moment.

[17] **Mr. Lupton:** I beg the Court's indulgence.

[18] **Mr. Fernandez:** Can I have a moment to discuss ---

[19] **The Court:** Please.

[20] (pause)

[21] **The Court:** Yes, sir, Mr. Fernandez.

[22-24] **Mr. Fernandez:** After having discussed the matter with the victim, I think she does have some input in how the case proceeds. We will be fine with proceeding with a bench trial.

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

[page 10, lines 1-11] **Mr. Lupton:** Your Honor, my client has asked -- and I understand the Court is already aware of most of -- of all of the background through prior trials, not through *ex parte* or other communications but through prior trials. And while I understand that the Court will decide the case on the facts of this case that are presented in this courtroom today, not based on knowledge you have outside, my client has asked that since it is going to be tried by the Court with the discretion and understanding and ability to sort through what is relevant and not relevant if she would be permitted in a bench trial to go into things that she believes is relevant as to motive and bias.

[12-16] **The Court:** I will allow greater latitude in testifying if it is a bench trial as opposed to a jury trial. However, I will limit any of my findings to what I believe to be relevant information. So just because it's said here doesn't mean that that's what I'm going to rely upon, but I will allow more things to be said, correct.

[17-18] **Mr. Lupton:** All right. And I understand that that is not in any way coercive of trying to get her to waive her right to a jury trial but just in terms of the Court has more discretion.

[20-25] **The Court:** That is how we will proceed because the Court does have more discretion and in a bench trial I'm not as strict on the evidentiary rules because I can sort through what is admissible and what is not. Now with that being said, we've got a jury right here and we are happy to have her exercise her right to a jury trial and are ready to begin.

[page 11, line 1] **Mr. Lupton:** Your Honor. I apologize.

[2-3] **The Court:** No problem. So does she want the jury trial or not?

[4-8] **Defendant Faltas:** Well, I can't have a jury trial under this *limine* thing and be, you know, in contempt. You said something about can't unring the bell. I agree with that. Besides it will take more time and the issue of my screaming (inaudible) knees I don't want to be removed.

[9] **Mr. Lupton:** It's your decision. I've given you my advice.

[10-13] **Defendant Faltas:** It's my decision under duress but that's the lesser of the two evils. In addition I (inaudible) my *Anders* brief and I want you to please put it on the record that the (inaudible). Could I give it to you?

[14] **Mr. Fernandez:** I beg the Court's indulgence.

[15-19] **Mr. Lupton:** Your Honor, my understanding from my conversation with my client right now is that at this time she would like to waive jury trial, proceed with a bench trial. She has asked me also to submit to the Court the *Anders* brief which I believe you have already had e-mailed to you but ---

[20] **Defendant Faltas:** No, no.

[21-22] **Mr. Lupton:** It was not. Perhaps it's a separate one. In any event ---

[23] **Defendant Faltas:** I wanted to say ---

[24] **The Court:** Let him finish his statement.

[25] **Defendant Faltas:** Okay.

[page 12, lines 1-3] **Mr. Lupton:** And pursuant to your order from yesterday I believe that that would be appropriate for her to submit what she thinks is relevant and allow the Court to decide.

[4-13] **The Court:** All right. I will accept whatever she has to submit so long as a copy is also provided to Mr. Fernandez. I did receive an e-mail with a correspondence. I responded to it. I copied Mr. Fernandez on the response because he was not copied in the original e-mail. And in that I have made it clear that it is the order of this court in addition to any other order that is currently standing that there be no e-mail communications directly with the Court. And here is a copy of that e-mail response with the attachments to be placed into the record and because I don't know that everybody got it, here's a copy for it to be spread around.

[14-18] **Mr. Fernandez:** And, Your Honor, just to the defendant's -- in the defendant's defense I was not provided with a copy of the e-mail likely because she's prohibited from contacting me through any means but U.S. mail. It would have been a violation of the Court order ---

[19-21] **The Court:** I would normally say that you may have been correct but you were copied on some e-mail earlier this week so I don't know that that stopped it.

[22] **Mr. Fernandez:** I was told I was but ---

[23] **The Court:** You were.

[24-25] **Mr. Fernandez:** But I actually did not receive that e-mail.

[page 13, lines 1-2] **The Court:** You were attempted to be. Your name was on it.

[3] **Mr. Fernandez:** Okay. Okay. All right. Now---

[4-5] **Defendant Faltas:** No, no. Let me tell Your Honor what happened on this, please, if I may.

[6-13] **The Court:** [6-9] look, Dr. Faltas, I've not made any findings against you. I've not done anything to prohibit any further -- excuse me, that is not true. I've only inhibited further activity so at this point it doesn't need explanation because I'm not taking action. [10-13] What we are going to do is we are going to get this jury out of here so they can leave because they are here for five dollars a day and you've decided that we are not going to use them and then we are going to start this trial. Please bring the jury in.

[14-15] **The Court:** Does Your Honor realize how much I care what you think of me?

[16] **The Court:** It's not relevant at this time.

[17] **Defendant Faltas:** Okay.

[18] (Jury *venire* enters the courtroom and is dismissed)

[19-20] **The Court:** All right, Mr. Fernandez, we are ready for openings.

[21-22] **Mr. Fernandez:** I'm going to waive opening. I don't know if Mr. Lupton wants to also.

[23-24] **The Court:** Thank you very much. Mr. Lupton, Mr. Fernandez has waived opening.

[25 - page 14, line 3] **Mr. Lupton:** Your Honor, if I can just have a minute. What I would suggest perhaps is that let Dr. Faltas organize all of these as to whether they are -- she's given me a lot of these briefs. I don't know if they are all the same.

[4-5] **Defendant Faltas:** That's the same one I'm giving you for originally (inaudible).

[6-9] **The Court:** And we will accept those. I, of course, am not going to read them while I'm listening to testimony so

if you will hand them up we'll have them. Please mark them. We are going to make them a part of the record. Mark them for identification.

[10] (brief(s) received as court's exhibit #1)

[11-15] **Mr. Lupton:** Your Honor, with regards to opening, I will just note that this case is about whether or not the serving of papers involved in the dispute that was -- you know, that occurred that day, whether it amounts to a criminal, criminal act, beyond a reasonable doubt and other than that we'll proceed to testimony.

[16-17] **The Court:** All right. Let's stop for one moment if we could. Did you give Mr. Fernandez a copy of those?

[18-19] **Mr. Lupton:** Gave him a copy, provided a copy to the Court.

[20-22] **The Court:** All right. It is two pages and it appears to make a motion in addition to just having points of law so we are all going to take a moment and read it.

[23] (pause)

[24 -- page 15, line 8] **The Court:** All right. I have read the motion in full. I will find that the last paragraph, next to the last paragraph referencing history between the defendant and the accused is moot as I have agreed to allow her to provide additional testimony in the bench trial. As to finding that the city ordinance is preempted by state law for void, for vagueness, to hold a mechanical and possibility hearing, I specifically find that I will not dismiss the charges for void, for vagueness and as the Court is hearing this case and will be able to weigh all the issues I find a pretrial hearing is also not appropriate. Mr. Fernandez, please call your first witness.

[9-10] **Mr. Fernandez:** Thank you. Your Honor, the city would call Dinah Steele Mason.

[11] **Mr. Lupton:** Your Honor?

[12] **The Court:** Yes, sir.

[13] **Mr. Lupton:** Move to sequester the witnesses.

[14-15] **The Court:** Granted. Would you be kind enough to have the folks sit outside.

[16-18] **Mr. Fernandez:** The only other witness would be Ms. Crouch so I don't think it's necessary for Mr. Mason. Just sit in the lobby. We'll come and get you in a minute.

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

[20-21] Dinah Steele Mason, after being duly sworn by the Court, testifies as follows:

[22-23] **The Court:** Please have a seat and please answer any questions the city may have.

[24-25] Direct examination by Mr. Fernandez:

[page 16, line 1] **Q:** All right. Your name for the record, please.

[2] **A:** Dinah Steele Mason.

[3-5] **Q:** And I'm going to move things along for a bench trial but would you tell the Court about your occupation and what properties you own?

[6] **A:** I own the 300 and 304 building on Byron Road.

[7] **Q:** And is that how you first became ---

[8] **A:** Acquainted with?

[9] **Q:** Acquainted with the defendant here today?

[10] **A:** Absolutely.

[11-12] **Q:** And what was her role there at the 300 or 304 Byron Road apartments?

[13-14] **A:** She rented an apartment, apartment number three, at the 304 building.

[15] **Q:** And what date did that begin? Approximately.

[16-17] **A:** September of 2009? Is that right? '09. I'm not absolutely sure of the date.

[18-19] **Q:** The Byron Road apartments, 300 and 304, are they within the city limits of Columbia?

[20] **A:** That would have been 2008. I apologize. 2008.

[21] **Q:** And is that location within the city limits of Columbia?

[22] **A:** It is.

[23-25] **Q:** The person you brought a courtesy summons out for simple assault, the reason we are here, Ms. Marie Fal-tas, is she present today?

[page 17, line 1] **A:** She is.

[2] **Q:** And is she the lady seated at defense table?

[3] **A:** She is.

[4-6] Q. I'm going to -- I'm just going to jump right to it, Dinah, and direct your attention to the date of September 11th, 2009. Are you familiar with that date?

[7] A. Yeah, that was the day of the assault.

[8] Q. Do you remember that date clearly?

[9] A. Absolutely.

[10-12] Q. If you would, tell me what you were doing that day, what brought you to the Byron Road apartments and then walk us through the incident and what happened.

[13-18] A. Okay. I was there. It was around seven o'clock at night. It was still light out and I was doing maintenance. I was doing some painting on the 300 building. Now these two buildings are extremely close to each other, all right? So I was in between them. Out of the corner of my eye I saw Marie coming around to my side there and she had a paper in her hand. And ---

[19-20] Q. How far away was she when you first noticed her coming, when you say coming around the side? Like what would be the distance?

[21-22] A. For the way that the building was set up, in order for me to see her I would say probably about five feet from me.

[23-24] Q. All right. So you noticed her coming around the corner to you?

[25] A. Yes.

[page 18, lines 1-2] Q. And what was her general demeanor at that point? What did you notice about her?

[3-5] A. Well, she had a paper in her hand and I just threw my hands up and I said, Marie, you need to take that to the attorney. And I said just, you know, leave me alone.

[6] Q. What attorney? What are you talking about?

[7-9] A. Well, we had already had some legal disputes with her and the attorney had advised me, you know, not to have any contact with her, don't accept any paper work, just stay a way from her.

[10] Q. And you relayed that to her? You said, please, give me ---

[11] A. Yes, absolutely. Just leave me alone, take it to the attorney.

[12] Q. Okay.

[13-22] A. And so then I started backing up and she started charging me and I'm in good shape. I could not get away from this woman. She was charging me and I retreated through the building. I couldn't go past her because the buildings are so close together. I would have touched her if I had moved forward. I had no choice but to retreat. I had my hands out like this, get a way from me, get a way from me. And she continued to charge me to the back side of the 300 building where I was assaulted. She slammed me in the chest three times I mean like bam, bam, bam. Like that. Spun me around and the whole time I'm holding my hands out because I don't want her touching me.

[23] Q. Right.

[24] A. I don't want her around me.

[25 -- page 19, line 1] Q. Did you ever engage in any -- did you ever assault her in defense or did you continue ---

[2-6] A. No, absolutely. I knew that's what she wanted. That's what she wanted so I tried to stay a way from her. The whole time I was backing up, get away from me, get away from me. I was trying to retreat. And I was running backwards as fast as I could. I wouldn't have dared of giving her my back because -- I mean I was too afraid.

[7-8] Q. Is that true, that you have -- was the touching or the assault unwanted by you?

[9] A. Absolutely.

[10] Q. And were you fearful and -- you know, in any sense?

[11] A. Yes. I ended up having a nervous breakdown over this.

[12-13] Q. And what was the defendant yelling at you? What was the volume of her tone?

[14-16] A. She was yelling at me. You know, after she slammed me three times in the chest, she pointed at me and she said, you got it, you got it, you got it. And I'm like ...

[17] Q. And how loud was she yelling would you say?

[18-22] A. She was -- it was loud. It was loud because there were other tenants out and about. They all came around, are you all right, are you all right. I mean I was just stunned. I cannot believe this woman assaulted me. I mean I am the manager and the owner of the apartment complex. I mean that's not an intelligent move.

[23] Q. Do you have any idea what this was about?

[24-25] **A.** At the time, I didn't even look at the paper. I had no idea what it was.

[page 20, line 1] **Q.** So you didn't know (inaudible).

[2-3] **A.** Yeah, I didn't even acknowledge that there was anything. Just told her take it to the attorney.

[4-5] **Q.** You know what it was about after the fact. It's accurate to say you had no idea what she was ---

[6-7] **A.** At the time she assaulted me, I had no idea what the paperwork was.

[8-9] **Q.** And you know this was witnessed by at least one person, correct?

[10] **A.** Yeah, actually by two.

[11] **Q.** And is one of the people here today?

[12] **A.** One.

[13] **Q.** And who would that be?

[14-20] **A.** Charlene Crouch. She was sitting on the upper balcony. She rents from the 300 building upstairs. There's an open balcony back there and, you know, I was just looking at Marie. I still had my hands out like this and I heard Charlene say, Dinah, are you all right, are you all right. And I was just stunned. And then Mitch came around the side of the building looking at me and he said, Dinah, are you all right. And then I called the police.

[21-22] **Q.** And the -- was Ms. Crouch's view obstructed? Would she have been able to see?

[23-24] **A.** She saw -- yeah. The assault happened directly behind the building. But I mean she heard me screaming on my way back there.

[25] **Q.** And do you have any marks or anything as a result of the ---

[page 21, lines 1-2] **A.** No, I did not. Mentally because, like I said, I ended up having a nervous breakdown over this. I'm still on medication today.

[3] (inaudible)

[4-7] **The Court:** Dr. Faltas, please do not make any outburst. Was that you? Hold on for a second. I'm sorry. Let me ask first, I couldn't see. Was that you that made the noise just now? Dr. Faltas, was that you that made it?

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

[9] **The Court:** Please do not do that.

[10-12] **Q.** (by Mr. Fernandez) Just to be clear before we end 'cause I think we are almost done, the basis for your taking the courtesy summons for the assault is the three strikes on your chest?

[13] **A.** Absolutely.

[14] **Q.** And her aggressive demeanor leading up to that and after?

[15] **A.** Yes.

[16-17] **Mr. Fernandez:** That's all the questions I have. Thank you.

[18-22] **The Court:** Thank you very much. Please answer any questions Mr. Lupton may have. Mr. Lupton, so we are clear, I know that it may not apply to this witness but the rulings I made limiting cross examination I will allow you to cross examine in full on all the witnesses. **Those rulings are withdrawn.**

[23] **Mr. Lupton:** Thank you, Your Honor.

[24-25] **Cross examination by Mr. Lupton:**

[page 22, lines 1-3] **Q.** Now you've testified -- first of all, you started out with a 911 call, correct? With this case, reporting it? Started out with a 911 call?

[4-5] **A.** I reported it, yes. I don't quite understand you saying you started out with that.

[6-7] **Q.** The first time you told anyone official about this incident was a 911 call?

[8] **A.** Yes.

[9] **Q.** Correct?

[10] **A.** Yes.

[11] **Mr. Lupton:** Your Honor, at this point

[12-14] **Q.** (by Mr. Lupton) Well, first of all -- and in that 911 call isn't it true that what you reported was she came over here and harassed me and pushed on me?

[15] **A.** Yes.

[16-17] **The Court:** Excuse me one moment. Will you help that gentleman? (inaudible) Please continue.

[18-19] **Q.** (by Mr. Lupton) So she came over here and harassed me and pushed on me?

[20] **A.** Yes.

[21] **Q.** That was the report?

[22] **A.** Yes.

[23-25] **Q.** You didn't say anything about her being violent or her striking you or slamming you or anything of that nature, it was just she pushed on me?

[page 23, lines 1-4] **A.** I don't know exactly -- I don't remember exactly what I said on the 911. I'm sure we are getting ready to hear it but I described it to the police officer who collected the police report and I was assaulted on it.

[5-6] **Q.** If it would help you refresh your recollection, I'll show you a transcript of it.

[7] **A.** Okay.

[8-9] **Mr. Fernandez:** May I ask who that transcript was prepared by?

[10-11] **Mr. Lupton:** Irrelevant, Your Honor, as far as whether or not it helps her refresh.

[12-13] **The Court:** I'm sorry. I think it does matter in terms of -- this is a bench trial. Who made the transcript?

[14-15] **Mr. Lupton:** If it helps her refresh her recollection it doesn't matter what it is, Your Honor.

[16] **The Court:** Okay. Well, I'm curious. Can you tell me?

[17] **Mr. Lupton:** I have no idea, Your Honor.

[18-21] **The Court:** Well, that's the accurate and truthful, answer you could come forward with that, Mr. Lupton. Let's do this. Take a look at it. I don't know if it helps you or not. Let us know does it help you or not.

[22] **A.** But I'd seen Marie Faltas' ---

[23-24] **The Court:** Just take a look at it and tell me if it helps you or not.

[25] **A.** Okay. Let's see here. (reads to herself)

[page 24, lines 1-2] **Q.** (by Mr. Lupton) and I'm only asking about the part where you said that she pushed on you.

[3] **A.** Yeah.

[4] **Q.** Is that what you said?

[5-7] **A.** Yeah. I would say that's pretty close. I don't know that that's word for word because Marie did this. She likes to delete a lot of letters because I've seen her transcripts before.

[8] **Mr. Lupton:** At this time, I'd ask to admit the 911 call.

[9-10] **The Court:** All right. Do you have the ability to play it on your computer here?

[11-12] **Mr. Lupton:** Just the first portion. It's the initial paragraph is the report.

[13] **The Court:** Can I play it up here? Please take a moment.

[14-15] **Defendant Faltas:** Mr. Lupton, may I say something, please?

[16-21] **Mr. Fernandez:** Your Honor, I think what Mr. Lupton is getting to is that per agreement or -- per agreement we agreed we would relax the rules of admissibility for a 911 call as not requiring a custodian. I will consent to it being published for Your Honor on the word of a fellow officer of the Court that that is in fact the 911 call that was provided through discovery.

[22-23] **The Court:** Okay. Correct. It will be published and admitted. Do we have an agreement on admission?

[24-25] **Mr. Lupton:** Yes, Your Honor. That was at the prior hearing we agreed on that.

[page 25, line 1] **The Court:** All right. By stipulation.

[2] **(911 tape is played:**

[3] September 11th, 2009, the time 7:11 p.m.

[4] 9-1-1, what is your emergency?

[5-10] **Ms. Steele:** Yeah, this is Dinah Steele. I'm at 600-5953. I'm located at 300 Byron Road. I'm the owner of the building. I have been having a problem with a tenant that I'm evicting. She's come over here trespassing. I've already signed a courtesy summons about the trespassing, **and she came over here and harassed me and pushed on me again.** I'd like an officer to come over here, please.

[11] **Operator:** Okay. You said 300 Byron?

[12-13] **Ms. Steele:** Yes, ma'am. It's right next to the V.A. Hospital.

[14] **Operator:** Is it the Byron Road apartments?

[15-16] **Ms. Steele:** Yes -- no, it's the ones on the right-hand side as you come in. The first one as you come down Byron Road.

[17] Friday, September 11th, 2009, the time 7:12 p.m.
 [18] **Operator:** What's the apartment number?
 [19] **Ms. Steele:** I'm standing outside.
 [20-21] **Operator:** Okay. Is there a building (inaudible) that it's around or ...
 [22-23] **Ms. Steele:** 300 building is the address for the building. 300 Byron Road.
 [24] **Operator:** Is she still there?
 [25] **Ms. Steele:** Yeah, she went up to her apartment.
 [page 26, lines 1-2] **Operator:** Okay. So does the apartment have -- do those apartments have a name?
 [3] **Ms. Steele:** No, that's the address.
 [4] **Operator:** Does the apartment complex have a name?
 [5-6] **Ms. Steele:** No. The address is 300 Byron Road. That's where I'm located at. She's in the 304 building.
 [7] **Operator:** And we are standing outside of that?
 [8] **Ms. Steele:** I'm standing out front. I'll be out front.
 [9] **Operator:** She's on no trespass?
 [10-12] **Ms. Steele:** Yeah, she's already been given a no trespass and I signed a courtesy summons about the last trespass which was -- she should have already been served it. I signed it earlier this week.
 [13] **Operator:** Are you going to be waiting outside?
 [14] **Ms. Steele:** I am going to wait. I'm waiting right now.
 [15] **Operator:** Okay. Is she black, white, Hispanic?
 [16] **Ms. Steele:** She's Egyptian.
 [17] **Operator:** Egyptian?
 [18] **Ms. Steele:** Yeah.
 [19] **Operator:** Okay. Does she look black, white or Hispanic?
 [20-22] **Ms. Steele:** She probably looks more like maybe -- I mean if you had to describe it I guess more like Hispanic. She's like olive complected.
 [23] **Operator:** Okay. Do you know what she's wearing?
 [24] **Ms. Steele:** Not -- a skirt and a shirt.
 [25] **Operator:** Do you know what color shirt?
 [page 27, line 1] **Ms. Steele:** No, I didn't really pay attention to it.
 [2] **Operator:** Do you know what apartment she went into?
 [3] **Ms. Steele:** Yeah, she's in apartment number three at 304.
 [4] Friday, September 11th, 2009, the time 7:15 p.m.
 [5] **Operator:** You said apartment three in building 304?
 [6] **Ms. Steele:** That's correct.
 [7] **Operator:** And ---
 [8-9] **Ms. Steele:** I'm Dinah Steele. I'm the owner of the building.
 [10] **Operator:** What's your last name?
 [11] **Ms. Steele:** Steele, s-t-e-e-l-e (spelled).
 [12-13] **Operator:** What's the phone number you are calling from?
 [14] **Ms. Steele:** 600-5953.
 [15-16] **Operator:** Okay. And you are going to be waiting outside for the officer?
 [17] **Ms. Steele:** I am. I'm waiting on (inaudible) now.
 [18] **Operator:** And was there any weapon involved?
 [19] **Ms. Steele:** No, ma'am.
 [20] **Operator:** But you did confront her?
 [21] **Ms. Steele:** She confronted me.
 [22] **Operator:** Oh, she confronted you?
 [23] Friday, September 11th, 2009, the time 7:16 p.m.
 [24] **Operator:** Okay. All right.
 [25] **Ms. Steele:** Thank you.
 [page 28, line 1] **Operator:** You're welcome.)
 [2-3] **The Court:** All right. I'd like to have this marked as defendant's one, please.

[4-5] **(911 tape is received into evidence as Defendant's Exhibit #1)**

[6-7] **Q.** (by Mr. Lupton) So what you said was she came over here and harassed me and pushed on me?

[8] **A.** Yes.

[9-10] **Q.** And in that recording you didn't say anything about being injured or hurt, correct?

[11-13] **A.** No, I was not -- I didn't have any marks on me. I ended up with no bruises except, like I said, I ended up having a nervous breakdown but I wasn't cut.

[14-15] **Q.** You are not trying to say that that nervous breakdown was solely related -- was caused by this, are you?

[16] **A.** I would say collectively that was the last straw.

[17] **Q.** So ---

[18-23] **A.** I feared for my life. By that time I was already fearful of going over to that apartment complex because of Marie. I was harassed continuously. Every time I went over there she called the police on me. Every time I went over there to do the maintenance, to cut grass she called the police on me. This was escalating out of control.

[24] **Q.** So you didn't have a nervous breakdown caused by this event?

[25] **A.** I would say it was partly -- yeah, yeah. I would say yes.

[page 29, line 1] **Q.** You had it because of this?

[2] **A.** Yes, I was assaulted, my man.

[3-4] **Q.** And so -- and you talked about you are still on medication from it?

[5] **A.** Yes.

[6] **Q.** And you went to the doctor?

[7] **A.** Yes.

[8] **Q.** And got medication for it?

[9] **A.** Yes.

[10-12] **Q.** And do you recall testifying two months after this at a hearing, in believe it was circuit court, perhaps magistrate's court, a restraining order hearing?

[13] **A.** Yes.

[14-15] **Q.** And do you recall at that time saying you did not go to a doctor?

[16] **A.** No, I went in January. I ended up going in January.

[17] **Q.** So you didn't go to a doctor ---

[18] **A.** Not that night.

[19] **Q.** You didn't go to a doctor until January of 2010?

[20] **A.** '10, yeah. Yeah, that's when I ended up going. This was all ---

[21] **Q.** At the November, 2009, hearing -- November 10, 2009, hearing ---

[22] **A.** Still hadn't gone to the doctor then.

[23] **Q.** You testified that you hadn't gone to a doctor?

[24] **A.** No. Huh-uh, I hadn't.

[25] **Q.** You testified you were not taking any medication?

[page 30, line 1] **A.** Not then I wasn't, no.

[2] **Q.** So not until January or some time after that?

[3-13] **A.** Right. That was after four times she went to different judges trying to get this thing, this trespass thing where she could come back onto the property and I ended up going trying to -- they wanted me to go to Sumter to have another hearing and, like I said, this isn't my playground, I don't know what all the rules are but **I was livid that I was going to have to go to Sumter to defend myself in court and it was a traveling judge.** That's what I didn't understand. And then I just -- I couldn't handle it any more. I just absolutely -- all the harassment, the assault, just non-stop harassment every time I went there. She harassed me to no end along with all the tenants **and, yeah, I broke. In January I just broke.**

[14] **Q.** So you broke in January?

[15] **A.** Yes.

[16] **Q.** But at 7:11 on September 11th?

[17] **A.** Right.

[18] **Q.** She pushed on you?

[19] **A.** Yes.

[20] **Q.** Officer shows up about 7:20, correct? Thereabouts?

[21] **A.** Yeah.

[22] **Q.** And he talks to you?

[23] **A.** Yes.

[24 – page 31, line 1] **Q.** And after you've talked to him the statement from you is that he writes down is that you are saying it was a very hostile and very violently pushed.

[2] **A.** It was.

[3-4] **Q.** So it's changed from just pushed on me to very hostile and very violently and said it was in the upper chest with an open hand?

[5] **A.** Yes.

[6-7] **Q.** And the officer -- you told the officer about all your witnesses?

[8] **A.** Yes. There were two witnesses.

[9] **Q.** And the officer only listed one witness?

[10] **A.** Yes.

[11-12] **Q.** So you say that you told everybody, talked to him about all the witnesses but he only lists one?

[13-14] **A.** I don't know what he wrote down but there were two witnesses, yes.

[15] **Q.** And you testified today that there were two witnesses?

[16] **A.** There were.

[17-18] **Q.** You testified on November 10th, 2009, that there were three witnesses.

[19-20] **A.** Well, Mr. Charlie came around the corner. I can't say to what he said he saw.

[21] **Q.** Well, you said ---

[22] **A.** He was there. He was there.

[23-24] **Q.** You said under oath on November 10th, 2009, that there were three witnesses?

[25] **A.** Yes. Mr. Charlie did come around the side of the building.

[page 32, lines 1-2] **Q.** But the officer didn't take any statements that day on September 11th?

[3] **A.** No, he just took my statement.

[4] **Q.** He wrote the report based on what you said?

[5] **A.** He did, yes.

[6] **Q.** But he didn't arrest anybody?

[7] **A.** No. I was livid about that.

[8-9] **Q.** So he came, he assessed and he, in his discretion, decided there was no assault?

[10] **A.** No, that's not what he said.

[11] **Mr. Fernandez:** Your Honor, I object.

[12] **A.** No, no, no, absolutely not.

[13] **The Court:** Objection sustained.

[14] **Mr. Fernandez:** Can I articulate my objection?

[15] **The Court:** Please do.

[16-20] **Mr. Fernandez:** Counsel argued many times the *Ramsey* case about incidents not occurring in front of -- in the officer's presence. I think it's a bit contradictory to now argue that the officer should of or implied that the officer should have arrested for a conduct he did not witness.

[21-22] **The Court:** All right. Let's make it short. The objection is sustained. Please rephrase.

[23 – page 33, line 1] **Q.** (by Mr. Lupton) After -- regardless of what the officer decided or didn't decide, after the officer heard you, heard whatever witnesses, he only listed one, but how many ever he talked to he did not make an arrest?

[2] **A.** No, he didn't.

[3] **Q.** Nor did he go and get an arrest warrant?

[4] **A.** No.

[5-6] **Q.** And no written statements were taken from you or any other witness?

[7] **A.** No.

[8-10] **Q.** He did the verbal and wrote his report. And then in October, October 14th, 2009, you make your first official written statement on this?

[11] **A.** Uh-huh.

[12-13] **Q.** And you state she violently struck me three times in the chest area with papers in her hand saying you got it, you got it?

[14] **A.** Yeah.

[15-16] **Q.** So it's gone from pushed on me to violently pushed to now struck in the course of those three statements, correct?

[17] **A.** She violently struck me in the chest.

[18] **Q.** All right.

[19-21] **A.** I was trying -- when I made the 911 call I was just trying to be as clear because I was very upset and was trying to just be as clear as I possibly could without falling apart over the phone.

[22-23] **Q.** And then in November, on November 10th, 2009, you say she came towards you with a paper in her hand and kept shoving it at you?

[24] **A.** Yeah.

[25 -- page 34, line 2] **Q.** And that she ended up slamming you three times which knocked you back?

[3] **A.** She did.

[4-5] **Q.** So it's gone from just pushing on me to violent and every time you give the statement it gets more serious?

[6] **A.** Uh-huh.

[7] **Q.** But you also admitted on that day she didn't knock you down?

[8] **A.** No, she did not. That was only due to my agility.

[9] **Q.** **You had no bruises, no marks --**

[10] **A.** **No bruises.**

[11] **Q.** **No broken bones?**

[12] **A.** **No cuts.**

[13] **Q.** **No injuries?**

[14] **A.** **No broken bones.**

[15] **Q.** You didn't have any kind of physical injuries at all?

[16] **A.** Other than the mental.

[17-18] **Q.** Which you testified occurred as a result of all the harassment ---

[19] **A.** Yeah, I did. I went to the doctor in January. It's all collective.

[20-21] **Q.** And the court's actions and the number of court cases and the fact that the courts made you go from one place to the other?

[22] **A.** Yes.

[23-24] **Q.** **But as a direct result you didn't see a doctor? As a direct result of this ---**

[25] **A.** **I didn't see a doctor that night.**

[page 35, line 1] **Q.** **Or any time the next couple of months?**

[2] **A.** **Not until January.**

[3] **Mr. Fernandez:** I object. We covered already.

[4-5] **The Court:** We have covered it. I will grant him a little leeway. I can address it.

[6] **Q.** (by Mr. Lupton) **And no medications?**

[7] **A.** **Not until January.**

[8-12] **Q.** Now let's talk about -- that's the story and, of course, we've got all those and then now here today you've converted it to slamming or actually I suppose you said that -- that was the fourth (inaudible). **Let's talk about what she was doing. She came at you with a piece of paper?**

[13] A. Uh-huh.

[14-15] Q. You were trying to -- **you had provided her notice that you wanted to do an inspection of her apartment, correct?**

[16] A. Yes.

[17-18] Q. She objected to you doing the inspection on the date that you wanted to do it, correct?

[19] A. I didn't read the paper so at that time ---

[20] Q. You know ---

[21-22] A. Yeah, I understand what you are saying. I didn't read it at the time.

[23-24] Q. You certainly couldn't have read it before she gave it to you so you didn't know what (inaudible)?

[25] A. Absolutely.

[page 36, lines 1-4] Q. But we know now that what she was trying to do is give you an objection to you entering her apartment which she has a right to do under her lease and under the law, correct? Object to you entering her apartment at least on a particular date?

[5-7] A. She has the right to object to a degree. Under my lease by law I can -- it's in my lease that says that I can do inspections under the law that allows me to give her twenty-four notice and go in.

[8-9] Q. And she has a right to object and ask for it to be scheduled at different time.

[10] A. And we did not go in.

[11-12] Q. But my point is she was serving you something that she had a right to serve you, correct?

[13] A. That -- yeah.

[14] Q. And you wouldn't take it from her?

[15] A. No.

[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.

[page 37, line 1] Q. (by Mr. Lupton) And she served you this paper?

[2-3] A. Yes. **And I have served papers before. You are not allowed to assault somebody as you are serving the paper. That is a crime.**

[4-5] Q. Now you testified that you didn't want her touching you but that there were no marks, no injuries, nothing like that as a result?

[6] A. No.

[7] Mr. Lupton: I beg the Court's indulgence.

[8] The Court: Yes, sir.

[9] (pause)

[10-11] Q. (by Mr. Lupton) And, in fact, in one of your versions of the story you talk about being spun around, correct?

[12] A. I was.

[13-16] Q. That wasn't in any of the -- that was on November. That wasn't anything you said in any of the prior statements, twice in September or the one in October. So that was something new in November. Correct?

[17] A. I did not fall.

[18-20] Q. And obviously the Court is aware but there has been considerable tension and litigation and back and forth complaints with you and this defendant, correct?

[21] A. Absolutely.

[22] Mr. Lupton: Thank you, Your Honor.

[23] The Court: Thank you. Any redirect?

[24] Mr. Fernandez: Very briefly. Thank you, Your Honor.

[25 - page 38, line 1] **Redirect examination by Mr. Fernandez:**

[2-4] Q. I'm going to hand you the police report here. I'm sure you are familiar with it. If you would, just take a second to read it and tell me if you recognize that report?

[5] **A.** She was very hostile and violently ---

[6-7] **Q.** You don't have to read it yes. Just read it to -- I'm sorry. Just read it to yourself and tell me if you are familiar with that report?

[8] **A.** Yes, I am.

[9-10] **Q.** Would it be accurate to say that report is the report that was prepared for this incident that we are here for today, correct?

[11] **A.** Yes.

[12-13] **Q.** And the summary that you gave to the officer, did he accurately relay what you said to him?

[14] **A.** He did.

[15-16] **Q.** And is that -- whatever you said to the officer that he put in the report, is that consistent to what you testified here today?

[17] **A.** Absolutely.

[18-19] **Q.** And that report was taken probably, what, twenty minutes after the event?

[20] **A.** Yeah, right after the assault.

[21] **Mr. Fernandez:** Thank you.

[22] **Q.** (by Mr. Lupton) well, in that report -- I'm sorry.

[23] **Mr. Fernandez:** No further questions.

[24-25] **Mr. Lupton:** That's what I thought. I apologize. I wasn't trying to interrupt.

[page 39, lines 1-2] Recross examination by Mr. Lupton:

[3-5] **Q.** In that report that you say he accurately reflected what you told him, you told him that she approached you in the rear of the building, not on the side. Is that not correct?

[6] **A.** (pause)

[7] **Q.** The very first thing that's in ---

[8-9] **A.** Approached her in the rear residence. I mean she originally -- it was on the side and then ended up in the rear of the residence.

[10] **Q.** What you told the officer was approached in the rear?

[11] **A.** Uh-huh.

[12-14] **Q.** So on this report that you say is accurate you told him rear and now you're saying that it was on the side and that she chased you?

[15-16] **A.** The incident happened in the rear. The actual assault happened in the rear of the building.

[17] **Q.** What you said here is she approached in the rear?

[18] **A.** It was actually on the side of the building, the first contact.

[19] **Mr. Lupton:** Nothing further.

[20] **The Court:** All right. You may step down.

[21] (witness to the side)

[22] **The Court:** Court officer, can you get Ms. Crouch, please.

[23] **Mr. Fernandez:** The city would call Charlene Crouch.

[24 - page 40, line 2] **The Court:** Thank you, sir. It will take us a moment to get her from the hallway. Any position on whether or not Ms. Steele needs to be excused from the courtroom in case she is called as a reply witness?

[3-5] **Mr. Lupton:** Your Honor, under sequester standard rules if they are going to recall her they would have to excuse her. If they are not then I'm fine with her staying.

[6-7] **Mr. Fernandez:** Yeah, just to be safe, let's just keep all options open.

[8-9] **The Court:** Thank you very much. Please go out Ms. Steele.

[10] **Mr. Fernandez:** Thank you, Your Honor.

[11-12] Charlene Crouch, after being duly sworn by the Court, testifies as follows:

[13-14] **The Court:** Please have a seat and answer any questions Mr. Fernandez may ask you.

[15-16] Direct examination by Mr. Fernandez:

[17] **Q.** Ms. Crouch, your name for the record, please?

[18] **A.** Charlene Crouch.

[19-20] **Q.** And, Ms. Crouch, you were a resident of 300 Byron Road, correct?

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

[22-23] Q. Do you remember the dates you were a resident at that location?

[24-25] A. I think I moved in, what, 2007? And I stayed like maybe four years.

[page 41, line 1] Q. So somewhat recently moved out, 2011 maybe?

[2] A. No. I've been gone -- how long? A couple -- about two years.

[3] Q. Were you living at the apartment complex in 2009?

[4] A. Yes.

[5] Q. And the date September 11th, 2009, do you remember that day?

[6] A. Yes.

[7-12] Q. And I have some -- if you ever need to refresh your memory on certain specifics, there is some paperwork I can give you but I will work mostly off your memory. And that day there was an incident alleged that occurred on that day between -- do you recall witnessing an incident between the defendant, Marie Faltas, and Ms. Dinah Steele Mason?

[13] A. Yes.

[14] Q. Marie Faltas. Are you familiar with her?

[15] A. Yes.

[16] Q. Is she here today?

[17] A. Yes.

[18] Q. Is she the woman that was the subject of this incident?

[19] A. Yes.

[20-21] Q. Did -- describe your apartment location at this area. Where is your apartment located at 300 Byron?

[22-25] A. Well, when I lived there I was in the 300 building and she was in the building beside there. It was like in the evening time and she had some paperwork in her hand and Dinah, my ex-landlord, she was also over there. I was sitting on my patio and ---

[page 42, line 1] Q. Is your patio on the second story or the first story?

[2] A. Second.

[3] Q. Did you have a view of everything that was going on?

[4] A. Yeah, I did. Uh-huh.

[5-7] Q. Was the -- what you witnessed, the incident between when you saw the defendant come up to Dinah Steele and when you saw what eventually happened, was your view ever obstructed by anything?

[8-9] A. Well, she told her to get away from her and she had some papers in her hand and she was pushing them into her chest.

[10] Q. So when you say she you're ---

[11] A. Dr. Faltas.

[12-13] Q. So let's go through that again so we just clear up the record a little bit.

[14] A. Okay.

[15-16] Q. When you say she was approaching her, who was approaching who?

[17] A. Dr. Marie Faltas was approaching Dinah Steele.

[18] Q. And then what happened?

[19-23] A. Basically she told her to get a way from her and she was pushing. As she was walking towards her, she had the papers and she was pushing them in her chest, you know, trying I guess to give them to her but in a sense she was pushing the papers in her chest. And then all I know the law was called.

[24 - page 43, line 1] Q. The -- how would you describe Ms. Faltas' demeanor? How was she acting? Did she seem hostile, did she seem calm, was she yelling? Could you describe how she was behaving?

[2-3] A. Well, basically she was just, you know, pushing. Yeah, hostile because she was pushing the papers in Dinah's chest.

[4] Q. And the push that you say -- how was Dinah reacting to this?

[5] A. She kept saying get away from me, get a way from me.

[6] Q. Was she moving backwards, was she trying to get away?

[7-9] A. She was -- you know, she pushed the papers in her chest and she was just -- she was moving, you know, pushing her back and then, you know, I went inside and I think I called the police.

[10-11] Q. And did Dinah Steele ever initiate any kind of combat against Dr. Faltas?

[12] A. No, she just told her to get away from her.

[13-14] Q. And the pushing, did you regard that as -- was it unwanted by Dinah Steele?

[15] Mr. Lupton: Objection, Your Honor.

[16-17] The Court: I will sustain that. Please ask another question.

[18-19] Q. (by Mr. Fernandez) What kind of -- would you call it aggressive? How would you describe the touching?

[20] Mr. Lupton: Objection to leading.

[21] Mr. Fernandez: What's the objection based on?

[22-24] The Court: He objected as to leading. I think ultimately he asked two questions in one. I think he ultimately asked her would you describe it. Please clarify the question.

[25] Q. (by Mr. Fernandez) How would you describe the actual pushing?

[page 44, line 1] Q. If you could, be specific. How would you describe it?

[2-3] A. Well, she had the papers like I said in her hands and she was pushing them into her chest.

[4] Q. What kind of force was she using?

[5] A. She was forcing with her hands.

[6] Q. And how much force was being applied? What did you notice?

[7-9] A. Basically like I said she was just pushing the papers in, you know, in her chest trying to give it to her instead of putting it in her hands.

[10-11] Q. And from where the incident -- where this altercation started and where it ended, how far back was Dinah pushed?

[12] A. Just, you know, a couple of steps.

[13] Q. And did Dr. Faltas say anything during this time?

[14] A. No, not really. No.

[15] Q. Did she appear to be agitated?

[16-17] A. Well, yeah, 'cause -- like I said, she was pushing the papers in her chest.

[18-19] Mr. Fernandez: Thank you. That's all the questions I have.

[20-21] The Court: Please answer any questions Mr. Lupton may have. Mr. Lupton, you may cross in full.

[22] Mr. Lupton: Thank you, Your Honor.

[23-24] **Cross examination by Mr. Lupton:**

[25 -- page 45, line 1] Q. Ms. Steele was backing up as Dr. Faltas was trying to give her the papers, correct?

[2-4] A. No, she was pushing them into her chest. Yes, she was backing up because she was pushing the papers into her chest instead of putting them in her hand.

[5-7] Q. So based on your observations was Ms. Steele trying to -- prior to the pushing and prior to her -- Dr. Faltas trying to give her papers, was Ms. Steele trying to back away from her?

[8] A. Well, she ---

[9] Q. Or was she just standing her ground?

[10-13] A. She was -- I mean she stood right there and she had the papers and she, you know, instead of giving them in her hand she put them in her chest and she went back a couple of steps and she told her to get a way from her and then I went in and called the police.

[14-15] Q. So during this confrontation Ms. Steele did not back away from her?

[16] A. Well, she kind of like pushed her back when she was ---

[17-18] Q. But other than that, I mean she didn't come running away from Dr. Faltas?

[19] A. Well, like I said, I went in and called the police so ...

[20] Q. Prior to it. I mean you saw the whole thing?

[21] A. Yes.

[22-23] Q. And so she wasn't running away prior to having papers given to her?

[24-25] A. No, she was just stepping back because, you know, she was pushing them in her chest.

[page 46, line 1] Q. But was the stepping back before or after the papers?

[2] A. I mean -- I guess after.

[3] Q. So she didn't move prior to that?

[4] A. (inaudible).

[5-7] Q. And you said that Dr. Faltas wasn't saying anything. Did she say something about here's the papers or you got it or anything like that that you heard?

[8] A. She was -- I can't recall what she was --

[9] Q. She possibly said that?

[10] The Court: Please let her answer first.

[11-12] A. I really can't recall what she telling -- she was telling her something about the papers but all I know is what I saw.

[13] Q. (by Mr. Lupton) She told her something about the papers?

[14] A. Yeah.

[15-16] Q. Could it have been you've got it or you are served or something of that nature?

[17] A. Perhaps.

[18] Q. But she wasn't making any threats, was she?

[19] A. No, she didn't make no threats.

[20-21] Q. Wasn't saying I'm gonna get you or I'm gonna, you know -- anything like that? No threats?

[22] A. Not to my knowledge.

[23] Mr. Lupton: Nothing further, Your Honor.

[24] The Court: Yes, sir.

[25] Mr. Fernandez: Nothing.

[page 47, line 1] The Court: You may step down.

[2] (witness to the side)

[3] The Court: Any further witnesses from the state?

[4] Mr. Fernandez: No, Your Honor. The city rests.

[5] The Court: All right. Any motions at this time?

[6-11] Mr. Lupton: Your Honor, move for a directed verdict based on the testimony. In the light most favorable to the state or the city in this case, I don't believe that the city has shown that an assault happened in this case. This appears to have been a serving of papers. This was not a fight in a private or a public place within the corporate limits of the city, nor was there any injury.

[12] The Court: Okay. Yes, sir.

[13-18] Mr. Fernandez: And I would just argue the exact opposite, that we did prove that there was an assault, certainly in the light most favorable at least, but that we did prove there was an assault, that it was within the city limits and that by definition of assault which I do have a number of definitions but by definition it does certainly qualify.

[19-20] The Court: Motion is denied. Are you ready to proceed, sir?

[21-25] Mr. Lupton: Your Honor, if I could have a moment and also additionally as required by law, not that I'm trying to influence anybody, but as the Court is aware it is required by law that the Court advise a defendant at this stage as to their right to testify or not testify.

[page 48, lines 1-14] The Court: [1-9] Dr. Faltas, we've done this advice before. As you are aware, you have a right not to take the stand. That cannot be considered against you. You have a right to remain silent. The charges still have to be proved against you beyond a reasonable doubt. If the city fails to do that even if you don't testify, you are presumed innocent and a not guilty verdict would be entered. If you choose to testify then you subject yourself to cross examination. You also lose the right to have last argument as you will have placed evidence into the record on the defendant's case. [10] So you have the right to remain silent and the right not to testify. [11-14] Whether or not you testify is your choice and you should consider that based upon any advice given you by counsel but you ultimately make that decision. Anything further, counsel, you need on that point?

[15] Mr. Lupton: No, Your Honor. Thank you.

[16-17] The Court: And how long do you need before you are prepared to go forward?

[18-20] Mr. Lupton: Your Honor, if we could just have a few minutes that we can discuss whether or not she wants to testify and discuss that process.

[21-22] **The Court:** We will adjourn until 12:25 pursuant to the clock in the courtroom.

[23] **Mr. Lupton:** Thank you, Your Honor.

[24] **Mr. Fernandez:** Thank you, Your Honor.

[25] **(recess)**

[page 49, line 1] (court resumes)

[2-4] **Mr. Lupton:** Your Honor, we are ready. Dr. Faltas would like to testify; however, we are missing -- unless you want to proceed without them.

[5-6] **Mr. Fernandez:** They were in the restroom the last I saw. They went to the restroom.

[7-10] **The Court:** Well, let's give Dr. Faltas -- well, let's do this since we are in a bench trial we are more relaxed. Since she has a knee issue, is it appropriate for her to testify from where she sits? What do you want to do?

[11-12] **Mr. Lupton:** We were going to ask permission from the Court to have her testify from where she sits, Your Honor.

[13] **The Court:** That is granted.

[14-15] **Mr. Lupton:** And also while we are waiting she has marked thirty-one exhibits I'll hand up to the Court.

[16] **The Court:** Let Mr. Fernandez see them.

[17-20] **Mr. Lupton:** Certainly. They are all ... These are pictures that she would like to introduce and pursuant to the Court's order that she can submit evidence subject to the rules of evidence she is doing that.

[21] **The Court:** Not a problem.

[22-23] **Mr. Fernandez:** I guess when you move to put them into evidence I'll take that up I guess.

[24 -- page 50, line 1] **The Court:** Let me take a look at them if you don't mind. Do you have any objection to them? I know you don't know how they are going to be used.

[2-5] **Mr. Fernandez:** I don't know how they are going to present it. I don't know what they purport to offer to show so I reserve a right to object to them but I do recognize the area at least that it appears to be.

[6-7] **The Court:** Are they all marked for identification purposes?

[8-15] **Mr. Lupton:** Your Honor, they are marked defense one through thirty-one. Your Honor, considering that this is a bench trial and the Court does have discretion and the ability to sort through what is relevant and irrelevant and since it is agreed that they are all of the area and generally the people involved, I would move them into evidence for whatever they are worth. Subject to any testimony based on them that the city finds objectionable, they obviously preserve that right to object.

[16-18] **Mr. Fernandez:** And I can agree. I think given the fact it's a bench trial and Your Honor is able to sift through the relevant and irrelevant I think we can agree with that.

[19] **The Court:** Also admitted.

[20-21] **(photographs are received into evidence as Defendant's Exhibits # 1 through #31.)**

[22-24] **Defendant Faltas:** At this point, may I just make my *Anders* argument that the last argument rule should be changed based on *Holmes vs. South Carolina*, a U.S. Supreme ---

[25 -- page 51, line 1] **The Court:** We are not going to address any last arguments at this point. We are going to take testimony.

[2] **Defendant Faltas:** Thank you.

[3-4] **Marie-Therese Assa'ad-Faltas, after being duly affirmed by the Court, testifies as follows:**

[5-6] **The Court:** Thank you very much. Mr. Lupton, your witness.

[7-8] **Mr. Lupton:** Your Honor, with the Court's permission, I have given her the exhibits that she can refer to.

[9-14] **The Court:** That is fine. All I ask, because I see other things in front of her, is that if she is going to provide information or refer to anything that is not admitted into evidence that we get a sticker on it and that we have whatever arguments necessary on its relevancy, authenticity, *et cetera*, and so we know when we leave here today that everything we talked about is in the record.

[15-17] **Mr. Lupton:** Your Honor, I have cleared a space on the desk and I'm going to ask her to keep the exhibits in that clear space and keep all other items outside of that clear space.

[18] **The Court:** Thank you, sir. Your witness.

[19-20] **Direct examination by Mr. Lupton:**

[21] **Q.** Dr. Faltas, could you please tell the Court who you are?

[22 -- page 52, line 8] **A.** I'm Marie-Therese (inaudible) Assa'ad-Faltas. I am M.D. and M.P.H. I'm a Coptic Orthodox Christian and I also speak four languages. I'm the first born to my parents. I have two sisters who are also physi-

cians. They are married to physicians. I basically have lived my life as a nun even though not in a convent. Usually nuns in a convent wear a wedding band because they are the brides of Christ. This is my late father's wedding band and it's attached to a ring of my size because after he died mother gave it to me and gave his pocket watch to my oldest nephew and I didn't want my father's wedding band altered in any way, downsized for my finger so it is attached to a smaller ring with (inaudible) symbolizing the three of (inaudible).

[9-11] **Q.** And you talked about being a doctor. Explain to the Court are you a medical doctor, and briefly what training do you have for that?

[12-14] **A.** Okay. I graduated With Honors from Ain Shams University School of Medicine in Cairo, Egypt in July, 1977. At that time I was twenty-four. Can Your Honor hear me?

[15] **The Court:** Yes, ma'am, I can.

[16-24] **A.** Thank you. And I was the youngest in my graduating class. I did not really go to college. I went straight from high school to medical school. In my days there was a year of preliminary natural sciences between high school and medical school proper. And so in 1970 I was one of the hundred high school scholars in all the country of Egypt and, Your Honor, that wasn't a small test. It's a fifteen day exam starting with Arabic Literature, English Literature, French Literature, Advanced Geometry, Advanced Algebra, Advanced Calculus, Advanced Mechanics.

[25] **Q.** All right. But ---

[page 53, lines 1-2] **A.** Advanced Physics, Advanced Chemistry and Advanced Biology and Advanced Sociology.

[3] **Q.** With regards to your medical training.

[4-6] **A.** Yes, I had two years of Anatomy Physiology, Biochemistry, Histology and Psychology. Then I had one year of Pathology, Pharmacology, Parasitology, and Microbiology.

[7] **Q.** Did you receive a medical ---

[8-10] **A.** Then I had three years of Forensic Medicine and Toxicology, Public Health and Industrial Medicine, Ob-Gyn, Ophthalmology, Pediatrics, Internal Medicine and Surgery.

[11] **Q.** And did you receive a medical degree?

[12-18] **A.** What is called in Egypt is M.B.B.Ch. Which is Medicine Bachelor, Bachelor of Chirurgia, and I did one year of rotating internship after that and one year of service in a community health. Then I was chosen by the Fulbright commission for Fulbright expedited subset of the Fulbright Scholarships that President Carter wanted after the peace accord between Egypt and Israel and I went to Chapel Hill where I got my M.P.H. After I got my M.P.H. --

[19] **Q.** What is M.P.H.?

[20 - page 54, line 6] **A.** Master's of public health. And after that I took and passed all the required medical equivalency examinations, the E.C.F.M.G. which is the Educational Commission for Foreign Medical Graduates exam. The V.Q.E. which is the Visa Qualifying Exam. Now they've combined them and the F.L.E.X. which is the Federal Licensing Exam. So upon my having taken those exams and having done residencies in the United States I obtained a permanent non-restricted license to practice medicine in Virginia. I have a permanent non-restricted license to practice medicine and surgery in Egypt and (inaudible) medicine and surgery in Virginia. Also through my training I have held temporary licenses in South Carolina, North Carolina, Illinois and Arkansas but not in that order.

[7] **Q.** And with regards to the events of September 11th, 2009.

[8] **A.** Okay.

[9] **Q.** First tell the Court, please, what happened.

[10-15] **A.** [10-11] Okay. What had happened is the following: In September, 2008, I rented the apartment from Dinah Steele and Larry Mason was there. [12-15] And there were problems with it and in December, 2008, they wanted to come in and fix some things and she testified that I didn't give them any problems coming in and fix anything. And then later in the month of December they put a fruit basket ---

[16-19] **Mr. Fernandez:** Your Honor, I know this is a bench trial. I understood the parameters would be about what happened on that day. Are we going to relax those because it's a bench trial so I know whether or not I'm objecting or not.

[20] **The Court:** Mr. Lupton.

[21-23] **Mr. Lupton:** I have asked her what happened that day. Understand the Court relaxed that somewhat. I would ask her to come to the point of September 11, 2009.

[24 - page 55, line 2] **Mr. Fernandez:** And if we want to -- just so I know what we are limiting testimony to, I know it's a bench trial so I understand. For judicial economy or for just so I understand if I should be objecting or not.

[3-5] **The Court:** We'll do this. You object where you deem it appropriate. I am going to give her more latitude if she wants to give some lead-up we'll give her some room to do that.

[6-7] **Mr. Lupton:** And I will note for the record that the city's witnesses did go into stuff other than the events of that day.

[8] **The Court:** We've allowed her to do it so let's do it.

[9] **A:** I --

[10] **Q:** (by Mr. Lupton) Coming to the point about September 11th.

[11-19] **A:** Okay. But she said that I had been calling the police every time. That is absolutely not true. What had happened is that in December she put a fruit basket in front of my apartment door and then actually I ran into Charlene Crouch and I didn't know if they just put it for me or for everybody and I was curious and I said I hope they aren't going to go over the rent -- to increase the rent because they give us a fruit basket. And she said, yeah, I don't want to be paying more than three hundred. Something in that neighborhood, three hundred. I said what is your rent, three hundred fifty or ...

[20-22] **A:** She said, yes. Why, are you paying more? I said, yes, I am paying five hundred fifty. So that was the first and I had made arrangements for --

[23] **Q:** Coming to the relevance to September 11th.

[24 - page 56, line 14] **A:** [24 - page 56, line 3] First of all, she said that it had to go through her lawyer. That's not the case. Mother and I bought this land next door and I think Your Honor remembers the sewer line issue. When I found out that she was charging me more, initially I reduced the rent because I was paying not by check, but by bank transfer, direct payment. [4-14] Because I felt it was insulting that I would be paying five hundred fifty when others are paying three hundred fifty for an identical apartment. And she called me and was very rude but I didn't do anything because I was trying focused on getting that land and getting that special exception. So I didn't call the police at all. The only time that the police was called before mother and I bought that land was at the time there was an abandoned vehicle not even in this two quadriplexes, on other land, and after two, three days because it looked like the department of transportation and I didn't know if someone, you know, was there committed suicide or something.

[15] **Q:** Related to September 11th, 2009.

[16-18] **A:** Then the only other police was when the neighbor called Teresa Ingram. She had a boyfriend who was threatening to kill her ---

[19-20] **Mr. Fernandez:** Objection, Your Honor. Relevance. They involve parties that aren't even present today.

[21-22] **The Court:** I understand. I think I'm just going to allow it and hopefully we'll be getting to 2009.

[23] **A:** Yes, very quickly, Your Honor, because she lied.

[24] **The Court:** Don't explain. Just please tell us.

[25 - page 57, line 12] **A:** All right. All right. All right. So then before that on February -- around February 14th, 2009, the police came and they were under my door, under my window and Teresa Ingram who is in the next building was talking to them. So the next day Dinah Steele and Larry Mason were there and it was the weekend, maybe (inaudible) and they were working on the lock of the other building, of 300. And they were dressed better than work clothes. And I said -- they even volunteered. They said we are going to a boat show and I said you look sharp. They said we are going to a boat show. I said, well, why did you come here on a weekend. They said we are changing the lock because Teresa Ingram had -- I don't know if they said Nickie but she had given her boyfriend the code and now we need to change the code.

[13] **Q:** (by Mr. Lupton) Concerning September 11th ---

[14] **A:** Then on March 3rd Mother and I closed on the ---

[15] **The Court:** This would be 2009?

[16] **A:** Yes, Your Honor.

[17] **The Court:** Okay. March 3rd, 2009?

[18 - page 58, line 5] **A:** Yes. Mother and I, March of 2009, Mother and I, meaning I acting as her power of attorney, we bought that land next door and after I had gotten an exception, a special exception, from the Board Of Zoning And Appeals on it, and then we subdivided it from the previous lot that had nothing to do with them. And then it was registered on March 6th. And on March 7th I hired people because the grass was like -- it wasn't even grass, it was a jungle. Total shrub, trees, horrible and the picture is in the Court's record from the (inaudible) in this case. So I brought people to take out this high vegetation because it wasn't possible to do it except with a tractor and a backhoe. They had to scrape the land with the vegetation on it. And one neighbor, John Mitchell Jones, Mitch Jones, said what's going on. I said I bought that land. He said when do you start building.

[6] **Mr. Fernandez:** Your Honor, I ---

[7-9] **The Court:** Dr. Faltas, I've tried to give you a lot of leniency but we've only gotten to March and this is a September event. Please try to ---

[10] **A:** We'll have jumped from March ---

[11-12] **The Court:** And to the extent you can don't tell us what other people said who aren't here.

[13 - page 59, line 5] **A:** [13-24] All right. Fine. Okay. So March 12th, 2009, Dinah Steele shows up as soon as somebody has reason to know that I bought that land and she goes ballistics. And then her consort, Larry Mason, calls me by phone and says I'll get you deported, you go back to where you came from, you Egyptian bitch, you are a piece of shit like Obama, all kinds of things and I was battered. I said why are you upset. This doesn't belong to you, I am not going to build a rental and she said I'm going to get your special exception revoked, I am going to protest your building. So -- and then they came at 10:30 that night, March 12th, 2009, and knocked very, very hard on my door. So that was the first time I called the police, not on them but somebody was knocking on my door at 10:30 at night. And then the police came. [25 - page 59, line 1] They said there is a letter. I said you open it. I don't know if it has Anthrax or what. So the police opened it. So that was the first time. [2-5] Then on March 14th, 2009, because on that land I found a rusted and totally neglected piece of wood turned out to be an address sign so they had it planted, the people who did the land moving, they planted it on the 13th and I went and bought numbers, you know ---

[6] **Q:** (by Mr. Lupton) All right. In ---

[7-9] **A:** Light reflective numbers and then on March 14, 2009, Larry Mason and Dinah Steele were there trying to collect petitions from the neighbors so I don't build. So they tell me ---

[10-11] **Q:** Are you trying to say that this is related to grievances they have against you and that it's motive ---

[12-14] **A:** No, no, no. They have no grievances against me. What they were wanting is to steal my land. So they said we are going to have you arrested.

[15-16] **Mr. Fernandez:** Your Honor, object to the characterization. You know, this is why we had the boundaries set in place because ---

[18] **A:** All right. Fine. Fine.

[19-21] **The Court:** Dr. Faltas, let me finish his objection. Now he gets to object and I get to rule and you get to testify. We've all got our roles.

[22-24] **Mr. Fernandez:** I appreciate that it's a bench trial but we are not even remotely close to why we are here today. I mean we are not even ---

[25 - page 60, line 2] **The Court:** Thank you, Mr. Fernandez. Dr. Faltas, I would like you to come to the facts of what occurred around September 11th, 2009.

[3] **A:** Okay. Okay. Before that ---

[4-7] **Q:** (by Mr. Lupton) Dr. Faltas, is it your testimony that events that happened prior to September, 2009, between March and September that you believe that Ms. Steele in this case has motive against you because of you buying the land next door?

[8-9] **A:** Absolutely. Not only that, she started an eviction case against me on April 1st, 2009.

[10-11] **Q:** And you believe it's because you bought the land, is that correct?

[12] **A:** Yes, definitely. Also ---

[13-14] **Q:** And that's because it turned out that they had a sewer drain that was going across that land?

[15-16] **A:** Yes. Not only that but also their building is not set back five feet from the property line.

[17-18] **Q:** So you believe that provides motive for why she's accusing you of assault?

[19-23] **A:** But let me also tell you that when she said that she will get my special exception revoked I filed a civil lawsuit against her. The civil lawsuit was presented by a lawyer who works for her insurance company. She has landlord insurance and that lawyer said absolutely positively ---

[24] **Mr. Fernandez:** Objection, hearsay.

[25 - page 61, line 1] **The Court:** That is granted. I mean he's not here to testify. You can't just tell us what other people said.

[2-4] **A:** All right. Can I say that I was told to limit my interactions with him to the civil case but the landlord-tenant relationship. And the eviction case there was no lawyer involved.

[5-7] **Q:** (by Mr. Lupton) Let me ask you this. Did you have conversations with a lawyer related to a civil case you were engaged in prior to September 11, 2009? Just yes or no.

[8] **A:** Yes.

[9-11] **Q.** And based upon those conversations was it your understanding that you were not to provide that lawyer with documentation for anything other than civil suit?

[12] **A.** In no uncertain terms, yes

[13-16] **Q.** So was it your belief and understanding based on your conversation with that lawyer that a protest to the entry into your apartment not related to that civil suit that it would be inappropriate to serve the lawyer?

[17-19] **A.** Not only inappropriate, I had asked him if he would take it and give it to them, if I could fax it to him and he said, no, absolutely not. That's beyond his contract.

[20] **Mr. Fernandez:** Objection. Hearsay again.

[21-24] **Q.** (by Mr. Lupton) Based upon your conversations was it your belief that based on what he said to you, without going into what he said, that you could not serve her through him, that such service would be ineffective?

[25 – page 62, line 2] **A.** Not only ineffective, it would have asked him to do a conflict because he's hired by the insurance company and he had made it so clear to me.

[3] **Q.** So now getting to September 11th ---

[4-5] **A.** Remember, before that she tried to get me arrested for trespass and the jury didn't believe her.

[6] **Q.** Now you received notice from Ms. Steele ---

[7] **A.** Uh-huh.

[8-9] **Q.** That she wanted to come into your apartment to do some sort of inspection ---

[10-11] **A.** Which she had never done before and all the neighbors were telling me it's just because she's ---

[12] **Mr. Fernandez:** Objection. Hearsay.

[13] **A.** All right. Charlene Crouch told me.

[14-15] **Q.** (by Mr. Lupton) Had she ever gone into your apartment before for inspection?

[16] **The Court:** I overrule it. Please rephrase the question.

[17-18] **Q.** (by Mr. Lupton) Had she gone into your apartment before for an inspection?

[19] **A.** Not regular inspection (inaudible).

[20] **Q.** Now ---

[21 – page 63, line 1] **A.** That was a pretext and the letter that they sent me before they said we are going to come into your apartment and photograph everything on it. Before that when I had the lease with them I said there is something that is a deal breaker. The lease has to say in addition to whatever language that you cannot come in my apartment in my absence.

[2] **Q.** Did you -- you got notice that they wanted ---

[3] **A.** First, they wanted to come on Labor Day.

[4-5] **Q.** All right. That was rescheduled and it was -- I believe it was supposed to be on September 14th, is that correct?

[6-7] **A.** And September 14th wasn't going to work for me because I had a brief due at the Court of appeals on another matter that day.

[8-9] **Q.** All I'm asking is there was a date scheduled that did not work for you and you wanted it changed, correct?

[10] **A.** Absolutely.

[11-12] **Q.** And did you type up a notice protesting them coming in on the date that they had picked?

[13] **A.** Yes.

[14] **Q.** And did you try and give that to Ms. Steele?

[15-17] **A.** I very -- first, I had mailed her a copy but then because they had lied before many, many times I knew that they were going to pretend that she did not get it.

[18-19] **Q.** You were concerned that she would deny receiving it if you did not give it to her personally? Is that your testimony?

[20] **A.** Absolutely. Absolutely.

[21-22] **Q.** So you were trying to give it to her personally on September 11th, is that correct?

[23] **A.** Yes. In fact ---

[24-25] **Q.** And on September 11th, can you describe to the Court what you did in order to serve this document?

[page 64, lines 1-6] **A.** Okay. I had written it on my computer and I had printed a copy and mailed it, put it in the mail to her. I had also faxed a copy to her lawyer and he said I don't have anything to do with it, so she was down there in front of my building so I came down and I think she knew what that letter said because I think her lawyer after I faxed it -- I think -- I'm saying I think ---

[7] Q. All right. Now what did you do?

[8-10] A. What I did was saying I want to give you this and then she kept on go away, go away. And this is exactly how she does it. This is at a later date ---

[11] Q. So you are referring to defense exhibit eight?

[12] A. Yes. But I also have the same one like here ---

[13-14] The Court: Now is defense exhibit eight from the September 11th, 2009, date?

[15-17] A. No, Your Honor. It's a letter but it shows her habit of this is how -- and this here they are standing at the mailboxes and I need to go to my mailbox ---

[18-19] The Court: Hold on a second. Hold on a second. Let me understand what I'm looking at. What date was that picture taken?

[20] A. It was just the day before the hearing with the magistrate.

[21] The Court: Okay. So what date would that have been?

[22] A. November 9, 2009.

[23-24] The Court: Okay, November 9, 2009. All right. Please continue.

[25 -- page 65, line 2] Q. (by Mr. Lupton) And you are saying the relevance of that is that the hand motion that Ms. Steele was making is consistent with the hand motion she was making on September 11th?

[3-11] A. Absolutely. Go away, go away. So while she had her hand there I put the paper -- one sheet, one sheet -- like that on her extended hand when she was saying go away, go away. I just put it on her and instinctively even though she didn't want it, when people you know, see something about to fall she did that. That is all that happened. And then after that she realized that, you know, she took momentary control of it so she put her hand out and the paper fell on the floor. I said it doesn't matter, you got it. And I went to my apartment.

[12] Q. Could you have just dropped it at her feet?

[13] A. No, she would have said it's not proper.

[14] Q. So that's why you wanted to physically touch her?

[15] A. No, I didn't physically touch her at all.

[16-17] Q. Well, the paper physically. You touched the paper to her physically. The paper you said you laid on her arm so you created ---

[18-19] A. And she was the one who was extending her arm. I didn't like seek out her arm or anything.

[20-22] Q. But you took the paper and used the paper. The paper touched her physically, is that -- you placed it and not in any kind of violent way but you are saying you placed it on her arm.

[23] A. Yes.

[24 -- page 66, line 1] Q. And your reason for wanting to place it physically upon her was because you believe that that was required to have effective service? Is that your testimony?

[2-5] A. Yes. And these are two more pictures. I think one of them -- **these are defendant's exhibit ten and eleven and they are taken** -- one of them is the bigger one but this is how she does it. Go a way, go away and she keeps doing that.

[6] Q. And these are just -- again not taken on September 11th?

[7] A. No, but this is her customary way of moving.

[8-9] Q. But it's admitted to show or used in this testimony to show her habit and her --

[10] A. Yes.

[11] Q. And that it was consistent with the picture?

[12] A. Yes.

[13-14] Q. So the picture is consistent with how she was -- her arm movement on the day in question?

[15-19] A. On the day in question and every time she's there and I'm trying to go to my mailbox or, you know, anything. This kind of movement. And to show you how strong this woman is, that day -- one of the lies they said about me is that I had pretended that I was the owner and had the tree cut.

[20] Mr. Fernandez: Objection.

[21] Q. (by Mr. Lupton) And we are just talking about September 11th.

[22-23] The Court: Yes, I am going to sustain that and stay away from all that.

[24-25] Q. (by Mr. Lupton) Now, Dr. Faltas, did you slam her or violently strike her or violently push her on September 11, 2009?

[page 67, lines 1-2] **A. It is physically impossible** and then she claims it would have been three times and that I spun her around. What is she? A top?

[3] **Q.** What do you mean it was physically impossible? Explain that.

[4-7] **A.** Okay. First of all, as a physician I know that you cannot strike somebody violently enough for them to fall and that's why I wanted to show you this is a woman who carries a tree, a tree branch without it leaving bruises. Second, second.

[8-11] **Q.** Your testimony is that based on your training and experience as a physician it is not physically possible to strike somebody hard enough to create the kind of spinning and knocking back that she has described without some sort of mark or bruise?

[12] **A.** Absolutely. Also the ---

[13-14] **The Court:** I don't know that's -- I'll sort it out but I'm not sure that is an accurate recitation of what she said.

[15] **Q.** (by Mr. Lupton) All right. Is that your testimony?

[16] **A.** Okay. In addition, in addition, remember no, ---

[17] **Q.** Not in addition. I need to clarify this.

[18] **A.** Restate your statement and see if I ...

[19] **Q.** Based on your training and experience ---

[20-21] **Mr. Fernandez:** I mean I'm going to object only because she's not an expert.

[22] **The Court:** I will allow it.

[23-24] **Q.** (by Mr. Lupton) What is your testimony regarding the possibility or impossibility of this (inaudible).

[25 -- page 68, line 9] **A.** Everyone of her versions is physically impossible for several reasons. The most violent version that I struck her with such violence that it knocked her back and spun her around would not only have left bruises on her, it would have bruised my hand. Also, think about it. I am facing her. I could not have struck her three times, especially if I had the paper in my hand trying to put it the paper would have torn. Now she called the police. The police came and stayed three hours under my window and they were -- but the problem is my camera was in my car. And one of the police people is Sgt. Passmore.

[10-15] **Q.** We are not here to talk about Sgt. Passmore or any problems you are having with the police department. What we are here to talk about is you said that it was physically impossible for the events to have occurred the way she said. I want you to tell the Court any evidence, any testimony you believe shows that physical impossibility.

[16] **A.** Okay. **I want her to come and do on me what she claims ---**

[17] **The Court:** No, ma'am. No, ma'am.

[18-19] **A.** Fine. Okay. Also, if I had been standing opposite her exactly you know, face to face.

[20] **Q.** Face to face. I understand.

[21-24] **A.** **I would have to have been close enough** for -- and I am a very weak person. I go out of breath very easily. I would have been close enough for the force to -- to make a difference **but that same force would have recoiled me back.**

[25 -- page 69, line 1] **Q.** **You are talking about the physics principle of opposite and equal reaction?**

[2] **A.** **Yes, yes, yes. Absolutely.**

[3-4] **Mr. Fernandez:** I just want to reiterate my objection, Your Honor. She is in no way qualified to testify (inaudible).

[5-6] **The Court:** I will allow it to be an ongoing objection. Will allow her to testify to it.

[7] **Mr. Fernandez:** Thank you.

[8-10] **A.** That's what I tell people. I go to medical school because I proved I was superbly qualified to be an engineer, Your Honor. This whole --

[11] **Q.** (by Mr. Lupton) We are not talking about that.

[12] **A.** All right.

[13] **Q.** This is your time to present evidence.

[14] **A.** Yes, okay. For three hours under my window.

[15-16] **Q.** **And we are talking about you said physically impossible for her version to occur.**

[17] **A.** **Yes.**

[18-19] **Q.** If you have testimony you wish, this is your time to explain to the judge why it's physically impossible.

[20] **A.** Yes.

[21] **Q.** Focus on that, please.

[22] **A.** And then the police came and stayed for three hours.

[23-25] **Q.** So you have no more evidence of physical impossibility? Yes or no. This is your time to give any evidence of physical impossibility that the event she described could not have happened.

[page 70, lines 1-2] **A.** It's also physically impossible for Charlene to have seen it because it was

[3] **Q.** And why is it physically impossible for her to have seen it?

[4-5] **A.** Because she was in the front of the building and then she walked back and it happened in between those two. In addition ---

[6-9] **Q.** So your testimony is that you gave -- let me rephrase. I don't want to put words in your mouth. Where -- based on your testimony, where did you place the notice or the protest, where did you give it to Ms. Steele?

[10] **A.** Between those two.

[11] **Q.** And you are saying in between these two buildings?

12 **A.** Yes.

[13] **Q.** In between those two buildings and also these are the in between the air conditioner units?

[14] **A.** Yes.

[15] **Q.** As reflected in defense's exhibit fifteen and sixteen.

[16-18] **A.** Yes. In addition, Charlene Crouch had a sofa in her bedroom so she couldn't have been in her balcony and it would have been physically impossible for her to see those

[19-20] **Q.** And you've got defense exhibit one, two and thirty that shows the couch and that's where it was on September 11th?

[21 -- page 71, line 4] **A.** Before and after. I didn't look to see if it was there on September 11th and this is not taken on September 11th but one of them is before -- one or two of them before and the one other and two are after. And they were also -- this couch was blocking, blocking the exit to the balcony. But then after that happened and I said you got it and I went to my apartment, then from my window I could see police cars and for about one hour they were -- Dinah Steele and Charlene Crouch were like mimicking hand gestures and different arms like they were being coached what to say. After that ---

[5] **Mr. Fernandez:** Objection, Your Honor. Speculation.

[6-7] **The Court:** All right. I'm going to allow it. I'll sort it out.

[8-13] **A.** Thank you, Your Honor. So they were like, you know, somebody doing this and they would shake their head, somebody doing this and they would say, so they were like -- and that happened for three hours. And then Passmore called me from under my window and said come down or I will tow your car because you have a bad license plate in a private -- or a bad license tag ---

[14-15] **Q.** (by Mr. Lupton) We are not talking about Passmore. We are here about the ---

[16-17] **The Court:** I overrule it. I'll sort it out. Please continue, Mr. Lupton. Please ask her a question.

[18] **A.** Thank you, Your Honor.

[19-20] **The Court:** Mr. Lupton, do you have a question to ask her?

[21] **A.** I called - (inaudible). It was three hours. Three hours ---

[22-23] **The Court:** You've testified to that. Mr. Lupton, do you have a question to ask.

[24] **A.** I had to call -

[25] **The Court:** Mr. Lupton gets to ask you questions.

[page 72, line 1] **A.** I'm sorry.

[2] **Q.** (by Mr. Lupton) Now did you violently strike or slam ---

[3-4] **A.** Why would I do that? **I did not do it and why would I do it? That would tear the paper.** I was trying to put ---

[5-6] **Q.** (by Mr. Lupton) Which is my next question. What was your purpose in going over towards Ms. Steele?

[7-13] **A.** [7-10] To give her the letter in a manner that she cannot deny so that they don't come on the 14th in my absence and enter my apartment and steal from it and photograph it because they had sent me certified letters saying we will come in and photograph it. [11-13] And if I remember correctly I had even tried to get an injunction from the magistrate and it didn't work. I think I went to the -- tried to go to the state Supreme Court --

[14] **Q.** With regards to September 11?

[15] **A.** Uh-huh.

[16-18] **Q.** Did you do more than serve what a process server as you might see on T.V. would do? The putting it on them and saying you've been served? Did you do anything more violent than that?

[19-22] **A.** I didn't do anything violent. And I had been previously served by process servers and I had also in the course of other litigation been told that personal service means putting it in their hand. So that's all I did.

[23-24] **Q.** What you did was consistent with what you have seen in service of process?

[25 – page 73, line 12] **A.** Yes, several times. And she was verbally abusing me all the time. And for three hours they were mimicking and then Passmore told me to come down because if not he will tow my car because it has a bad license plate in a private area. And I said, no, it doesn't have a bad license plate, it's current. And I had to call his supervisor -- I think it was Lt. Evans -- and at that time I had also had to call Mark Whitlark who is a lawyer and I later paid him two-hundred dollars so that they can (inaudible). So they were wanting to lure me outside to arrest me. And all of this, Your Honor, because the eviction trial was scheduled later in September. I had not called the police on them except -- and not even on them. March 12th when at 10:30 at night someone came and violently knocked at my door, March 14th --

[13] **Mr. Fernandez:** Your Honor, we've covered this.

[14-16] **The Court:** I have heard that testimony. Mr. Lupton, do you have any other questions you need to ask? Wish to ask, I'm sorry.

[17-20] **Q.** (by Mr. Lupton) Do you have anything else specifically related to the physical impossibility of her version, yes or no, that you haven't already testified to? Is there anything else you want to add about that physical impossibility?

[21-22] **A.** But I have record evidence that she lied because I was -- okay. Can I move --

[23-24] **Q.** Regarding the physical impossibility, is there anything else regarding physical impossibility you want to tell the Court?

[25] **A.** I don't think so. Now she testified that she has been --

[page 74, lines 1-2] **Mr. Fernandez:** It's not been a question asked, Your Honor.

[3] **The Court:** Mr. Lupton, please ask her a question.

[4-6] **Mr. Lupton:** Your Honor, at this time I have no further questions. If she wants to testify further and the Court permits testimony in the narrative --

[7-8] **A.** Well, that's very important. She said that she was -- there was --

[9] **Mr. Fernandez:** Objection.

[10-12] **The Court:** I'll tell you what we are going to do. Mr. Lupton has finished his questions. Dr. Faltas, I'm going to give you five minutes if there is anything else you want to tell me.

[13-23] **A.** Yes, Your Honor. I was falsely arrested on December 2nd, 2009, on false harassment charges where she alleges, Dinah Steele alleges she is the victim and also Teresa Ingram alleges that she is the victim. Between December 2nd, 2009, and when she claims January 10th she developed a nervous breakdown, I was not in my apartment at all. And, in fact, in fact, in a hearing on January 7, 2010, in Sumter before the honorable Judge James, Heather Weiss who was prosecuting the case said Ms. Steele is not here because she has had difficulties. And Judge James -- and there is a transcript -- and Judge James said with whom. She said -- Heather Weiss said she just has stress.

[24-25] **Mr. Fernandez:** I just have objection to this relevance and hearsay.

[page 75, lines 1-2] **The Court:** It's a standing objection. I understand both relevancy, hearsay. Got it.

[3-11] **A.** [3] All right, fine. But she said that she has had stress from me. [4-5] From December 2nd to January 10th when she claims she saw a doctor I was not even there. I was under a bond not to go to my apartment. [6-11] In addition, when I tried to inspect the evidence after -- first, I absolutely wanted both cases to be tried together. It was Heather Weiss and that's a record, public record, self authenticating. She made the motion that only the case against -- pretended by Teresa Ingram would go forward. I defended myself *pro se*. The jury deadlocked and after that both cases were dismissed. But I --

[12-15] **The Court:** Let me stop you one second, Dr. Faltas. I'm going to let you have your last three minutes but I will encourage you that if you've got anything that's relevant to this date that you might want to include that in your last three minutes.

[16] **A.** It's relevant to the lies, Your Honor.

[17-19] **The Court:** Well, it's your choice. I just wanted to make sure you had that understanding that I'm looking for relevant testimony. Please go forward.

[20 – page 76, line 10] **A.** Well, I mean I'm responding to what she falsely said. So I wasn't given full discovery but then when the case was remanded here I came here on November 10, 2010, and looked at what they called the two banker's boxes and in them -- and they may still be upstairs and I implore Your Honor to have them brought down because there is a sheet that's called victim's sheet, (inaudible) and signed by Dinah Steele sometime in December, 2009, after I was arrested. And she said -- there is a question. Do you have psychological effect, she says no. Have you seen a doctor? She says no. So there is a document that I saw with my eyes and it may still be upstairs. She sat here and then she said I'm taking medications until today. I would like to read in November, 2009, that -- she tried to get the temporary restraining order against me so that I don't park my own car in my parking lot and I want to read it. And at that time she was pretending to be called Ms. Mason and, of course, she's not.

[10-11] **Mr. Fernandez:** Your Honor, I'll just point out that this is after this occurrence.

[12] **The Court:** Thank you, sir.

[13 – page 77, line 15] **A.** [13-14] And that's page 136, the original is also in this court's files and that was done by a transcriptionist hired by Heather Weiss -- [15 – page 77, line 1] Starting at page 136 and I am cross examining Dinah Steele, too. Did you write to the tenants notices about a yearly inspection before? I don't recall. Question: Okay, isn't it true that you are trying to come on Labor Day and I was trying to tell you, no, you cannot come in on Labor Day. Answer: Yeah, and we rescheduled it. Question: And isn't it true that I was trying to give you the letter that isn't it true that my lease says you can only come in my presence unless it's an emergency where you cannot contact me? Answer: Yes, and you were there and you still wouldn't let us in, Marie. Question: My question is it does say that and again you were there. Question: We knocked on your door and you wouldn't allow us in. And my question is didn't I, wasn't I trying to give you a letter telling you? [2-3] Answer: On the day you assaulted me. Question: I didn't assault you. [4-15] And then I turned to the judge and the Court says, okay, sorry but she cannot. The Court says do not. I say okay. **The Court:** She can explain her answers and I'm going to give you nine more minutes and it will be twelve noon. I say she cannot make legal conclusions. She cannot. **Court:** She can explain her answer. You can ask her a question, she can answer it yes or no and she can explain her answer. (inaudible) Exception. So noted. Question by me: Isn't it true that your lawyer doesn't represent you in any matter except what the insurance company hired? **The Court:** That is immaterial to this case. I say, okay, she said that. She said that the letter needed to go to her lawyer. The Court says: That's immaterial to this case. I don't even care anything about that. I say, Judge, she -- he says next question.

[16] **The Court:** Dr. Faltas, you've got twenty seconds.

[17] **A.** Well, could I ask that those pages be copied, Your Honor?

[18-21] **The Court:** I don't think it's appropriate to put all that testimony from another -- if you want to say something you can say it. I don't think it's appropriate to attach another transcript to your testimony regarding Ms. Steele.

[22-23] **A.** That refers to that day that she didn't want to take the letter.

[24 – page 78, line 3] **The Court:** Y'all have crossed her on it. Your lawyer has done a good job. I don't think it's appropriate to attach those pages of the transcript. I did allow you leniency to say things even after your lawyer was finished. All right. We are now at a point of doing closing -- I'm sorry. Is there any cross examination?

[4] **Mr. Fernandez:** No, Your Honor.

[5-6] **The Court:** I got ahead of myself. We are now at a point of --

[7-11] **Mr. Lupton:** Your Honor, before we go into closing there is one administrative matter. I mistakenly marked two pieces of evidence as defense exhibit one, the CD and the first picture. I would move at this time to have the CD Renumbered. Either renumbered as ---

[12-13] **The Court:** Actually this is what I'll do. How many pieces -- not the one through thirty-one. How many pieces did you put in?

[15] **Mr. Lupton:** I put in one, the CD

[16] **The Court:** CD. And then there was --

[17] **Mr. Lupton:** Thirty-one from Dr. Faltas.

[18-19] **The Court:** Okay. I'd like the CD to be called exhibit "A" Maybe that will clear that up.

[20] **(CD is received into evidence as Defendant's exhibit "A")**

[21] **Mr. Lupton:** Thank you, Your Honor.

[22] **The Court:** Any motions? I'm sorry. Are you resting?

[23] **Mr. Lupton:** The defense rests.

[24] **The Court:** Okay. Any motions at this time?

[25 – page 79, line 1] **Mr. Lupton:** Your Honor, we renew the directed verdict motion. Same argument.

[2-3] **The Court:** All right. It is denied. Closing arguments. Mr. Fernandez.

[4] **Mr. Fernandez:** I believe I get to go last, Your Honor.

[5] **The Court:** I apologize. You do get to go last. Mr. Lupton.

[7 – page 86, line 25] **Mr. Lupton:** [7-17] Your Honor, may it please the Court. Your Honor, obviously the Court is well aware that we are here on a criminal case. There has been extensive controversy and litigation between the two parties. There's been other trials dealing with the harassment issues. There's civil litigation that is -- I don't know if it's ongoing still or not but today we are here simply on the assault. And with regards to that assault the city has to prove beyond a reasonable doubt. It says, reading from the code section, it shall be unlawful for any person to commit an assault and battery or in any manner whatever to engage in combat or fight in any private or public place within the corporate limits of the city. [18 – page 80, line 23] There's no question this was in the corporate limits. And private place, public place, you know, however your definitions, it doesn't matter. It clearly was one of the two. But there is no evidence that there was a fight or a combat so the only issue is, as I understand it, the city is contending that this was qualified under assault and battery. Assault and battery is defined for criminal purposes, was first defined and I'll go ahead and provide a copy to the city of the case and I'll hand up a copy of the case. It was first defined criminally in South Carolina back in 1925. It says simple assault and battery as the term implies is an unlawful act of violent injury to the person of another. And it goes on to talk about no circumstances of aggravation not an issue here. But it's an unlawful act of violent injury to the person of another. The definition in Jones has been the definition used in this state for almost one hundred years. It was changed by statute in 2010 which the assault and battery statute, 16-3-600, says assault and battery in the 3rd degree if a person unlawfully injures another person. It does expand it to allow offers or attempts to injure another person with the present ability to do so. But it still requires an injury or at least an attempt to injure. In this case there is absolutely no question I believe based on the testimony that Dr. Faltas' intent was not to cause any physical harm or attack or assault Ms. Steele. She was trying to serve a piece of paper. She had under her lease a right to protest the inspection that was scheduled. Now whatever problems were going on between the two, whether it was reasonable to protest or not, all that's immaterial. She had a right to do the protest. She did it. She was trying to give the paper. There was no intent, no offer or attempt, even under the more expanded version, to do any injury. So we go back to the definition of simple assault and battery as the term is defined at the time of the case. Unlawful act of violent injury. So now we have to look at the testimony. [24 – page 81, line 11] The testimony that came out in the 911 tape that was admitted into evidence which substantiated that testimony is that when this first came up she said she was pushing on me. There was no injury. the Court heard the 911 call, heard her voice. There was no complaints of injury. Her voice was perhaps slightly aggravated but not in any pain. There was no injury, no nothing. There was no testimony about she was in pain. The testimony was that she was not bruised, she was not injured, she was not -- in fact, she specifically and explicitly said on cross when I asked her you weren't injured and she said no. She talked about the mental which I will address in just a moment but she admitted that she wasn't bruised, that she wasn't injured in any physical way, that there was no injury. She admitted she didn't go to the doctor. She didn't get any medication. [12-14] She didn't even take any Motrin according to her testimony. No medication was her testimony. So had she had any pain or anything there's no evidence of that. [15-23] Now she then tries to spin this now for the first time as I had emotional injury. But on cross she admitted that she never saw a doctor, never did anything, that this emotional injury wasn't manifested until four months or more later in January of 2010 at the earliest and that it was a result of the harassment. She tried to say, well, including this incident. At one point she tried to say that it was solely because of this incident but on cross she admitted it's all of this. The events that she felt were harassing and whether they are harassing or not that issue isn't before the Court. [24 – page 82, line 6] Whether there was any civil issues not before this court. All the events which the Court heard some testimony about and the Court is aware of more, the aggravation of dealing with multiple court appearances, court appearances that were scheduled out of town, all of this caused her psychological, her emotional issues, not this event. To say that this one event caused that injury, if you want to characterize it as an injury, is simply not credible based on the testimony and facts that are in evidence. [7 – page 83, line 16] Additionally, as you look at the testimony you have credibility issues that the Court has to address. You had Ms. Steele conceded that her version of events evolved over time under her phrase. Perhaps she didn't concede that they have all but her concessions show that the testimony or that her statements have evolved over time. It went from she's pushing on me to after the officer comes, officer won't get a warrant, and city has argued the Ramsey issue. I would note that Ramsey hadn't been decided until three years almost after this case. At the time that this offense occurred it was routine to do the arrests on blue tickets under these

circumstances. Ramsey changed that practice. Additionally, even under Ramsey had the officer evaluating this case felt that this rose to the level of a criminal case, that officer could have gone out and gotten a warrant. There is the conflicted testimony started out as pushed me, then it was hostile and violently pushed then violently struck but says it was with an open hand with paper in her hand. Obviously the Court can be aware that it's hard to have an open hand and paper in the hand as you are trying to do something. So there's conflicting issues there. Then it evolves further to slamming me and goes from shoving me back to spinning me around. The issue evolves. And I understand her frustration in dealing with Dr. Faltas and the many issues that they've had together but I would just suggest to the Court that in this situation that frustration is causing and coloring her views of what happened. And just as you ask two people who see something and they can perceive an event differently based upon their preconceived notions and their biases and prejudices. I think that that's what we've got here and the evidence and the testimony shows that. I think that's borne out when you look at the testimony of the second state's -- excuse me, city witness. The second city witness who despite multiple ways that it was asked, multiple questions asking the same question same way, in different ways, said she was just pushing the papers into her chest. No shoving, no striking, no slamming, no spinning. She also contradicted other statements about whether or not there was retreating going on. [17-25] You know, she said that there was no retreating, that Ms. Steele didn't retreat. If we take the two and try and mesh them then I think what you could reasonably believe is that when Ms. Crouch says I saw her take steps back as the pushing the paper into her chest was occurring that that was a retreat. I think you can reasonably and in the light most favorable or rather in looking for whether or not there's reasonable doubt I think that creates some doubt that that is what occurred, that the stepping back wasn't shoving back but was part of the retreating. [page 84, lines 1-7] You've also got discrepancies on the witnesses. The officer only said one. There was -- but the officer did undoubtedly talk to everybody out there. Only listed one who corroborated what Ms. Steele said. So out of three people only one of them corroborated this. You've got three that she talks about in November. She narrows it down to only two now and then says, well, maybe there was a third. The officer talked to the people. [8-14] There was no corroboration. They weren't listed. They haven't been talked to. I think the Court is entitled to assume because the city has the burden of proof and if there were witnesses that they didn't bring then I think the Court is entitled to assume that they did not support the city's statement, the city's version. There was no statements from them, they weren't used. I think the Court's entitled to draw that inference. [15-23] Taking all this together, what we come down to is that under the law there has to be an unlawful act of violent injury to the person of another. What we have is conflicting testimony and based on the conflicting testimony I think the Court should have reasonable doubt based on those conflicts alone. But going beyond that what it shows it not an unlawful act, but a lawful act of trying to serve a paper that was permitted under the lease and permitted under the law, serving notice that was lawful. So it was a lawful act and there was no injury, violent or otherwise. [24 - page 85, line 10] I understand that the city's going to talk about as they've brought up in their case in chief talk about unwanted. And unwanted touching not rising to a lewd act or other issues -- you know, we've got A.B.H.A.N. issues about unwanted touching a female for lewd purposes, that sort of thing, but when you are talking injury for a simple assault and battery unwanted touching may be a civil violation and it maybe that she has a right to sue her in magistrate's court but as far as a civil -- excuse me -- as far as a criminal case the officer came out there, talked to everybody on the scene at the time, made that determination. I think that was the right determination. I think when we look at all this evidence there's conflicts, there's questions, there's doubts and it's clear --- [11 - page 86, line 2] What is clear is that the defendant, Dr. Faltas, was trying to do a lawful act and did not cause any injury, no matter how unwanted that touching may or may not have been, there was no injury. This is not an assault case. Not a criminal assault case. Whatever harassment issues and all those other issues, however frustrating to Ms. Steele, this whole series of events may have been this particular criminal charge is not warranted under these facts and circumstances. This particular charge the defendant should be found not guilty. I believe there is reasonable doubt. I think it is appropriate for the Court -- and I understand the Court found probable cause or some evidence at the directed verdict stage, but now at the proof beyond a reasonable doubt stage whether there is probable cause -- not arguing about probable cause, her testimony was probable cause -- but proof beyond a reasonable doubt I think the Court should find that there is reasonable doubt, that this is not a criminal matter, that this is a not guilty. And I would ask the Court to find there is reasonable doubt and find her not guilty.

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

[4-5] **Mr. Fernandez:** Yes, Your Honor. Thank you. May it please the Court.

[6] **The Court:** Yes, sir.

[7 - page 89, line 11] **Mr. Fernandez:** [7-17] I'm going to hand up since this is sort of a combined little thing. These are charges that I would have requested that Your Honor read to the jury and Your Honor is likely already familiar with a lot of the definitions there. 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. [18 – page 87, line 10] I would direct Your Honor's attention to *State v. Jones* and argue that head-on. The definition of a simple assault and battery does say unlawful violent injury to the person and a lot of counsel's argument -- in fact, almost all of it -- almost concedes that there may have been a touching and that the fact that it wasn't violent means it wasn't criminal. Well, if taken in a vacuum what does violent injury mean. Well, we know what it means because if you read what the A.B.H.A.N. definition is, which is right below it, they go further and add the additional requirement of infliction of serious bodily injury. I think that's important because in the simple assault and battery they don't have any requirement for bodily injury. A violent injury just means that it's something that is forceful and unwanted. And an injury can be anything from a flick of a wrist to a stabbing in the heart. The A.B.H.A.N. discusses what is -- what counsel is arguing is violent injury. The simple assault simply says it's a generic term, that it can be a wide range of things. Further clarified by later case law in the charges that I did present to Your Honor. [11 – page 89, line 2] What we have here is testimony from -- and I'll also argue and I know this is a bench trial so out of respect of counsel's closing I didn't object during it because I know Your Honor is capable of sifting through what is and isn't relevant. I would assert that it is entirely relevant for the Court to consider the charging process by which this charge has come to Your Honor. The courtesy summons system was created for a reason. It was created largely to protect the defendants. The fact that an officer did not witness an assault and who was not able to even discuss the matter with the defendant, did not decide to arrest her, cannot be held against somehow the state. The process was correct, it was appropriate. A courtesy summons and this case was absolutely appropriate. That's just not to be considered as far as innocence or guilt. 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. And Defendant's testimony was littered with -- very little of it actually covered -- since she did decide to present a case, very, very little of it actually covered September 11th, 2009. A lot of it covered all this other random stuff. I would argue that in no way, shape or form does that constitute reasonable doubt because, first of all, it's not reasonable, it's fantastic. It's just conspiracy theories and conjecture and speculation that we've seen before but it is no way reasonable. There's nothing reasonable about it which is the definition of what Your Honor is going to assess. So I would say if we weighing the credibility of the witnesses, Charlene Crouch and Dinah Steele have endured, as counsel even conceded, 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. [3-5] Everything is consistent. I would argue that nothing that has been presented today in any way, shape or form even comes remotely close to reasonable doubt. Any doubt is fantastic or speculative. [6-11] The only testimony we have that's credible is the fact that she did push the person and that that was unjustified, unwarranted and unwelcomed and that it did cause injuries, both physical as far as being unwantingly touched and mental as a result of it. I think it's absolutely appropriate for a guilty verdict. Thank you, Your Honor.

[12-17] **The Court:** Thank you. Madam clerk, I would like to mark what has been handed to me by both counsel. Just make them court exhibits so that if this is reviewed at some point the record will be full of what was handed to me during closings. All right, I am going to go and consider everything that I've heard and I will make a ruling momentarily. Please stand at ease.

[18] (Material is marked as court's exhibits)

[19] (recess)

[20] (court resumes)

[21 – page 90, line 6] **The Court:** [21 – page 90, line 5] I have considered all the evidence that has been placed into the record, the testimony that's been provided. I have heard arguments from counsel. I have reviewed the law on this charge and considered the case law, whether it be in the case that was handed up by counsel and/or the jury charges provided by the state. Having considered it all, it is my verdict in this matter the defendant is guilty of assault and battery, simple

assault as defined by the city code. We will address sentencing on that, on the unlawful acts guilty verdict by the prior jury and have the contempt issue addressed at three o'clock as previously scheduled. [6] Is there anything before the Court at this time?

[7-8] **Mr. Lupton:** Yes, Your Honor. I would ask the Court to announce or clarify its definition of assault that was used.

[9-12] **The Court:** I used the definition of assault pursuant to the law. And I don't think you get to go back and ask the jury what they would do and I'm not going to get into going through that either. Go ahead.

[13-16] **Mr. Lupton:** Your Honor, respectfully I understand that. However, had this been a jury trial, the charging conference would have -- it would have been a charge on the law so I'm asking the Court what charge on the law did the Court consider ---

[17-21] **The Court:** The Court as stated before I pronounced my verdict considered all the law that was provided, all of which I would have charged to the jury and allowed them to render a verdict pursuant thereto. All of the law that was given was proper law and has been attached to this record for future appeal.

[22] **Mr. Lupton:** Thank you, Your Honor.

[23] **The Court:** Thank you. Anything further?

[24] **Mr. Fernandez:** No, Your Honor.

25 **The Court:** All right. See you at three o'clock.

[page 91, line 1] (recess)

[2] (court resumes at 3:00 p.m.)

[3-9] **The Court:** All right. We are on the record regarding Dr. Marie Faltas. Case is 201310 which is the unlawful acts case in which she was represented by Dr. Briggs -- excuse me. Mr. Briggs. This is the sentencing hearing which was previously scheduled. Mr. Briggs was advised verbally. A written order was also issued that was delivered to Dr. Faltas and faxed to Mr. Briggs' office. Mr. Fernandez, I'm happy to hear from you on sentencing in this case.

[10 - page 92, line 3] **Mr. Fernandez:** [10-11] Thank you, Your Honor. Mr. Hatcher is present for the city and he provided me with these pictures just now. [12 - page 92, line 3] Those are today. It just goes to show that the problem has not even remotely corrected and may in fact be worse. I did make a recommendation earlier. In light of the defendant's defiance that has been related to me either on the record or through her counsel, it doesn't appear that she's inclined to clean it up. Ultimately the city would love to be able to have her clean it up on her own without us having to go over there or without us having to file a civil action. And the only way to accomplish that is through court order. **What my recommendation would be is fifteen days in jail on the front end so let her get a taste of jail** which she likely will not be happy about. Then fifteen on the back end that could be suspended on her cleaning and maintaining clean property for a year -- clean being grass and soil. I think if that's the carrot and the stick type thing that may work although this will likely be tied up in appeals for some time. A civil action may be necessary anyways but that's the only thing I could think of that might encourage her to clean it up.

[4] (photographs marked as court's exhibit)

[5-7] **The Court:** All right. Mr. Lupton, you did not represent this charge. I'm not asking you to speak if you are not appointed on this one.

[8-11] **Mr. Lupton:** I was appointed as the Court is aware and I was relieved by order of the appointing court when Mr. Briggs substituted in. So he was the trial counsel and would be the appropriate one at this stage. I was stepping out to see if I could ---

[12-13] **The Court:** I'll let you take one more walk. Go take a look.

[14] (pause)

[15-16] **Mr. Lupton:** Your Honor, having stepped out and looked around I could not see Mr. Briggs. I called his office.

[17] (inaudible)

[18] **The Court:** Who pulled up?

[19] **Mr. Lupton:** Dr. Faltas.

[20] **The Court:** Dr. Faltas.

[21-23] **Mr. Lupton:** I called his office and got voice mail. Did not leave a message and as I was walking back in I saw Dr. Faltas' car pulling up.

[24-25] **The Court:** Okay. Well, though the Court doesn't have to, I am going to give her a couple of minutes to get in here.

[page 93, line 1] (pause)

[2-12] **The Court:** Dr. Faltas, we are on the record on the unlawful acts case. We will allow you to do all of the arguing necessary or information provided from a seated position as you did in the trial today. The city has presented some

pictures of the properties and I've marked them as court's exhibit and we are going to ask Mr. Lupton, even though he didn't represent you on these charges, to come get them and hand them to you so you don't just have to walk up to the bar. And after you look at them I am going to ask the city attorney to restate his recommendation which I'm not bound by but I want you to be able to hear what he recommended and then I'll be happy to hear from you.

[13] **Defendant Faltas:** May I sit, Your Honor.

[14-16] **The Court:** Yes, ma'am. One of the first things I said is you are allowed to do it from a seated position like you did in the trial today.

[17-18] **Defendant Faltas:** And may I explain that I have fever. I have to change- I'm not well at all.

[19] **The Court:** Okay. Please have a seat.

[20] **Defendant Faltas:** Thank you.

[21-22] **The Court:** Have you taken a chance to look at the pictures?

[23] **Defendant Faltas:** I'm sorry?

[24] **The Court:** Please look at the pictures.

[25 - page 94, line 1] **Defendant Faltas:** These are from yesterday? From from yesterday?

[2] **The Court:** Are they from yesterday, Mr. Fernandez?

[3] **Mr. Hatcher:** This should be today's date.

[4] **The Court:** Today's date. Okay.

[5-7] **Defendant Faltas:** Well, Your Honor, as you can see yesterday I went and had the grass cut. Actually, you know, -- I'm sorry. Am I allowed to speak yet?

[8-12] **The Court:** [8] Well, let me tell you what we ought to do. [9-12] Those are pictures from yesterday. Mr. Fernandez made a recommendation which is a part of the record. Since you were not here, I'm going to ask for him to repeat it. Would you please repeat it, Mr. Fernandez?

[13-17] **Mr. Fernandez:** Thank you, Your Honor. Let me premise this on despite this is a recommendation, certainly I have no problem deferring to the Court's best judgment in any of these matters so this is just what I thought of. I understand that the Court doesn't have to accept it and I'm perfectly fine with that.

[18] **The Court:** Yes, sir.

[19 - page 95, line 4] **Mr. Fernandez:** What the city would ask for is -- as the pictures do show the problem has not been corrected. There's no indication it will be corrected. Ultimately, the city's interest is having the place cleaned up and by clean we mean only grass and soil remaining. To the extent we think that that's able to be accomplished, the city would recommend fifteen days in jail on the front end. Once service of that is completed, a fifteen day sentence remaining on the back end, suspended on cleanup of the property and maintaining the cleanup for one year. If those terms are accomplished then the fifteen days on the back end would not need to be served.

[5-6] **The Court:** That is the city's recommendation. Now it's your time to talk, Dr. Faltas.

[7-15] **Defendant Faltas:** Well, Your Honor, I think of what -- I had e-mailed Your Honor by mistake because, you know, the e-mail system sometimes just automatically puts -- you know, because when it said please forward this to Judge Solomon to my lawyers it automatically put your e-mail address on it. I had basically deleted Mr. Fernandez's e-mail address so this mistake doesn't happen. But in any event I have a motion for a new trial and I also had the motion to vacate the contempt. May I -- is this the time to argue?

[16] **The Court:** You want to do a -- well, where is Mr. Briggs?

[17-18] **Defendant Faltas:** Your Honor, once again I have no control over him.

[19-20] **The Court:** Okay. We are not doing the contempt yet. We are doing sentencing on the unlawful acts.

[21-23] **Defendant Faltas:** I have a motion for a new trial on the unlawful acts and I don't know if I ever ended up giving Your Honor several copies of *Florida v. Jardines* or never did.

[page 96, lines 1-3] **The Court:** We'll make it a part of the record. Hand whatever motion you've got on a new trial. Mr. Lupton, if you'll bring it over. Do you have copies for Mr. Fernandez?

[4] **Defendant Faltas:** Yes, Your Honor, I do.

[5-6] **Mr. Lupton:** Your Honor, I believe that's Mr. Briggs. Don't have my glasses on.

[7-9] **The Court:** Come on in. Come on in, Mr. Briggs. As Mr. Briggs is here, Mr. Lupton, when he gets up here, let him get those instead of you and he'll address these issues.

[10] **Mr. Lupton:** Your Honor, I will give up my seat.

[11] **Defendant Faltas:** But that's an *Anders* brief.

[12-14] **The Court:** Slow down, Dr. Faltas. Let Mr. Briggs sit down. Let's catch him up like we caught you up a few minutes ago when you came in late and then let's continue.

[15] **Defendant Faltas:** Your Honor ---

[16-23] **The Court:** Just wait. Mr. Briggs, we are on the record on the unlawful acts sentencing. Mr. Fernandez has made a recommendation now twice. I am going to ask him to make it a third time so that you hear it as well so that you are aware of it. Once he does that, Dr. Faltas has a motion she wants filed and I'm going to let her tell us what that is and it should be in front of you with a few copies right there. Mr. Fernandez, will you state your recommendation again?

[24 - page 97, line 3] **Mr. Fernandez:** Thank you, Your Honor. The recommendation from the city will be fifteen days service in jail on the front end. The remaining fifteen days be suspended upon cleaning up the property, removing all objects leaving only soil and grass suspended on cleaning up the property for one year.

[4-8] **The Court:** In addition to that recommendation, Mr. Briggs, Mr. Fernandez provided pictures that have been marked as a court's exhibit so that everything that I've seen is a part of the record and they are in front of Dr. Faltas. Dr. Faltas, will you hand those to Mr. Briggs so that he may review them?

[9-10] **Defendant Faltas:** I haven't finished reviewing them but as Your Honor --

[11] **Mr. Briggs:** Do what he tells you to do.

[12] **The Court:** Let Mr. Briggs look at them, please.

[13 - page 98, line 12] **Defendant Faltas:** As Your Honor knows I have been very, very ill since the last time. In fact, I was ill the last time. I'm facing life threatening conditions. Nonetheless, you can see that the grass has been cut (inaudible). There (inaudible) thing to do. You can also see that there isn't a single bucket that's inverted and holding water. They are all upright and you can see that the lids are back on. Also, I want to say that yesterday I haled somebody from the street to cut the grass and Ms. Steele was there and I said I was just going to go to the post office but don't talk to her and by the time I came back that person with the tractor was gone. So thank God I was able to find somebody else. So it's just physically not possible for me to have done anything from the time other than to hire somebody to cut the grass. It's also -- I am very unclear what [page 98] is that they don't want. He says nothing but grass and dirt. Does this mean that I have to also remove the sign that says private property, no trespass. I mean this -- and you have plenty of medical evidence that I was very ill and I still am. In fact, Your Honor, I am scheduled for an M.R.I. because it seems that my right knee has also fractured. I would like for there to be reasonable time, no jail time and something specific as to what it is I cannot have. Something specific. But really, Your Honor, the proper way is not to bring criminal charges and then to suggest jail. The proper way is to go to circuit court which is neutral and get an injunction. In addition, there is question whether the charge carries jail term at all. And we've been through this and there hasn't been an interpretation.

[13-14] **The Court:** In addition to the information you provided, you also indicated you had a motion.

[15] **Defendant Faltas:** Yes, Your Honor.

[16-17] **The Court:** Will you please tell Mr. Briggs what your motion is so he can address it.

[18-20] **Mr. Briggs:** Your Honor, I think I might would be more help if I would tell you what the status of us getting the place cleaned up first and then let her do the motion.

[21] **The Court:** That's fine.

[22] **Mr. Briggs:** It might help the Court.

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

[24 - page 99, line 2] **Mr. Briggs:** Your Honor, I apologize for being late but I told you I'm one of those guys that always gets caught. I turned left on the street, down on Huger street, to come up here which has green going straight but red not going left?

[3] **The Court:** Yes, sir.

[4] **Mr. Briggs:** And I got caught.

[5-6] **The Court:** If you would hand that to her so you won't have to lean over so far and she'll give it to me. Thank you, sir.

[7-8] **Mr. Briggs:** And I always get caught, Your Honor. I guess I should quit doing those kind of things.

[9-10] **The Court:** Madam clerk, if you would mark that as a court's exhibit as well so it will also be attached to the record.

[11] **(marked as court's exhibit)**

[12 - page 100, line 1] **Mr. Briggs:** Your Honor, I told you that I was confident that I could find a way of getting the property cleaned up by putting everything out there in a storage shed, Your Honor. I could help the Court with the thing. What I did was write the president of my Sunday school class. My church is very well known out in Lexington for doing benevolent stuff. We in fact have that -- I think I mentioned it before but we have that recovery program for folks who have emotional problems -- not

just alcoholics. It's a twelve-point program but it is not a church program. They just hold their meetings in churches usually because there's free rent and the church provides a supper for them, Your Honor, on Tuesday night. So we have a longstanding history of getting things like this done. My problem is that the president of my Sunday school class is in Florida on one of those tough assignments. He works for one of these large paper companies.

[2] **The Court:** Yes, sir.

[3-5] **Mr. Briggs:** Won't mention name but he's having to entertain his customers all weekend. You know, tough duty but that's where he is.

[6] **The Court:** Yes, sir.

[7-11] **Mr. Briggs:** And I called his wife this morning and told her I wanted him to read the e-mail. I'm ninety percent sure that the church will -- my Sunday school class will get the job done, Your Honor, within a reasonable period of time. And I believe that to the core.

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

[13 -- page 101, line 8] **Mr. Briggs:** [13 -- page 101, line 2] In addition, I called my -- I have two son-in-laws. Both of them are six-four and both of them are in the building business, Your Honor. I won't mention names again, that's not what is important. But I called one of them this morning and called my daughter on the other one and she committed him and a person from the family that's living with them now that's out of work. So I have three very large warm bodies that can move that stuff into a storage room. But the only problem I've got right now is I haven't found the storage room yet because I've been busy doing other things. But just so the Court knows that I've thought it out very seriously. I'm confident that a wrecker service that has a flatbed unit, Your Honor, could transport one of those storage bins. I'm talking about a ten by ten, hundred square feet, Your Honor. So I put that part down at the bottom so the Court knows I have two ways of getting the job done, Your Honor. Okay? [3-8] And I won't say how this should affect the sentence, how it should affect time you would give us or anything else but I just wanted the Court to know that that job will get done. That means there won't be any angle irons there, there won't be any buckets there, there won't be anything on that property except grass and I guess the private property sign and a storage bin, Your Honor.

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

[10-11] **Mr. Briggs:** So I give that -- and, of course, Mr. Fernandez has a copy of this and that would be my argument.

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

[13-25] **Mr. Briggs:** Your Honor, I would just say in the sentence I've been doing this for more than forty years now and **I cannot think of another case that I think is less meritorious for somebody to ask for jail time** because some lady just had something stuck in her craw and the city had something stuck in their craw and her being in jail won't prove -- I won't say a bad word 'cause I don't use those words -- but won't prove a thing, Your Honor. It won't prevent another person from doing it. It will cause her a lot of distress and I did in fact talk to her doctor and I guess -- did you give him the second note from the doctor? Well, she's got a second note. She picked it up herself yesterday, Your Honor. Just a copy of what his interview and examination of her showed. So, that ought to be made part of the record.

[page 102, lines 1-2] **The Court:** If that's something you'd like for me to consider, I will need it.

[3-4] **Mr. Briggs:** I will get it and I'll make it a part of the record, Your Honor.

[5-6] **The Court:** Okay. Do you have it that I can consider it before any sentencing?

[7 -- page 103, line 2] **Mr. Briggs:** There's no need me in arguing any other thing. I just -- the only thing I would say, Your Honor, and Dr. Faltas always says, well, you're talking about yourself. Well, I think courts need to know the history of people. Your Honor, I have never argued what I consider exaggerations to courts because I think exaggerations are lies. The example is -- and I've asked judges this -- some lawyers will argue something just because it has a good sound to it, Your Honor. And I ask judges, I say, Judge, what do you do when some guy argues something like that and you know he doesn't even believe it himself. And some of them won't answer the question but the judges who answer the question said they just turn their chair around and look at the ceiling so they won't laugh at them. I tell you if I was a judge I'd probably go back in the back but I'd say, Mr. Smith, you don't really expect me to believe that, do you. But anyway I don't get into those kind of things. I try to represent my clients and, of course, we get our clients as we get them. But I know for a fact if I live another twenty days or so that that property will get cleaned up and I have four -- three very warm, strong bodies to help me and my daughter is pretty good at it, too. She's a rural mail carrier. But we can get the property cleaned up so whatever difference that makes, Your Honor, that's fine.

[3] **The Court:** Two things, Mr. Briggs.

[4] **Mr. Briggs:** Yes, sir.

[5-6] **The Court:** One, do you have a copy of the medical note that you want made a part of the record? Does Dr. Faltas have it?

[7-8] **Mr. Briggs:** I can ask her that. Do you have a copy? Did you bring the copy of it with you?

[9-11] **Defendant Faltas:** No, I thought it was only relevant to the continuance which was denied. I'm sorry. But I picked it up yesterday.

[12-13] **The Court:** It's not a problem, it's just if you wanted me to consider it I have to see it to consider it.

[14-15] **Defendant Faltas:** What I'd like considered is my motion for a new trial, please.

[16-19] **Mr. Briggs:** I'm through, Your Honor again, I did talk to him a couple of days ago. He said he would send me his notes from that examination. I don't know what he sent but it would be supplemental and backup of what the letter said, Your Honor.

[20] **The Court:** Okay. She indicates ---

[21-22] **Mr. Briggs:** For the record, I think it's more than adequate but I'm not a judge, Your Honor, never have been a judge.

[23] **The Court:** It's more than adequate on what issue?

[24] **Mr. Briggs:** On the question of continuance, Your Honor.

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

[page 104, lines 1-5] **Mr. Briggs:** The only other capacity I've been a judge is I was an administrative judge a couple of times over at D.H.E.C. doing those kind of hearings but I can't claim to be a judge. I don't think those guys are really judges. I don't know what you would call them but anyway I thank you for your time, Your Honor.

[6] **The Court:** Thank you, sir. She has a motion, sir?

[7-8] **Mr. Briggs:** That's fine. I have no objection to her doing her motion.

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

[10] **Defendant Faltas:** So may I hand ---

[11-13] **The Court:** You may. You've got to get somebody to give it to him for you. All right. Please give a copy to me as well. Please mark that please.

[14] **(motion is marked as court's exhibit)**

[15-16] **Defendant Faltas:** Your Honor had directed that they give us a CD of the trial by -

[17-18] **The Court:** For purposes of contempt, let's stay on target and deal with this motion to renew first.

[19-21] **Mr. Briggs:** Your Honor, the CDs have been made available. I just haven't gotten them yet. They are downstairs where you pay a fine so they did make them available.

[22] **Defendant Faltas:** When did they make them available?

[23-24] **Mr. Briggs:** They told me that about four o'clock yesterday afternoon.

[25] **Defendant Faltas:** Yeah, but Your Honor's order ---

[page 105, lines 1-2] **The Court:** Let's slow down. You want to make a motion for a new trial, don't you?

[3] **Defendant Faltas:** Yes, Your Honor.

[4-5] **The Court:** You handed us up a motion for a new trial, correct?

[6] **Defendant Faltas:** Yes, sir.

[7-8] **The Court:** Let's address motion for a new trial. Go ahead.

[9-22] **Defendant Faltas:** [9-20] Oh, okay. First of all, of course, this motion would have been more detailed if I had the CD which Your Honor had ordered be available last Wednesday. But first there is the problem of the jury and under *Gomez vs. United States* which is a U.S. Supreme Court opinion there was a conviction. The magistrate judge had presided over *voir dire* and the U.S. statute says no, magistrate judge cannot do that even though the Article (inaudible) judge said he'd review all objections and all of that. I'm saying that it is very equivalent here. Mr. -- Judge Steedley Bogan is recused from my cases so he had no authority to preside over *voir dire* and jury qualification. In addition, as was proven, he made comments very derogatory to me and you cannot unring the bell. [21-22] That is something -- you know U.S. Supreme Court (inaudible) and, of course, even Chief Justice Toal ---

[23-24] **Mr. Briggs:** Let me interrupt. If you've got all that in writing, don't (inaudible).

[25 -- page 106, line 15] **Defendant Faltas:** In her administrative capacity she recognized that only Your Honor is the one who is not recused so when a judge who is recused presides over *voir dire* and makes comments that are derogatory to me which are false in the presence of the *venire* and then that *venire* convicts me I think I'm entitled to a new trial. Then I didn't want Mr. Briggs to give -- suggest curative instructions and he didn't consult with me and the curative instructions that he drafted really made it worse. Now the city ordinance is unconstitutional under *Lucas vs. South Carolina Coastal Council* and under *Oliver vs. United States*. Your Honor, what had happened -- also Chief Justice Toal in her administrative capacity said extensions can be granted to allow counsel, to allow Dr. Faltas' counsel, to prepare. Mr. Briggs was substituted only on the eve of the trial by formal order. In addition, Mr. Lupton admitted that he had not consulted Mr. Briggs or me when he wrote to Judge Barber that this will not result in delay.

[16-24] Your Honor has the medical records since March 19th, I have experienced something that is frightening and may be suggestive of malignancy. In addition, I provided -- and that is not my say so. I provided Your Honor with the pathology report with the ultrasounds, with the clinic notes, the E.R. notes, everything is as I had said to Your Honor. It was -- so this is a continuing life threatening issue and there was a death in my family, someone very close to my mother in the meanwhile. So a continuance would have been justified. [25 -- page 107, line 11] Now I'm sorry to make this and I don't think it's proper to make it here but I have been asking and this is at least arguable and neither Mr. Lupton nor -- and one of the reasons I had to ask Mr. Lupton for substitution is that after we've been before Your Honor and, of course, all of this is in the framework of that my right to self-representation has been denied. Had I been representing myself, none of this would have happened because all the times I represented myself, except one time, I got exonerated, thank God, and that one which is still on appeal on federal habeas did not carry jail time. So, this is something to keep in consideration that denial of the right to self-representation is structural, meaning it doesn't matter if there is evidence of guilt or not, it's structural. [12-17] You can't get past it. It can never be harmless. But one argument I've been making and neither Mr. Briggs nor Mr. Lupton wanted to make because, frankly, they do not understand it. I'm sorry. It's not that it's frivolous or anything and let me tell Your Honor at least five arguments I had made prior to their becoming law. One is on federal Title VII I had made an argument that it prohibits ---

[18-19] **The Court:** Is the Title VII argument relevant to this motion for a new trial?

[20] **Defendant Faltas:** No.

[21-22] **The Court:** Please stick to the arguments that are relevant to the motion for a new trial.

[23 -- page 109, line 3] **Defendant Faltas:** [23 -- page 108, line 23] Okay. Okay. The state -- there are two sovereigns in the federal system -- the federal government and the state government. In *Jinks vs. Richland County, South Carolina*, the U.S. Supreme court said a city or a county is not sovereign. It follows from that that it cannot make laws, it cannot have its own courts and I know that's an argument almost anti-existential for Your Honor. You know that the City of Columbia court cannot be because it's not, only a sovereign, state and federal, can have a court. Also, the City of Columbia has no right to criminalize conduct that is not criminal throughout the state and that is clear in *Beachfront Entertainment vs. Town of Sullivan's Island*. Whether the state law pre-empted the field or not it's a straight equal protection analysis and also a matter of the South Carolina constitution. It is not a crime anywhere else in South Carolina to have plastic or to have rusted polls or to have anything one wishes to have. So again none of that was argued before because either my counsel previously and the substituted counsel were unwilling to study the law or just, you know, anything I say. You know. Okay. So now Mr. Fernandez prosecuted this case and under state law, under state law, no one can prosecute a case if they are also party or represent a side in a civil lawsuit. The city attorney -- I have civil lawsuits against the city. The city attorney represents the city in the civil lawsuits and also prosecutes this -- prosecuted this. And this only -- the elected solicitor can prosecute and crime can only be in the name of the state. This is the city so it cannot even prosecute. [24 -- page 109, line 3] Now because the city appoints Your Honor and re-appoints and they are an adverse party, this denies me due process and I had made that argument before and Marion Hanna heard it and she said, no, we have judicial independence and blah, blah, blah, and then she later had some discipline because of how she treated me.

[4-5] **The Court:** Now is that relevant to this motion for a new trial?

[6 -- page 110, line 13] **Defendant Faltas:** [6-25] Yes, yes, yes. Because under *Ward vs. Monroeville*, *Traperton vs. Massey*, *Gibson vs. Berryhill* and *Lipty vs. United States* which are all United States Supreme Court cases I cannot be prosecuted by the court or agent or appointee of someone who is adverse to me in civil litigation. All (inaudible) also unconstitutional and also, Your Honor, they kept on saying water collects and it allow mosquitoes to breed. You know, they say the national bird or the state bird of Minnesota is the mosquito. [14-25] Mosquitoes breed in lakes, in streams. The flat surface of a mailbox, the flat top of a car, the ledge, even the trash cans that the city itself has out on the street collect water. So that argument is specious. What is sanitary or not is determined and also preempted by the State Health Department and in this case in the proffer they complain to the State Health Department and someone, John Ansel, and that's why I needed to substitute Mr. Lupton because this was a critical witness. He came and said there is nothing unsanitary. And I needed -- in the first pretrial Your Honor said that you will issue the subpoena and Mr. Lupton agreed to serve it. Then the second pretrial he said, no, I don't want to subpoena everyone, and that was a key witness. So that deprived me of a fair trial. [page 110, lines 1-7] Now the jury *venire*, the statute requires at

least forty people. We didn't have forty people. And the reason it's not only to allow sufficient strikes, but to have a representation of the community. And this is again a structural thing. You can't say, you know, if there is overwhelming evidence of guilt it doesn't matter that the jury wasn't representative or that the jury was affected or anything like that. [8-16] And then -- this is exactly proven here. Over my objection I was tried for things that postdate the summons. The summons was given to me and I think we've been over this during the trial for the cardboard cylinders early in October, 2011, and within ten days their own pictures show that when they came back those card boards were gone. They never, ever give me another summons saying remove this or remove that. In addition when they came in there was a notice on all four sides, no trespass, and *Florida vs. Jardines* -- did I finally give it to Your Honor?

[17] **The Court:** You cited it.

[18] **Defendant Faltas:** Would you like a copy?

[19-20] **The Court:** You can provide a copy. I'll mark it and make it a part of the record.

[21] **Defendant Faltas:** Thank you.

[22] **The Court:** Please mark that as a court exhibit, please.

[23] **(Florida vs. Jardines marked as court's exhibit)**

[24] **The Court:** Please continue.

[25 -- page 111, line 21] **Defendant Faltas:** [25 -- page 111, line 10] And there was no picture of any water in anything and there was no picture -- in fact, he said there were no mosquitoes. But the pictures show them coming beyond the no trespass line and, Your Honor, water collects in potholes. In fact, their own pictures showed the neighbor had the grass very tall. That can also breed mosquitoes. It's not the matter of selective prosecution, it's not correct that it's not a defense. There are four U.S. Supreme court cases that say that prosecutorial discretion is not unlimited. The cases -- and I'm sorry they aren't here but they are *United States vs. Armstrong*. Justice Marshall said it's beyond doubt that prosecutorial discretion is not unlimited. [11-13] But the pictures that they brought from October, they are close range and *Florida vs. Jardines* says, no, you cannot enter somebody's property to collect evidence of a crime. So that's what they did. [14-21] The other thing is there was never an injunction and this court doesn't have civil jurisdiction. If there had been an injunction, written injunction, saying we found "a," "b," and "c" to be unsanitary and you are required prospectively to remove it within a certain then, yes, they can bring something (inaudible). But I think they would admit, if they have been stalking me, that this grass is freshly cut. And the most important thing I'd like Your Honor to compare is how this land was before we bought it. It was a jungle.

[22-23] **The Court:** I want to make sure I understand you. Who did you say stalking?

[24] **Defendant Faltas:** Well ---

[25 -- page 112, line 1] **The Court:** I just want to make sure I know who is stalking you.

[2] **Defendant Faltas:** Well, obviously agents for the city.

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

[4-5] **Defendant Faltas:** I mean that has gone beyond any rhyme or reason.

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

[7-13] **Defendant Faltas:** And the selective prosecution here is not only a matter of vindictiveness, but also a matter of like they have big potholes right next door which would collect more water it's (inaudible) on the genuineness of the pretext that this is what they have it for. And even if you see their own picture here, this corner where the other property has the like the top one corner of the first page the stones with the ---

[14] **Mr. Briggs:** What exhibit number is it?

[15-17] **Defendant Faltas:** Well, it's only one exhibit so it's number three. It says defendant's exhibit number three but this is not the defendant's ---

[18] **The Court:** They are court exhibits. The record is clear.

[19-20] **Defendant Faltas:** I'm sorry. So the first page if you see here this stone structure has no drainage.

[21-23] **The Court:** Have you gone beyond your new trial motion and are arguing what's in the pictures or is it still related to your new trial motion?

[24 -- page 113, line 5] **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 5] **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, it's 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. [15] They listed thirty-six witnesses and the jury didn't believe any of it. [16-20] 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. [2-14] 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 123, 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.

[6] **The Court:** Yes, sir.

[7 – page 124, line 13] **Mr. Lupton:** [7-17] 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 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 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.

[19 – page 129, line 7] **Mr. Briggs:** [19-21] Your Honor, I'll be very brief. I do not remember the code section about setting bonds. We discussed it at great length in the, quote, contempt hearing before Judge Hanna. [22 – page 129, line 7] I'm sure Mr. Fernandez can cite that to you and you probably know it better than I do. My single point, and I've got a second one but my main point, is that I don't read that ordinance as allowing a trial judge to set any conditions on bond as Judge Hanna did. They were restrictive and *etcetera, etcetera*. I read it as the Court is supposed to set a cash bond, period. Now if the Court reads it differently I'm not going to argue about it any further but I think if there is a bond set that's sufficient and if the Court wanted to stay the sentence pending appeal, this court can do it or, of course, I can ask the other court to do it, too. I don't argue which way that ought to be, Your Honor. I'll leave that to the Court.

[8] **Defendant Faltas:** I've already paid the fine.

[9-25] **Mr. Briggs:** [9-14] Your Honor, I want to be careful what I say about this but I still believe that in the trial that I defended her on there was never any proof of any water there. They didn't have a picture of any water. And I apologize before I say it but I think it's a rinky dink ordinance and I still cannot believe the city of Columbia has spent as much money on persecuting this woman as they have. [15-18] And so in the interest of justice, Your Honor, in the interest of justice and with the commitment of an officer of the Court that that property will be cleaned up, it will be cleaned up if it's just me and my wife, and, Your Honor, she has give me permission to do that. [19-25] There's no question about that. And I just ask that a reasonable bond be set and let her go on and do her appeal thing and I may ask to be relieved in that but that's another issue. That doesn't have anything to do with this court, but I just think with everything else that's been -- judgments that have been rendered that a very reasonable bond is sufficient because I just think it's appropriate, Your Honor.

[page 130, line 1] **The Court:** Mr. Fernandez, any position?

[2-7] **Mr. Fernandez:** Yes, Your Honor. Having -- Mr. Briggs is correct. We've been through this before. The last appeal bond that was set and only conditions that were applied on it, that was Judge Hanna. That was appealed. I believe Judge Lee heard the matter, issued an order on it upholding what was done. I can provide Your Honor with that order if you'd like to see the analysis.

[8] **The Court:** I do not, thank you.

[9-14] **Mr. Fernandez:** I'm not asking for any additional requirements as far as this bond but, of course, defer to the Court's best judgment. It's my understanding though that the appeal bond for charge is generally the highest, the maximum bond amount cash that has to be provided with the Court. That's my understanding of the appeal bond process, Your Honor.

[15-16] **The Court:** And what is your understanding of the maximum bond amount on this charge?

[17-17] **Mr. Fernandez:** This charge I believe -- is it four hundred and seventy dollars?

[19] **The Court:** That's what's written on the ordinance.

[20-21] **Mr. Fernandez:** I believe that's it., And then -- I mean costs are assessed also.

[22-25] **The Court:** Typically the way they write it on the summons is inclusive so it's probably -- four seventy is probably exclusive of costs but I'll let the officer tell the officer (inaudible) if he has anything.

[page 131, lines 1-2] **Mr. Briggs:** Your Honor, just for the record that amount was posted, that is, the normal fine was posted on this offense.

[3] **The Court:** All right. Is that money with the city now?

[4] **Defendant Faltas:** Yes, sir, it still is.

[5] **Mr. Lupton:** That's correct, Your Honor. Four seventy.

[6-7] **The Court:** All right. Bond will be set at four hundred and seventy dollars. I'm not setting any conditions at this time.

[8-9] **Defendant Faltas:** Thank you, Your Honor. Now the bond that has already been paid is the bond, right?

[10-19] **Mr. Fernandez:** The bond that's been paid was actually the bond for the charge itself but I don't think the Court would have any issue transferring the bond set for the charge and kind of converting it to an appeal bond. I believe the Court -- and this is a Judge Turner question -- I believe the Court probably has a separate account for that kind of thing. We've been through -- I've been through appeal bonds with this defendant before and two others defendants so it's not -- I know that there's some experience with appeal bonds here. I don't think that's very difficult for the Court to do.

[20-21] **Mr. Briggs:** Your Honor, I would add that technically since you did not fine her for this offense.

[22] **The Court:** In terms of money. I gave her jail time.

[23] **Mr. Briggs:** So that money is free.

[24 -- page 132, line 8] **The Court:** The answer is four hundred seventy dollars has to be paid as an appeal bond. If that can be administratively transferred that's fine. If you have to get a refund and then pay it, that's what you've got to do. I'm not in charge of the money. And the appeal bond has to be paid by five o'clock tomorrow. If the money is not freed by five o'clock tomorrow, find four hundred and seventy dollars from somewhere else until you get it free. But I don't want to get caught in some I don't know what account it's in so you've got to have four seventy for the appeal bond by five o'clock tomorrow. Yes, sir.

[9-11] **Defendant Faltas:** May I say if it's not -- if the bond is not freed by tomorrow and the appeal bond is paid since I'm only given a jail sentence, can the trial bond be refunded?

[12-14] **The Court:** There is an appropriate revenue a venue for getting a refund of a bond if it's not owed at the end of trial. You've got to follow that process.

[15-16] **Defendant Faltas:** But Your Honor is ruling that the bond --

[17-18] **The Court:** I am ruling that you have a thirty-day sentence.

[19] **Defendant Faltas:** And no fine.

[20-21] **The Court:** I am ruling that you have a thirty-day sentence.

[22] **Defendant Faltas:** Okay.

[23] **The Court:** Yes, sir.

[24 -- page 133, line 7] **Mr. Lupton:** My understanding is that there was no -- that this was a PR bond for the simple assault and I would ask that the Court either grant the PR bond on this or in the alternative if the Court is going to im-

pose a cash bond that the Court because there is not other money to be paid and because of financial issues that the Court would consider give the late hour tonight, the Court consider giving her a little bit of extra time before five o'clock tomorrow to pay any additional appeal bond on the simple assault. Or simply run it concurrent.

[8] **The Court:** Does she have any assets?

[9-11] **Mr. Lupton:** Your Honor, the only asset that she has I'm aware of in terms of real property is the property that she owns with her motion on Bryon Street.

[12] **The Court:** Do we know the value of that property?

[13] **Mr. Lupton:** Your Honor, she may know that.

[14] **The Court:** Do you know the value of that property?

[15] **Defendant Faltas:** Your Honor, --

[16] **Mr. Briggs:** Answer the question.

[17-18] **Defendant Faltas:** Your Honor, the purchase price was four thousand dollars but it's co-owned. It's co-owned.

[19] **The Court:** What's the value now? Do you know?

[20-21] **Defendant Faltas:** I guess it's the same tax estimate but I don't think anyone would buy it.

[22] **The Court:** Do you have any other assets?

[23] **Defendant Faltas:** No. (inaudible).

[24-25] **The Court:** Don't limit them. Have you got any kind of assets that are worth something?

[page 134, line 1] **Defendant Faltas:** No, no. I mean nothing that's liquid.

[2] **The Court:** Yes, sir.

[3-6] **Mr. Briggs:** Your Honor, of course, I cannot pay her bond but I've been in touch with people. I know that a loan could be made to her to pay four hundred seventy dollars, Your Honor, by tomorrow.

[7] **The Court:** Yes, sir.

[8-11] **Mr. Fernandez:** Similar to the other bond, an appeal bond should generally be the maximum bond amount. Simple assault carries a higher fine than four hundred and seventy dollars.

[12] **The Court:** Okay. Anything further from anybody?

[13-15] **Mr. Lupton:** Your Honor, whatever normal is, the Court has discretion. I would ask the Court to exercise that discretion in favor of granting a bond that's lower than the maximum.

[16-17] **Mr. Lupton:** Could we add a hundred dollars to it, Your Honor, just trying to help?

[18-19] **The Court:** No, sir. We are going to do one thousand ninety-two fifty. No conditions. All right?

[20-21] **Defendant Faltas:** Am I allowed to travel, Your Honor, out of state?

[22] **The Court:** I've set no conditions on your bond.

[23] **Defendant Faltas:** Thank you.

[24 - page 135, line 4] **The Court:** The bond has to be paid by five o'clock tomorrow, whether that be through transfer on the first one or through payment. Second bond has to be paid as well. They are two individual bonds. If you fail to pay them by five o'clock tomorrow we are going to issue a bench warrant for you and you'll have to seek an appeal bond from the next court up.

[5-6] **Defendant Faltas:** My question if it pleases the Court, do I need to come or does counsel?

[7] **The Court:** I just want it paid.

[8] **Defendant Faltas:** Okay.

[9] **Mr. Fernandez:** Thank you, Your Honor.

[10] **The Court:** Thank y'all very much.

[11] **Mr. Lupton:** Thank you, Your Honor.

[12] **(adjourned)**

State of South Carolina

Court of General Sessions

County of Richland

2013-GS-40-01496

The State of South Carolina

:

-VS-

:

TRANSCRIPT OF RECORD

:

Charlene Crouch

:

July 11, 2013

Columbia, South Carolina

B E F O R E:

The Honorable James R. Barber, III, Judge.

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

April Sampson, Esquire

Attorney for the State

Constantine Pournaras, Esquire

Attorney for the Defendant

Daphne D. Helms

Circuit Court Reporter

Ms. Sampson: The State calls Charlene Crouch.

Charlene Crouch, after being duly sworn, testified
as follows:

Examination by the Court

Q. All right. You are Charlene Crouch?

A. Yes, sir.

Q. Ms. Crouch, you're 44 years of age?

A. Yes, sir.

Q. Are you married?

A. No, sir.

Q. Do you have any children?

A. Yes, sir. I have one daughter; she's 20.

Q. And do you work?

A. I'm drawing unemployment right now. I worked at
Save-A-Lot on Garners Ferry Road for six years. And I do a
few houses here in Columbia; I clean them. And I'm just
getting my unemployment on Mondays.

Q. How far did you go in school?

A. Eleventh grade.

Q. Are you from Columbia?

A. No, sir.

Q. Where are you from?

A. Winnsboro.

Q. Why do you smile about that?

A. I don't know.

1 Q. It's a nice place.

2 A. I like it.

3 Q. Who do you live with?

4 A. I live by myself.

5 Q. You're charged with assault and battery second degree.

6 Do you understand that?

7 A. Yes, sir.

8 Q. You can get up to three years in the department of

9 corrections for that charge. Do you understand that?

10 A. Yes, sir.

11 Q. And you want to enter a guilty plea on this matter. Is

12 that correct?

13 A. Yes, sir. That -- the night it happened---

14 Q. I'm going to give you a chance to talk if that's what

15 you want to do or give your lawyer a chance to talk, but

16 right now I just need you to answer my questions. Okay?

17 A. Okay.

18 Q. All right. And you want to enter a guilty plea?

19 A. Yes, sir.

20 Q. And you've had an opportunity to talk to your lawyer

21 about this matter?

22 A. Yes, sir.

23 Q. Have you told him everything you know about it?

24 A. Yes, sir.

25 Q. Has he answered all your questions, done everything

1 you've asked him to do including conduct any investigation or
2 make any inquiry into the matter?

3 A. Yes, sir.

4 Q. Are you satisfied with his services?

5 A. Yes, sir.

6 The Court: All right. Counselor, do you concur with
7 your client entering the guilty plea?

8 Mr. Pournaras: I do, Your Honor.

9 The Court: Do you think it's in her best interest to do
10 so?

11 Mr. Pournaras: I do, Your Honor.

12 The Court: Do you think the State most probably would
13 prevail if it went forward with a trial?

14 Mr. Pournaras: Yes, Your Honor.

15 By the Court:

16 Q. All right. Now, Ms. Crouch, do you understand you don't
17 have to plead guilty? You're presumed to be innocent. The
18 State would have to prove you guilty beyond a reasonable
19 doubt, but by pleading guilty the State doesn't have to prove
20 you guilty because you're admitting your guilt. Do you
21 understand that?

22 A. Yes, sir.

23 Q. And by pleading guilty you're waiving some of your
24 constitutional rights. You have a constitutional right to a
25 jury trial if you'd like one, let 12 citizens of this county

1 hear the evidence and they would determine whether you're
2 guilty or not, but by pleading guilty you give up your right
3 to a jury trial. Do you understand?

4 A. Yes, sir.

5 Q. And by pleading guilty you're waiving some of your
6 constitutional rights. You have a constitutional right to
7 confront any witnesses the State may have, but by pleading
8 guilty you give that right up. Do you understand?

9 A. Yes, sir.

10 Q. And you have a constitutional right to remain silent.
11 You would not have to testify at a trial. You wouldn't have
12 to say anything, but by pleading guilty you give up your
13 right to remain silent. Do you understand that?

14 A. Yes, sir.

15 Q. As I said, you have a constitutional right to a jury
16 trial, but you waive that with this -- with this plea. Do
17 you understand?

18 A. Yes, sir.

19 Q. And by giving up your right to a trial, you're giving up
20 your right to put up any defenses you may have to this charge
21 and you're giving up your right to contest any evidence the
22 State may have. Do you understand that?

23 A. Yes, sir.

24 Q. And, of course, when you give up your right to a trial,
25 you give up your right to get up and testify and tell your

1 side of the story. Do you understand that?

2 A. Yes, sir.

3 Q. All right. Now, the State is making a recommendation of
4 time served. Other than that recommendation, has the State
5 or anyone else offered or promised you anything to get you to
6 plead guilty?

7 A. No, sir.

8 Q. Has anybody threatened you, coerced you, forced you or
9 pressured you into pleading guilty?

10 A. No, sir.

11 Q. You're pleading guilty freely and voluntarily.

12 A. Yes, sir.

13 Q. And you're pleading guilty because you are guilty.

14 A. Yes, sir.

15 Q. Have you had any alcoholic beverages in the last
16 24 hours?

17 A. No, sir.

18 Q. Have you taken any drugs or had any medication in the
19 last 24 hours?

20 A. No, sir.

21 Q. Are you under the influence of any kind of substance
22 here today?

23 A. No, sir.

24 Q. Are you being treated by a psychiatrist or other
25 professional for any mental illness or emotional problem?

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1 A. No, sir.

2 Q. Do you have any complaints with the solicitor's office,
3 with lawyer enforcement or anybody at the jail?

4 A. No, sir.

5 Q. Do you understand when I sentence you here today you'll
6 have ten days to appeal this sentence?

7 A. Okay. Yes, sir.

8 Q. All right. Ms. Crouch, as to indictment 2013-GS-40-1496
9 which says you did in Richland County on or about
10 December 23rd, 2011, commit an assault and battery in the
11 second degree upon Nicholas Stanton by injuring or attempting
12 to injure the victim and you had the present ability to do so
13 and the act involved a nonconsensual touching of the private
14 parts of Nicholas Stanton, either under or above his
15 clothing, how do you plead?

16 A. Guilty.

17 The Court: I find this defendant to be represented by
18 competent counsel. She's satisfied with the services of her
19 attorney. I further find the defendant is pleading guilty
20 freely and voluntarily and her guilty plea is entered
21 knowingly and intelligently, and I will accept her plea.
22 Madam Solicitor?

23 Ms. Sampson: Thank you, Your Honor. This incident
24 occurred on December 23rd, 2011, at 7005 John Edwards Street
25 which is in Richland County. At that time the victim,

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1 Nicholas Stanton, was staying with his mother for the
2 holidays who lived at that address. He normally stays with
3 his father in Mount Pleasant.

4 While staying with his mother -- the defendant is a
5 friend of his mother's. She came over, and Nicholas was
6 talking to her about her daughter and whether she had a
7 Facebook page, could they be friends on Facebook. They went
8 into the bedroom so that they could use the computer and
9 search for the daughter on Facebook. While they were in the
10 bedroom, the defendant initially rubbed the victim's leg and
11 then rubbed his crotch. At that time he asked her what was
12 she doing. She immediately apologized, got up and left the
13 room and then left the house.

14 Nicholas immediately reported to his mother what had
15 happened. Once he returned back to his father's house in
16 Mount Pleasant he also told his father and then they reported
17 it to the Richland County Sheriff's Department in January of
18 2012. The victim was interviewed by ARC and there's a video
19 of that interview where he states the facts that I just gave
20 the Court.

21 The victim suffers from cerebral palsy, and so he has
22 some mental and physical disabilities due to that. However,
23 we've interviewed him a couple of times, and as I said, he
24 was interviewed by the police and by ARC and his statement
25 always stays consistent. The victim is here with his family,

1 and they would like to speak at the appropriate time. The
2 victim - excuse me - the defendant's priors are a 1986
3 disorderly conduct and a 1991 leaving the scene and a 2007
4 C.D.V. first.

5 The Court: All right. Who wants to talk to me?

6 Ms. Sampson: This is Mr. Stanton. He is the victim's
7 father.

8 The Court: All right.

9 Ms. Sampson: And also standing now is Nicholas, the
10 victim.

11 The Court: All right. Let me get y'all to step back.
12 Yes, sir?

13 James Stanton: Sir, my name is James Stanton, and I'm
14 the father of Nicholas Stanton.

15 The Court: I can tell.

16 James Stanton: I'm sorry?

17 The Court: I can tell. Y'all look like each other or
18 you look like your son I guess is the way to describe it.

19 Nicholas Stanton: Thank you.

20 James Stanton: I guess I just wanted to briefly address
21 the Court and explain that obviously compared to some of the
22 other things you see, this is not as big of a scale, but in
23 our world, given the circumstances that we have before us in
24 Nicholas's life, this is a very big event. Nicholas has a
25 strong sense of what is right and wrong as anybody in this

1 room. The difference is that there's no gray area.

2 This was obviously something that was very wrong in his
3 world, and it was only right for us to pursue justice in this
4 case. The reason that we continued to pursue this was that
5 after all of this came to light, Nicholas was very distraught
6 by all this, ended up having to seek counseling for a period
7 of time, and it was just the right thing to do. We're here
8 physically today to face Ms. Crouch and to try to achieve
9 some closure in this situation.

10 The Court: You understand what the recommendation is
11 that the State's making.

12 James Stanton: I do.

13 The Court: All right. Does your son have anything he
14 wants to say?

15 Nicholas Stanton: I know how this is going to be big
16 because I've watched a lot of *Law and Order*.

17 The Court: Well, that's much more interesting than
18 this; I can tell you that.

19 Nicholas Stanton: No, not really.

20 The Court: I watch a lot of it, too. That's how I
21 learn how to do this stuff. I'm sorry what you've had to go
22 through. I know this has not been an easy path for you, but
23 I thank y'all for pursuing it, and you clearly did right in
24 not letting the matter drop. All right. Y'all both live in
25 Charleston?

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1 James Stanton: We do.

2 The Court: Well, y'all have a safe trip back to
3 Charleston.

4 James Stanton: Beautiful place. Come on down
5 sometimes.

6 The Court: I've been down there. There's too many
7 people, and most of them aren't from there. All right.
8 Thank y'all.

9 James Stanton: Thank you, sir.

10 Ms. Sampson: That would be it from the State, Your
11 Honor.

12 Nicholas Stanton: Thank you.

13 The Court: All right. Ms. -- counselor, do y'all want
14 to tell me something?

15 Mr. Pournaras: Yes, Your Honor. You know, this
16 incident happened some time ago, and there was a lot of
17 alcohol involved. I know that that doesn't make any less
18 culpability there, but Ms. Crouch was drinking at the time
19 with Mr. Stanton's mother. According to every accounting of
20 the facts, it was very brief, very brief. It was a lapse in
21 judgment, and I think that Ms. Crouch immediately realized
22 that, you know, that that advance wasn't welcome and she
23 apologized and immediately left embarrassed, Your Honor, and
24 I think that she wants to go ahead and address the Court.

25 Ms. Crouch: Yeah.

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1 Mr. Pournaras: And I'll let her do that.

2 Ms. Crouch: Well, first of all, I'm very embarrassed of
3 that. I also have a child -- well, a grown daughter of my
4 own and it's really humiliating. I was real drunk that
5 night. Me and his mother had upon both been drinking for
6 awhile. I vaguely really remember it, and I just want to
7 also apologize to -- I want to apologize and hope you'll
8 accept that and I'm truly sorry. I really am. It's just an
9 embarrassing situation, and I do apologize.

10 The Court: All right. Well, Ms. Crouch, I know that
11 the State is recommending that you -- that you be given time
12 served which I was told was a day or so?

13 Mr. Pournaras: Two days, Your Honor.

14 Ms. Sampson: Two days.

15 The Court: Two days? And I know you -- I truly believe
16 you feel bad about what you did, but unfortunately you did it
17 and you picked on a young man who has some impairment that --
18 which may affect his ability to respond to something like
19 that. You know, I'd like to accept the recommendation, but
20 I'm going to have to reject it and I'm going to have to let
21 you make a little contribution to society and -- as a result
22 of this behavior. You do have some record. While it's not a
23 bad record, you do have some record and I can't ignore that.
24 So -- all right.

25 The sentence of this Court is you be committed to the

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1 department of corrections for a term of one year provided
2 upon the service of time served plus costs and assessments,
3 the balance is suspended with probation for one year. As a
4 condition of probation, I'm ordering that you do 120 hours of
5 community service. So you're going to have to make some
6 contribution to this community, and while it won't be in the
7 name of this young man, it will be as a result of his having
8 suffered that loss, that injury, that you would be doing it.
9 I will terminate your probation once you have completed your
10 community service and paid all your monies.

11 Now, you're going to have to pay a \$500 fee to the
12 public defender fund, and you're going to have to pay some
13 court costs and you'll have to pay probation costs, so -- but
14 hopefully you can save a little bit of money from your
15 unemployment and get this paid and do your community service
16 and get all this behind you.

17 Ms. Crouch: Okay.

18 Mr. Pournaras: Thank you, Judge.

19 The Court: Good luck to you.

20 (Whereupon, the proceedings were concluded. There were
21 no exhibits introduced.)
22
23
24
25

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 11th of July, 2013.

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

July 27, 2013

A handwritten signature in cursive script, reading "Daphne D. Helms", written over a horizontal line.

Daphne D. Helms, court reporter

[page 1] STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	2013-CP-40-3522
	2013-CP-40-3525
City of Columbia, South Carolina,)	
Plaintiff,)	
vs.)	TRANSCRIPT OF RECORD
Marie-Therese Assa'ad-Faltas,)	
Defendant.)	

December 13, 2013
Columbia, South Carolina

B E F O R E: THE HONORABLE ALISON RENEE LEE, JUDGE.

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

DAVID A. FERNANDEZ, ASSISTANT CITY ATTORNEY FOR THE CITY OF COLUMBIA

Attorney for the Plaintiff

MARIE-THERESE ASSA'AD-FALTAS, PRO SE

Appearing for the Defendant

ALSO PRESENT: TRISTAN M. SHAFFER, ESQ.

DEBORAH M. McCURDY, RPR
Official Court Reporter

[page 2] INDEX OF WITNESSES

(WHEREUPON, no witnesses were called during these proceedings.)

EXHIBITS

(WHEREUPON, no exhibits were introduced during these proceedings.)

[page 3, line 1] DECEMBER 13, 2013

[lines 2-3] (WHEREUPON, the hearing commenced at 11:38 a.m.)

[4-10] **THE COURT:** The next matters I have are both *The City of Columbia v. Marie Faltas*. One is Docket Number 2013-CP-40-03522, and the other one is 2013-CP-40-03525. [¶] The City is represented by David Fernandez. Ms. Faltas -- Dr. Faltas is present and, as well, Tristan Shaffer; is that correct?

[11] **MR. SHAFFER:** Yes, Your Honor.

[12 to page 4, line 4] **THE COURT:** And I understand that these are both appeals from Municipal Court. And while they arise out of different charges, I guess for purposes of these appeals we can keep them together. [¶] And to the extent that we need to discuss them individually, if you can identify for the record which case we're talking about. [¶] One is an appeal dealing with an assault, and the other is an appeal dealing with issues relating to a municipal statute related to unlawful acts, I guess, related to the property, rubbish ordinances. And that is 3525. The assault is 3522. [¶] I understand that there were a number of documents that were sent to the Supreme Court relating to Dr. Faltas' right to be able to proceed. And I think there is also a motion by Mr. Shaffer to be relieved; is that correct?

[5] **MR. SHAFFER:** That's correct, Your Honor.

[6 to page 5, line 4] **THE COURT:** Based upon the order that was issued by the Supreme Court, I believe it was on November 7th of 2013, while the Supreme Court denied Mr. Shaffer's motion, they modified some of their previous orders relating to requiring Dr. Faltas to have counsel to represent her in civil matters. [¶] And in that order dated November 7th of 2013, the Supreme Court indicated that Dr. Faltas may proceed *pro se* in criminal actions in which she is a defendant, and again reminded her that her right to proceed in criminal actions *pro se* is not absolute, but may be forfeited on a case-by-case basis in the discretion of the Court. [¶] So based upon that, Mr. Shaffer, I don't have any problem relieving you of counsel as it relates to these two criminal cases, but these are appeals. [¶] While they are civil here, they are criminal in nature because they were arising out of criminal charges for which she could be imprisoned, and so I will allow her to represent herself *pro se* as it relates to those appeals. [¶] Anything further as it relates to the representation issue?

[5-6] **MR. SHAFFER:** No, Your Honor. Well, nothing from me, Your Honor.

[7] **THE COURT**: Okay.

[8] **DR. FALTAS**: Your Honor, good morning.

[9] **THE COURT**: Good morning.

[10-15] **DR. FALTAS**: And it is always a pleasure to see Your Honor. I hope he doesn't leave yet, because there are issues about the record being complete which he should answer to the Court for. [¶] But I hope the next time I see Your Honor it will be in Federal Court.

[16-17] **THE COURT**: Well, I have a record, being a transcript from the criminal proceedings below.

[18-20] **DR. FALTAS**: Totally incomplete. The exhibits were not sent. As early -- as soon as Mr. Shaffer was appointed --

[21-25] **THE COURT**: Well, now -- and I don't mean to interrupt -- I'm not trying to be rude, Dr. Faltas. [¶] I just want -- if there are exhibits that are before the Magistrate's Court, I can request those exhibits.

[page 6, lines 1-3] **DR. FALTAS**: Well, please do. But I want to report to the Court that Mr. Shaffer was derelict, totally derelict.

[4-5] **THE COURT**: And I'm not going to address those matters.

[6-20] **DR. FALTAS**: Okay, fine. Fine. But on my side, while representation was forced on me, I did what I could by reminding him several times to get the exhibits, not only the exhibits. This -- as large as the transcript seems, it is incomplete, because there were three prior hearings, and there were jury selection issues that I asked to be transcribed. [¶] Again, at that time, I was being forced to act through Mr. Shaffer. And I want him, as an officer of the court, to tell Your Honor that I reminded him of that early on. [¶] But, you know, all of this might be kind of moot because it is clear. And I was directed that I may submit a proposed order, and I did.

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

[22 to page 8, line 1] **DR. FALTAS**: All right. It is just we don't even need to worry about anything. It is structural error. The Supreme Court itself in the 7 November 2013 order acknowledged that the denial of my right to self-representation violated *Faretta*. And shortly before the November 7th order, a majority of the Court, with the current Chief Justice in the minority, said that in South Carolina we will not even deny the right to self-representation based on mental health issues. [¶] And they reversed a death penalty and the conviction solely because of the structural error of denial of self-representation. [¶] So I think we can make it very brief and do this. However, Your Honor knows the respect I have for you, Your Honor also knows my courage. I am not at liberty to say the content of the complaint I filed against the current Chief Justice's re-election, but it was made public record by the Judicial Merit Selection Commission that I had filed a complaint against her. [¶] And in the public record, when they listed the secret ballot, they said something like 200 people said she was unqualified, I think, by secret ballot. But I was the only one in the length and breadth of South Carolina who had the courage to put my name on what I say. And now I have the courage. And I hope Your Honor has the same courage to look into a four-year history of total deterioration of the court. Perjury is a crime.

[2-17] **THE COURT**: Let me -- and, Dr. Faltas, you know that I respect you. And I understand that -- and I realize your abilities and your arguments. [¶] But I am going to try to -- I am here to hear an appeal, and I am going to try to keep them focused within those issues, those legal issues which I have to consider. [¶] Now, you raised an issue about representation, and you referred to -- and I'm not talking about *Faretta*, I'm not talking about the U.S. Supreme Court decision, I believe you indicated that there were South Carolina decisions that held that the right to self-representation was inviolate. And so I would like for you to be able to tell me, if you can cite to it or tell me which case that is so that I can make sure that I'm familiar with it.

[18 to page 9, line 2] **DR. FALTAS**: Yes, Your Honor. In the proposed order -- and I looked to see if it had reached publication yet, but it has not. It is *State v. Barnes*. And it was decided October 16th, Mr. Shaffer? October 16th, 2013. And in the proposed order I have the Shearouse number, the *Shearouse Advance Sheet* number. [¶] I'm sorry, Your Honor, because of a knee issue, may I address the Court from a seated position?

[3] **THE COURT**: I'm sorry?

[4-5] **DR. FALTAS**: Because of my knee, may I address the Court from a seated position?

[6-8] **THE COURT**: Yes, ma'am, as long as you are seated in front of that microphone so we can make sure we hear you.

[9] **DR. FALTAS**: Let me pull it over.

[10-11] **THE COURT**: Because I'm looking at your proposed order, and I'm trying to --

[12-13] **DR. FALTAS**: At the very top, Your Honor, I mean, the very --

[14-16] **THE COURT**: I see it, yes, ma'am. *State v. Barnes*, Opinion Number 27322, decided October 16th of 2013.

[17-24] **DR. FALTAS**: The last time I looked at it, which was very recently, it didn't have either the South Carolina or the Southeastern 2nd citation, but *State v. Rivera* did. And in it -- and that was unanimous. They went -- and I quoted at length from it -- that structural error means just that. You can't get past it. You don't need to look at prejudice, you don't need to look at anything else.

[25] **THE COURT**: And that is cited in your order?

[page 10, line 1] **DR. FALTAS**: Yes.

[2-3] **THE COURT**: And that is 741 S.E.2d 694, a 2013 case?

[4-20] **DR. FALTAS**: Yes, Your Honor. And, I'm sorry, I didn't -- I forget the pages that I quoted from, but I quoted them verbatim. And mostly -- mostly they quote from U.S. Supreme Court decisions that explain structural errors. [¶] And as it stands now the U.S. Supreme Court's jurisprudence has four or five types of structural error: denial of self-representation; denial of the choice of one's counsel -- which is a little different, but in my case it merges because my choice was to be my own counsel; denial of instruction -- denial of the reasonable doubt instruction; denial of a representative jury of the community; and trial before a bias judge. [¶] So these are five structural errors that the U.S. Supreme Court has long explained, and finally the State of South Carolina acknowledged them.

[21-23] **THE COURT**: Now, is that the only claim that you are standing on today as it relates to these cases?

[24] **DR. FALTAS**: Absolutely not. Absolutely not.

[25] **THE COURT**: Then --

[page 11, lines 1-6] **DR. FALTAS**: And, in fact, I want to say that there are other areas of structural error. [¶] The bias of judge, which I have been stating that I have civil lawsuits against the City of Columbia, the City of Columbia Municipal Court, the --

[7-10] **THE COURT**: Well, let's take up your appeal in the 3522 case. That was the trial before Carl Solomon, Municipal Court judge, on the assault claim.

[11] **DR. FALTAS**: No. No, 25 was the property.

[12-13] **THE COURT**: If I said 25, I didn't mean 25. I said 3522. If I misspoke, I'm sorry.

[14] **DR. FALTAS**: No, I'm just trying to keep --

[15-16] **THE COURT**: Okay. I'm just saying -- and that's fine. I'm referring to 2013-CP-40-3522.

[17] **DR. FALTAS**: Yes, Your Honor.

[18-21] **THE COURT**: And from what I understood by reading a portion of the transcript -- and I did not read the entire transcript -- it related to assault claims.

[22] **DR. FALTAS**: One. One.

[23] **THE COURT**: An assault claim?

[24] **DR. FALTAS**: Yes, Your Honor.

[25 to page 12, line 1] **THE COURT**: And so there is a transcript. You were at that hearing represented by Ted Lupton.

[2] **DR. FALTAS**: Against my will.

[3-6] **THE COURT**: I understand. And that issue you have already raised. So I'm looking for what are the legal errors that you are asserting as it relates to that particular appeal.

[7-23] **DR. FALTAS**: Your Honor, first of all, if you go -- I don't know how far you went in the transcript, but very early on I was -- I had also asked Mr. Lupton to ask for Judge Solomon to recuse, and he refused to. So that never got on the record. So one of the structural errors is that the City of Columbia Municipal Court is owned and operated by the City of Columbia, which is my adversary in a civil -- in several civil lawsuits in Federal Court. [¶] Also -- also, on a federal level -- and there is a very sophisticated federal argument that I wish to bring in Federal Court as soon as I can catch my breath, and that is something that my thinking about it evolved, and also contemporaneously cases from the U.S. Supreme Court came down along with my line of thinking.

[24] **THE COURT**: Let's talk about --

[25] **DR. FALTAS**: That's what I'm talking about.

[page 13, lines 1-9] **THE COURT:** Let's talk about the legal basis for the appeal separate and apart from your argument that Judge Solomon should be recused because he is a municipal judge that is appointed by the City of Columbia and there is a problem with that. [¶] I understand that you have made those arguments before, and I understand those arguments, and so we can move on beyond that one.

[10-11] **DR. FALTAS:** So what I'm saying is the City of Columbia cannot have a court.

[12] **THE COURT:** Cannot what?

[13] **DR. FALTAS:** Cannot have a court.

[14-17] **THE COURT:** And let's move beyond that, Dr. Faltas. I'm looking for the substantive -- as it relates to the charge and the evidence that was presented in the trial.

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

[15] **THE COURT:** Yes.

[16-19] **DR. FALTAS:** Thank you. It is totally void for vagueness. Totally void for vagueness. There is absolutely no definition of anything that is prohibited by the ordinance.

[20] **THE COURT:** Yes.

[21 to page 17, line 1] **DR. FALTAS:** But if we go to the common law definition of assault, which was from *State versus Sanders*, a 1912 case, and the definition is the offer to do injury, to do bodily injury with the present ability to do so. [¶] If we look at my false accuser's testimony, she said, I just saw her coming with a piece of paper in her hand. And in another transcript she said, I did not know what she was going to do. So that precludes my having made an offer of bodily injury. And even if I had, which this is her testimony by which she is concluded, she said, I did not know what she was going to do. So there wasn't any gesture or anything of offer to do bodily harm. [¶] Then she acknowledges that the paper was trying -- I was trying to hand her something saying, No, you cannot come into my apartment, because she admitted on cross-examination that she had herself -- not her lawyer, herself -- sent me a notice stating that, We are going to come to your apartment, enter it and photograph it inside on a certain day. [¶] So the claim that she did not want any contact with me is debunked by her own testimony. They were trying to come into my own apartment, into an enclosed space. So that completely belies any claim that she did not want any contact with me. [¶] Even after that, after she claims she was crazed and totally -- and I will get to that, because there is a serious issue of perjury, but --

[2-3] **THE COURT:** Well, I am not going to address the issue of perjury.

[4-6] *DR. FALTAS*: Well, I'll just put it in the record. Your Honor knows that I like to make my record.

[7-9] *THE COURT*: I know. And I'm just going to tell you, Dr. Faltas, we are not going to be here all afternoon on these.

[10-12] *DR. FALTAS*: Well, I'm sorry, I have been four years. No one in the system knows that they abuse the system to bring false charges. Somebody --

[13] *THE COURT*: Just -- Dr. Faltas?

[14-15] *DR. FALTAS*: I'm sorry. The fact is that I expect more from Your Honor than from other people.

[16] *THE COURT*: Dr. Faltas?

[17] *THE BAILIFF*: Ma'am?

[18 to page 18, line 8] *THE COURT*: I am more than happy to hear the arguments, but your arguments need to be succinct. [¶] And I understand that once you get started you want to go through the entire history that goes back four years. And I understand that you have been living with this particular issue for quite some time. I understand the hardship that it has created for you. I'm aware of all of those things. [¶] I'm aware of the tortuous history of all of these cases. While I don't know the facts related to all of them, I understand that they are all intertwined, and I'm familiar with a good portion of it. And so I want to make sure that you make your arguments for the record, but you are -- there are just certain arguments that you need to preserve and then we can move on.

[9] *DR. FALTAS*: Okay.

[10-12] *THE COURT*: I am not going to address perceived perjury of the testimony, because that is a separate issue altogether.

[13-14] *DR. FALTAS*: It is not perceived. It is according to public record.

[15 to page 19, line 3] *THE COURT*: And I understand that that is your argument and that is your take on it. And I respect that. You are entitled to your view of what the evidence is. But I also want to make sure that you understand that I'm not here to address a perjury issue. I'm here -- and I understand that you couched it in terms of credibility of the system. And I understand -- I have been through some of the information that you have filed with the court. And some of it, Dr. Faltas, is not specifically -- while you can raise it as something that should have been presented, I'm not going to go through and make a determination as to whether or not it was perjury or not perjury.

[4-18] *DR. FALTAS*: Actually, Your Honor, I know better than to ask an appellate judge to make a credibility determination. What I am making as an issue is not only the supervisory power of any judge, it is the supervisory duty of any judge who becomes aware of prosecutorial misconduct, or misconduct by a lawyer, or misconduct by another judge, or misconduct by a court administrator, it is not only the supervisory power, it is a supervisory duty. [¶] But I will put it on the record succinctly, as Your Honor asked, and leave it to Your Honor's conscience. Okay? [¶] So we're talking about the elements of assault.

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

[20 to page 24, line 20] *DR. FALTAS*: [20 to page 20, line 3] Which is, not any -- you know, totally unreasonable person, the standard is a person of ordinary firmness. Okay? So at the beginning she said, I didn't know what she was going to do. So there was no threat. Because she didn't say, She threatened to come and kill me, or, She threatened to come and beat me. She said, I saw her with a paper in her hand, and I did not know what she was going to do. [4-8] The second thing is that she claimed that the contact was unwanted. First, that is not the criminal standard, that is the civil standard. But that is belied by her admission that she had wanted to come to my apartment. That is contact. [9-15] Then she admitted that even after that weekend she came and knocked on my apartment door in order to enter it, and I didn't open. And that was after that day. So that completely rules out that she was afraid of contact with me or that she did not want any contact with me. That is her own testimony. Okay? [16 to page 21, line 1] Then she admitted that there was no injury. Totally no injury. But then she volunteered, she said, I'm still on medication for it. She was testifying -- I'm sorry, I am about to cover it. [2-8] She was testifying on April 25, 2013. And she claimed to have seen some doctor on January -- in January 10 -- in January 2010, which would have been over three years since -- before her testimony, and almost four years since the incident. And she claimed to have been on medication for it. Okay? [9-18] There has been a discovery request sent which clearly says, All physical and mental examinations which are known to the prosecution to exist or by the exercise of due diligence are knowable to the prosecution and are either important for the Defense or are

going to be used in the case of chief. [9-18] That was not only the case of chief, that was the only point, because they admitted there was no physical injury, there was no offer of physical injury. She claimed that she had mental injury and she claimed that she had seen a doctor who kept prescribing -- she didn't see the doctor until January 2010, and he, or she, or it, whatever passes for doctor in these people's mind, kept prescribing for her medication until April 25, 2013. Okay? [19 to page 22, line 1] Of course, discovery issues in and of themselves constitute reversible error. And in *Kyles v. Whitley*, the U.S. Supreme Court said the prosecutor cannot say, Oh, that didn't drop on my head from the ceiling. The prosecutor had a duty to find out what is there, whether it is exculpatory or inculpatory, or neutral, so long as it is relevant. [2-7] Here there is no question of relevance. And there is no question that that discovery request was served, because in a hearing before Judge Barber -- and I have the transcript -- Mr. Lupton said he did file a Rule 5 and Brady motion. And I have that language. [8-16] The other possibility is that she did not go to a doctor, which is more likely -- because a doctor who keeps prescribing some controlled substance for three and a half years really should have his or her license revoked. So it is either a discovery issue, which in and of itself is reversible, or a perjury issue, which, again, should be subject to the Court's supervisory power and duty. [17 to page 23, line 4] Now, then she was confronted with having -- but before we even get to that, I wanted a jury trial, but there were two issues -- and, again, these are structural. The first issue -- and that is one of the few things for which I give Mr. Lupton credit, he argued brilliantly, that you cannot do what you have done, which is from the same jury venire, tell them that Dr. Faltas has five charges against her, but we will choose one jury to try each charge and we won't tell any of the juries what happened to the other charges. That immediately places in their head the idea that Dr. Faltas is a serial criminal. [5-10] So that was something that was -- it may not be in this transcript, but it would be in the transcript. And in one of my submissions I attached a copy of the audio CD. And I have requested that pretrial because Mr. Lupton did argue that point well. [11-15] So I was still going to be tried before a jury that was picked from a venire that was told Dr. Faltas has numerous criminal charges against her. And that jury was not going to hear that I had been acquitted from all the other charges. [16-24] In addition, again, the structure in which would be more in the case of *State v. Rivera* of the State Supreme Court, upfront Judge Solomon said, I will not allow you to discuss -- to testify about the background between you and my accused -- between me and my accuser. And I would have submitted plenty of evidence you need to present a complete defense, the right to put a complete defense. [25 to page 24, line 3] And, again, the U.S. Supreme Court has spoken in *Holmes v. South Carolina*, any rule or procedure that prevents a defendant from putting a complete defense should be struck down. [4-20] So they were just out of the blue, total whimsical that I cannot go to the background of why my accuser would have a bias, a motive to bring false accusations against me. And, more significantly, I would not be allowed to testify, and that was the last one of the, what I call the Steele and Company charges, that all of them had been resolved in my favor, especially the big two harassment -- four harassment charges that I tried myself five days pro se before the Honorable Judge Newman. And in the middle of the trial he told me, You have been most pleasant and gracious. And I'm reading the transcript. I found out there was even a lawyer who was present to learn from the trial under the -- whatever section that requires certain lawyers to attend certain trials to observe them. [¶] So I had been exemplary. And for -- I'm sorry.

[21] THE COURT: Let's get back to the transcript.

[22 to page 25, line 21] DR. FALTAS: Yes, ma'am. I'm with Your Honor. [¶] I'm self-disciplined enough to step back. But it is very important also to realize that one of the two false harassment charges, which were both resolved in my favor, based on my *pro se* advocacy, one of them was alleged by Teresa Ingram and the other was alleged by the same Dinah Steele. [¶] And the one alleged by Dinah Steele never came to trial, because I'm sure the prosecution knew by February 2010 that they had no case. But they still kept it on. This is relevant to the discovery. Not only Mr. Fernandez had the duty, but this supposed January 2010 visit by my false accuser to a psychiatrist -- and it had to be a psychiatrist because a psychologist cannot prescribe medication -- should have been produced to me. Even in discovery in the General Sessions it was never produced. [¶] So we go back to another important -- so I was precluded from testifying to a jury and under penalty of contempt of court. And I have been previously wrongly imprisoned for contempt of court by Marion Hanna. And when I came out of prison, I took the tapes to the Judicial Conduct Commission, and so I knew that I could --

[22] **THE COURT:** We are --

[23 to page 26, line 21] **DR. FALTAS:** Okay. All right. I was precluded from presenting a complete defense under penalty of contempt of court. So that is the legal issue. [¶] In addition, that time my fractured knee was at its height, and I was told I would not be even allowed to testify from the table, I would have to go -- so in the transcript I said, I am waiving jury trial under duress. [¶] I did not really waive the jury trial. I said I waived it under duress. And the duress was the threat of contempt of court if I gave a complete defense, the fact that the jury panel was improperly selected, and the fact that I could not physically reach the stand to testify to the jury. [¶] In fact, I told Judge Solomon, I don't take medication because I'm against medication unless absolutely necessary, so any movement would cause me to moan with pain. [¶] And Fernandez said, If she becomes a distraction she will need to be removed from the courtroom. [¶] So that was absolutely under duress: Physical, legal, and factual.

[22-23] **THE COURT:** Okay. Let's move on to the next one.

[24 to page 27, line 8] **DR. FALTAS:** The next point is they claim that Charlene Crouch was an independent witness. [¶] And the fact that the City bold-face lied about her criminal record. And this has of course implications. And, again, this is an immediately reversible issue. *Napue v. Illinois*, *Giglio v. United States*. Anything that -- in fact, in South Carolina there is *Riddle v. Ozmint* that says the failure to correct false evidence is as reprehensible as its presentation.

[9-10] **THE COURT:** And what do you claim was false? What do you claim the record was?

[11-14] **DR. FALTAS:** Okay. She had been arrested on April 22nd, 2012, for public drunkenness on what -- and I did cite in one of my submissions the body of the incident report.

[15-17] **THE COURT:** And you understand when you are testifying it has to relate to convictions? It must relate to convictions, not arrest?

[18 to page 28, line 13] **DR. FALTAS:** Of course. And that is where the lie was. She was arrested on April 22nd, 2012, for public drunkenness. And from the description of the incident report, she was apparently threatening. And Your Honor knows that all of this arose from the land that mother and I bought next-door to her. [¶] Charlene Crouch was no longer a tenant. She had moved. And she still frequented a tenant there by the name of Charles White, who had testified in another hearing, testified in court that she was a prostitute and that he was paying her money in exchange for sex and that she was sometimes rowdy. [¶] And I provided Mr. Lupton with that recording of sworn testimony in a Magistrate's Court. He burned it on a CD. He filed one copy with the Municipal Court and he served one copy on Mr. Fernandez. And I know that because in the hearing before Judge Barber I raised it and Mr. Lupton said that he did serve this one gigabyte CD on Mr. Lupton -- on Mr. Fernandez.

[14-15] **THE COURT:** And so what does that have to do with the criminal record?

[16-21] **DR. FALTAS:** I'll tell you. I'll tell you. Okay. Three days later, which was April -- she was arrested and imprisoned. An order for her not to return to 300 Byron Road was issued by the police officer. Three days later, she pled guilty before Judge Jenkins.

[22] **THE COURT:** To what?

[23 to page 30, line 3] **DR. FALTAS:** To public drunkenness. But the City, which knew it was going to use her as a witness against me, never reported that guilty plea, which is a conviction, to SLED. [¶] And part, apparently part of the sentence from the City was that she does not go back there. But she needed to go back there to get money from Charles White. And Charles White doesn't give her money unless she gave sexual favors. So she had -- she was beholden to him. So Mr. Fernandez said, "No. It is still pending." A year before, to the day, she had pled guilty and was sentenced. And even if Mr. Fernandez and been innocently mistaken, which he could not have been, because he had a duty to get the criminal record of his witness, he had a duty after that to research it, and he had a duty to present correct evidence to correct it. And even if he didn't, the witness herself knew that was false. She knew that it was false that the charge was still pending. It wasn't. She had pled guilty to it. And it has to do with the City not forwarding it to SLED to like water down the criminal record. And it has to do with the fact that in return for her false testimony against me, she was allowed to go back to that area despite the trespass notice. And that area is owned by Dinah Steele, my false accuser. [¶] In addition, that wasn't the only drunkenness-related conviction on Charlene Crouch's record. We have a DUI conviction before. We had this public drunkenness. And --

[4] **THE COURT:** And?

[5-6] **DR. FALTAS:** Okay. I'm sorry. I thought that the police officer --

[7-8] **THE COURT:** They always -- they look in. That is not a big deal.

[9-25] **DR. FALTAS:** December 2012 Charlene Crouch went and sexually molested a young man who is physically disabled with the functional equivalent to a child. [¶] While we were trying to settle her criminal record -- and this is key -- she committed the crime. And, again, there is a conviction. And I have the transcript of her guilty plea. But she committed the crime on December 23rd, 2012. She was arrested in June on June 16th -- or June 18, 2012. She had a preliminary hearing July 2012. [¶] She had three appearances. Apparently one appearance there was some mix-up and there was a warrant issued for her arrest. And ultimately she pled guilty on July 11th of 2013 before Judge Barber. And Judge Barber sentenced her to one year suspended.

[page 31, lines 1-2] **THE COURT:** So basically it was still pending at the time the trial came along?

[3-17] **DR. FALTAS:** However -- however, Mr. Fernandez says she is not even aware of it and she had not been to court for it. That was a clear lie, because she was aware of it. And she had been to court for it six times before the actual guilty plea. And in the guilty plea she said she does not remember because she was very drunk. That was basically not her defense because she pled guilty but what she said was mitigation. [¶] So we have at least three instances: A DUI conviction, the public drunkenness conviction, and the molestation of that young man that involved drunkenness. [¶] We had the right to examine that witness for reliability.

[18-19] **THE COURT:** Not as to the molestation, no, ma'am.

[20] **DR. FALTAS:** Not --

[21 to page 32, lines 2] **THE COURT:** If, in fact, there were convictions for driving under the influence, you can ask -- and on the public drunk, those -- I guess those would have been -- if the Rules of Evidence would have allowed you to try to impeach her with those, then that would have been appropriate.

[3-16] **DR. FALTAS:** Yes. But we were lied to. We were lied to. We were told that it is still pending, when she had already pled guilty. And I am saying that it is not just -- I'm sorry. Once again. It is not just, you know, a crime of dishonesty that is impeachable. The rule says anything related to the needs of the case according to justice. And here there would have been a very reasonable issue: Ms. Crouch, You get too drunk too often. Were you drunk that day? Do you -- if you couldn't -- in July 2013 you couldn't remember what you had done in December 2012 because you were drunk, how can you remember in April 2013 what you claim to have seen in September 2009?

[17-19] **THE COURT:** And those issues as to whether or not the convictions could be used were raised before the trial judge.

[20-24] **DR. FALTAS:** No, ma'am, they were not, because we were told there were no convictions, when there were convictions. And we were told on the one that she was convicted of later she was not aware of it, she had not been to court for it.

[25 to page 33, lines 2] **THE COURT:** Well, even if she had been to court, it still wouldn't have been able to be used against her if it is not a conviction. So --

[3-4] **DR. FALTAS:** What I'm talking about is the habitual drunkenness, which --

[5-7] **THE COURT:** And you can talk about convictions, yes, ma'am, and that would be appropriate.

[8-9] **DR. FALTAS:** But, again, let me just -- to make it clear -- we were lied to.

[10-20] **THE COURT:** I understand. I have heard you. [¶] You are saying that you were lied to and that they didn't disclose the fact that she had at least two prior convictions. Anything related to the molestation would not have been able to be used, regardless of whether she was drunk or not. But you would not have been able to talk about those matters either. But I understand that you are saying that you were not -- that she had convictions and you were not told about the fact that she had convictions.

[21 to page 34, line 20] **DR. FALTAS:** Yes. Yes. Thank you. And so she also said something which is objectively proveable a lie. She started presenting -- and I had to remind Mr. Lupton to sequester the witnesses. Had I not reminded him, she would have given the identical story of Dinah Steele. But I reminded Mr. Lupton to sequester the witnesses. [¶] Sure enough, she gave a very different story, but she freelanced. Charlene Crouch said

it was she who called the police. First she said, All I know is that police were called. Then she said, I think I called the police. Then she said, I went in and called the police. Okay? [¶] First of all, in discovery we didn't get any police call from Charlene Crouch. Not only that, when they were trying to frame me for harassment, Columbia Police Department, a woman by the name of Amanda Blanton, she interviewed Crouch, and Crouch gave a statement saying, Dinah called the police and then called me and said, Would you come with me? [¶] So that, again -- and, please, Your Honor, I'm sorry to be putting it again on the record -- prosecutorial misconduct is subject to the Court's supervisory power and duty. And duty.

[21-22] **THE COURT:** And is it preserved below? Did you raise it in the court below?

[23-24] **DR. FALTAS:** In the court below I was gagged, as you know.

[25 to page 35, line 20] **THE COURT:** I recall that you were gagged, Dr. Faltas. But you had your opportunity through your counsel to raise it below.

[3-4] **DR. FALTAS:** You are assuming that my counsel does anything --

[5-8] **THE COURT:** I understand what you are saying, but there was an opportunity to raise it. And I understand that you are telling me, then, that your counsel did not raise it below?

[9-12] **DR. FALTAS:** Not only that, I have where I asked him to do that before the fact and after the fact, and all he did was run to Judge Barber, Oh, Dr. Faltas is harassing me.

[13-18] **THE COURT:** And that is a whole other issue. Okay. And I understand that you are claiming you did not have an opportunity to raise any prosecutorial misconduct at the trial below, and you are claiming that that is prosecutorial misconduct.

[19 to page 36, line 1] **DR. FALTAS:** Definitely. And I am again stating that the Court cannot look away from it. [¶] And regardless of what happened -- I mean, the State Supreme Court reversed the Quattlebaum conviction and he was reconvicted because Donnie Myers had listened to attorney-client. So there are some things the Court must do as a matter of principle. Okay? So --

[2] **THE COURT:** What is the next point?

[3-20] **DR. FALTAS:** Actually, Judge -- and I thank Your Honor for having asked that question because I would have forgotten to tell you that. I appeared before Judge Solomon after that as the witness, as the alleged victim. Teresa Ingram, was convicted. So, I am the proven victim now. During that day I did present to Judge Solomon that material. And I presented it in order for it not to be *ex parte*. I had also sought federal habeas and had appealed to the Fourth Circuit and had listed all of those matters in my appeal to the Fourth Circuit. So I presented him with my motion before the Fourth Circuit, which listed all the prosecutorial misconduct issues. The lying about the record, not giving medical record. So, yes. So, yes. It was presented and it was presented to Judge Solomon on July 26, 2013. That is the day he sat and tried my allegations against Teresa Ingram. And she was convicted.

[12-22] **THE COURT:** What is the next error that you are claiming?

[23-25] **DR. FALTAS:** If it pleases the Court, it would be a help to me if Your Honor would list the ones that I covered so I could remember?

[page 37, lines 1-15] **THE COURT:** You've covered the recusal issues. You have covered the charge under the City ordinance, being void for vagueness. And challenging the testimony of the complaining witness. As to the assault charge, not allowing a complete defense, waiving jury trial under duress relating to a jury improperly selected and not being able to get to the jury stand because of your physical condition. You testified -- I'm sorry -- raised the issue about Charlene Crouch not being an independent witness. The City lied about her criminal record and other convictions and prosecutorial misconduct relating to the record, medical record, not providing all of the discovery. And --

[16-17] **DR. FALTAS:** And I think I answered Your Honor's question about having raised the issues below.

[18] **THE COURT:** You did. Is there another one?

[19 to page 38, line 25] **DR. FALTAS:** There was one other issue about prosecutorial misconduct. In arguing, Mr. Fernandez claimed that Charlene and I were friends. By that time I had sued her and he had received, through Mr. Lupton, the reciprocal discovery, the one-gigabyte CD that included testimony before Magistrate Newsome

about my having sued Charlene and about a prostitution client testifying she's a prostitute. So when Mr. Fernandez said that she had no dog in this fight and she was on friendly terms with me now, that he was giving false information to the Court. And of course Mr. Lupton was too ineffective, Your Honor, to object. [¶] In addition, Mr. Fernandez's argument about the standard is totally false, totally incorrect. He said the civil and criminal definitions of assault and battery are interchangeable in South Carolina. That is absolutely incorrect. Assault is an offer to do physical injury with the present ability to do so. [¶] Battery is an infliction of physical injury. There can be assault without battery and battery without assault. Also, the standards are very different. In a civil assault or a civil battery, it is unpermitted touching. Many surgeries that are performed without informed consent sometimes come under battery. But unpermitted touching is a civil standard. [¶] The criminal standard is here in the statutory definition, not all definitions, but the state statute definitions. And it also says that a person of ordinary firmness --

[page 39, lines 1-2] THE COURT REPORTER: I'm sorry, you need to speak up a little bit.

[3-7] DR. FALTAS: A person of ordinary firmness -- that a person of ordinary firmness would feel or take that as a threat of injury. [¶] I'm sorry, do I need to spell ordinary firmness?

[8-9] THE COURT: No, you don't need -- she can spell it, she just needs to hear you.

[10 to page 41, line 19] DR. FALTAS: Ordinary firmness. That is the standard. [¶] In addition, this woman, my false accuser, Dinah Steele, on the record, she is taller than I am, and she testified that she is athletic. Her MySpace page says she is 5'7". She is younger than I am. And she is athletic. I'm only 5'5" and disabled. So that would not have been --. [¶] In addition, I was qualified as an expert witness. And I testified that any version of what she said is physically impossible. [¶] First, I had a paper in my hand. And she changed her story several times. But she said that I had struck her in the chest with an open hand. [¶] If I had done that, the paper would have fallen. [¶] And then she said it was three times. What did I do? Bend down, pick up the paper, and slap her again three times and she was standing there, slap her again in the chest? And then she said I spun her around. What is she, a toy top? And if it had been in the chest, it would have been in the center. When you want to spin something around, you go to one side or the other. And then she said spun her around three times. And I testified especially she claimed in the chest area. [¶] For it to be that forceful as to spin her or knock her back, or whatever she confabulated, it would have left a bruise. Because, Your Honor, the hand, you know, bone structure, with minimal padding; the chest area, the sternum, and she is a thin person, just the skin and subcutaneous fat. So any force would have broken the capillaries and would have caused bruising. [¶] And Mr. Fernandez objected to my testifying as an expert, but the judge allowed it. [¶] So I testified that it was physically impossible for that to have happened because she admitted she had no bruises, no injury, no marks, no anything. [¶] Now, at some point it is not a credibility issue when it is scientifically established as a physically impossible story. There was nothing against what I said. [¶] And the U.S. Supreme Court in the case of *Scott v. Harris*. They actually viewed the video. [¶] And they said it was proper to grant the pursuing officer qualified immunity, it was no longer a factual issue if the physical facts on the video showed that the man was speeding and the police had to put some spikes in his way. But he was speeding. [¶] So it is possible to bring out physical facts that no reasonable fact finder would credit and to end it on that basis. [¶] So it was physically impossible for any version -- her description is physically impossible for any of her versions to be true. [¶] And the only thing that Mr. Fernandez relied on was her false claim of unwanted contact, which is a civil standard, not a criminal standard. And it is confusing the criminal standard.

[20] THE COURT: Is there something else?

[21 to page 44, line 14] DR. FALTAS: Well, I think I'm done with this. But I beseech Your Honor to uphold the principle of structural error. [¶] I don't think Your Honor needs to go through all of this. I think we should go back to the first step. [¶] Oh, there is another issue. I'm sorry. The speedy trial issue. And the speedy trial issue was raised and preserved by me also on the record. That was from September 11, 2009. I appeared in Municipal Court on October 2nd, 2009. I asked for a jury trial. It was set for jury trial on November 17th, 2009. That is transcribed. [¶] Mr. Fernandez appeared and said, No, I'm not going to call it. And it was Hanna again. And he had not given me discovery. And she threatened to put me in contempt of court if I asked for the discovery. [¶]

And then again after -- I was arrested, as Your Honor knows, the next day after I appeared before you on December 2nd, 2009, had the General Sessions trial February 22nd to 25th, 2010. After that I asked for a speedy retrial and for a speedy trial for the allegations by Steele. And then I appeared before Municipal Judge, then-Municipal Judge Benjamin, and, again, there is a transcript. [¶] And I said I need my discovery. And I need for the city level charges to go forward. [¶] And Fernandez said, I don't want to speak to her. I don't know what. And then he later tried to present that that hearing never occurred. I confronted him with written notice of it and the transcript. And then we went through on September 23rd. [¶] I appeared again in Municipal Court. Fernandez was there. I said the Municipal Court doesn't have enough judges who are not recused. Move the charges to Magistrate Court. [¶] Then I filed a speedy trial motion again in May 2010. It came for a hearing before Hanna on October 6th, 2010. And Hanna said -- all she wanted to do was to pretend that I'm mentally ill and that I should not go -- I should be evicted. So she denied the speedy trial motion. [¶] After that I actually wrote to the State Supreme Court and to the Office of Court Administration, and to several others. And I even filed federal habeas requesting my speedy trial. [¶] So the issue of -- and then when Judge Barber kept appointing for me lawyers who were state employees and could not represent me, again in the transcript of January 16, 2013, I told Judge Barber of the speedy trial issue. [¶] So we have a mere allegation from September 2009. That doesn't get tried until April 2013. [¶] And I have invoked my speedy trial rights several times. [¶] And the case of *United States v. Dugget*, I think, okay, it says that one year delay is presumptively prejudicial. We have a four-year delay. And it wasn't due to anything I did. I kept asserting, my speedy trial. [¶] One more point? In sentencing me, he didn't say in the finding, but in the sentencing he had said that I said that the police sat there for three hours and that doesn't sit right with him. [¶] That is Judge Solomon. And that is in the transcript. And that is also in the part that I quoted and highlighted in my motion.

[15-16] **THE COURT REPORTER:** I'm sorry, I can't hear you.

[17 to page 46, line 7] **DR. FALTAS:** That is also in the part that I quoted and highlighted in my motion. [¶] He said that the fact that I testified that the police sat there for three hours doesn't sit right with him. [¶] But, in fact, if he had said that he was going to rely on that, I would have presented an incident report that showed that the police were there until even over three hours after that. [¶] So it was the finder of fact pulling out of thin air something that he said made me not credible without giving me notice that he was going to rely on that. He said, Dr. Faltas, the police were there for three hours, that just doesn't sit right. She is not accepting responsibility. But, in fact, the police either were there for three hours or came back and I had to estimate it all. It was a three-hour issue. [¶] But the fact is that the finder of fact has no right to bring out or rely on facts not presented, or at least to -- he should have given me notice. [¶] He said, Dr. Faltas -- he should have said, You testified that the police were there for three hours. I find that doubtful. Do you have any evidence? [¶] And I would have said, Yes, Your Honor, here it is. [¶] But he didn't do that. He just -- you know, it is taking facts not presented or making assumptions not reasonable based on the facts presented. There is nothing impossible about the police staying there three hours. So he should have given me notice of that. [¶] And, Your Honor, all the transcripts that I mentioned are of record, of public record, in one place or another. But if Your Honor would allow me for the court convenience to email them or to burn them on a CD and give them of course a copy to Mr. Fernandez, but in the manner that is not burdensome on me because they are massive and I --

[8-9] **THE COURT:** What transcript do you think that I need?

[10-11] **DR. FALTAS:** All right. If it pleases the Court? The transcript of November 17, 2009.

[12] **THE COURT:** Before? Who was that with?

[13-14] **DR. FALTAS:** Municipal -- then-Municipal-Judge Hanna.

[15-16] **THE COURT:** Relating to the request that you made for a speedy trial?

[19 to page 47, line 12] **DR. FALTAS:** Yes, Your Honor. December -- I'm sorry, March 3rd, 2010, before then-Municipal Judge Benjamin; October 6th, 2010, before then-Municipal Judge Hanna. And of course I need the transcript of the other hearing. [¶] In addition, there is this huge transcript of the TRO hearing before the Lykesland magistrate on November 9, 2009. I have transcribed three-quarters of it by hand and filed it in this court. And then

before the General Sessions trial Heather Weiss went and got the tapes and had a separate court reporter transcribe it. But in it this is where my false accuser admitted that she came to my apartment and that she saw me with just the paper and she was scraping paint from the building. So she was armed. I only had the paper in my hand. [¶] And, Your Honor, if I may end with a joke. It is said that the pen is mightier than the sword, but no one would ever say that a sheet of paper is an assault weapon.

[13-14] **THE COURT:** Mr. Hernandez -- I'm sorry, Fernandez?

[15 to page 48, line 7] **MR. FERNANDEZ:** Thank you, Your Honor. Well, I'll begin with the right of self-representation. [¶] Nowhere in the transcripts did the Defendant ever make a request to proceed *pro se*. I have reviewed both transcripts provided. And they are lengthy. And nowhere did she request to proceed *pro se*. [¶] As Your Honor is probably aware, constitutional issues must still be preserved just like any other, and her lack of indicating to the Court that she wanted to proceed *pro se* did not permit the Court to make a ruling on the subject. [¶] Therefore, nothing is preserved for appeal. She didn't preserve it in her grounds for appeal either on the property code violation case. On the simple assault they did put that in as a grounds for appeal, but it wasn't preserved in the record below.

[8-10] **THE COURT:** Let me ask, Mr. Fernandez, Dr. Faltas has indicated that there were pretrial hearings that have not been transcribed?

[11-13] **MR. FERNANDEZ:** I can't say, because there were many hearings. So it is certainly possible that it came up before. However, the argument --

[14] **DR. FALTAS:** Actually, Your Honor --

[15-16] **THE COURT:** Please let him talk. I will give you a chance for any rebuttal.

[17 to page 50, line 6] **MR. FERNANDEZ:** Your Honor, the argument as I recall -- and if Your Honor would prefer to have the hearing transcribed, that is fine with me too, so you will know what we are talking about. But frequently it was complaints by Ms. Faltas about her representation. She didn't like the attorneys. [¶] That is the ongoing struggle between her and her revolving door of attorneys that represented her over time. That is what I recall the primary issues to be, is that she wanted new attorneys. [¶] Now, I have seen some transcripts from -- there is an order -- there is a couple of orders in the record from Judge Manning denying her the ability to fire, I guess, denying the request to be relieved, and also one from I think Judge Barber. [¶] So if that would be incorporated, what I would then argue is you can't appeal a Circuit Court order to the Circuit Court. The appropriate avenue is to appeal that to the Court of Appeals. She has not done that. So I think it is not proper for this Court to hear that motion for those two reasons: One, it wasn't raised below; then, two, if it is the order -- the Municipal Court did not determine counsel, did not assign counsel, did not deny counsel being relieved. That was the Circuit Court arguing that. Two judges, it may have been more, I don't know. Maybe -- I think Judge Cooper might have also been involved in that process as well. I wasn't present for those hearings. But, in any event, if it was -- if the Defendant now argues that that is improper, she needs to have appealed those orders and not ignore them and then now claim for the first time that she didn't want to proceed *pro se* -- I mean, she wanted to proceed *pro se*. [¶] As far as all the other grounds, Your Honor, the only matters that were preserved on the record and in her ground for appeal relating to the ordinances was *Beachfront Entertainment v. Town of Sullivan's Island*. I didn't hear her argue that case.

[7] **DR. FALTAS:** Your Honor, that case --

[8-9] **THE COURT:** Dr. Faltas, please allow him to finish his argument.

[10] **DR. FALTAS:** Okay.

[11-12] **THE COURT:** Without interrupting. And then I will give you a chance to respond.

[13 to page 51, line 6] **MR. FERNANDEZ:** I didn't hear her argue that case in particular. That was the only ground that was raised from that trial, the ordinance -- the code violations. That is the only ground. That has to do with the preemption argument, Your Honor. [¶] And the appropriate standard for that was the one that was applied to the City. The state law gives power to municipalities to adopt nationally recognized codes and standards, Section 6-9-60. I do have a copy for Your Honor, if you would like it. It delegates the power to municipalities to adopt code violation cases, specifically for -- it references property maintenance. [¶] The statute does specifically also say that it needs to be made available by the International Code Council. That is the entity that publishes the International Property Code Maintenance, which is exactly the same code violations that the City incorporated.

[7-8] **THE COURT:** And that is as to the ordinance in Case Number 3525?

[9-10] **MR. FERNANDEZ:** Correct. No, I'm sorry, 3522. 22 is the code violation.

[11] **DR. FALTAS:** No.

[12] **THE COURT:** No, 25 is the code violation.

[13-23] **MR. FERNANDEZ:** Oh, I'm sorry. Okay. That is only relating to that, Your Honor, yes, Your Honor. [¶] The City adopted under the authority granted to it by the state legislature to state the exact property code maintenance articles that were prescribed by the state. There is nothing preempted here. The State has given us the power to do that. And so the preemption argument didn't apply. So it is pretty clearly on point. And that was the only ground that was raised on their appeal.

[24] **THE COURT:** In 3525?

[25 to page 53, line 17] **MR. FERNANDEZ:** In 3525, yes, Your Honor. So as far as that trial was concerned, the only ground raised is inapplicable. [¶] Moving to the -- we heard a lot more about the simple assault case. Your Honor, I would then argue, if you will look at the grounds for appeal there, the only appeal grounds are that the City -- I'm sorry, that the judge did not direct a verdict of not guilty. Then the denial of the right to represent herself. And then any other grounds that appear in the transcript, although that is not sufficient grounds for an appeal. The general catchall, any other grounds which have been held not to be sufficient, it needs to be specific as required by the statute for appeal. [¶] So if we are going to take the one that says directed verdict of not guilty, it should have been proven. That is the injury aspect that we heard the Defendant argue. And in that respect, she proceeded under the charge for simple assault. It does require an assault and battery. Two witnesses testified that there was an assault and battery. [¶] There was an offer and contact. The offer was the aggressive nature of the Defendant. She was approaching Ms. Steele. Ms. Steele tried to leave. [¶] She pursued -- the Defendant pursued, and ultimately three strikes to the chest and spun her around. [¶] The Charlene Crouch, I corroborate all of that. She witnessed it. The judge, when he ruled guilty, he said that he reviewed all applicable [page 50] case law on the matter and was content that he was -- he was content with his understanding of the assault law of South Carolina. So there was a knowledge there, that he acknowledged that he had done his own research, in addition to whatever was argued by both counsel, and came to the conclusion that she in fact did strike the victim. [¶] I can address all the other matters, but they were not raised either in the grounds for appeal or on the record below. So if Your Honor would like me to go through them, I can, very briefly. I leave it up to the Court.

[18-19] **THE COURT:** Yes, sir, you might as well address them.

[20] **MR. FERNANDEZ:** Okay, thank you.

[21-22] **THE COURT:** So we don't have to discuss it again.

[23 to page 60, line 10] **MR. FERNANDEZ:** The recusal motion -- what Ms. Faltas has done, I think she moved to recuse every judge she has come in front of down there. [¶] So that created a scheduling -- and sometimes judges did recuse themselves, sometimes they didn't. They created a scheduling issue, because there is only a certain amount of judges down there, and they all are part-time judges, they are not full-time. So it creates a -- dealing with their private practices and getting them into court on certain days when we have juries available, it creates a scheduling issue. So time needs to be built in for that. [¶] But as to Judge Solomon's recusal, I don't know if she did ask that he recuse himself. I can't speak to that. Obviously he denied it if she did. However, she obviously was not that aggrieved because she did ask for a bench trial. And she didn't do it under duress because, in fact, the only -- the transcript, really all it says from her is that, I don't want a jury trial. So she doesn't say any reason why, because it is simply a strategic decision on her part at that point. And it was likely based on what -- she made a determination based on what she was going to be able to talk about because she wasn't going to be able to kitchen-sink the trial and just talk about everything that she thought applied, she made a conscious decision to go forward with a bench trial. And it did provide her greater latitude, as the judge acknowledged, because the judge was able to sit through and hear all of it. [¶] The point being, none of it was made under duress. There was no indication of that at all, and certainly no objection from counsel or the Defendants at that point. So that just does not appear to be true. [¶] The assault, as far as it being an assault, the victim and the witness both testified that there was a physical striking -- pushing, striking, however they characterized it, that it was certainly an assault. I heard the argument about it being physically impossible, but certainly it is possible to strike someone and not burst the capillaries. [¶] The jury trial waiver. We talked about the bench trial. [¶] The improper jury. Well, she waived all those issues about there being an improper jury or her request for her demand for a jury trial. She waives those when she doesn't proceed with one. [¶] You can't just say, I want -- the jury pool was improper. But she didn't go forward with a jury trial, so she waived that argument.

She chose to go forward with a bench trial. No one pursued her. [¶] In fact, she demanded it. I was the one that had to react to that, because I was expecting a jury trial. So she waived the argument about anything that occurred regarding the jury because she didn't pursue the jury trial. [¶] Charlene Crouch, I provided a NCIC rap sheet to counsel and myself, and I think the judge had a copy too. That is what we relied on for prior convictions. It is what it is. It is a rap sheet. [¶] Whatever is on there is what is reported I guess to SLED. And if it is not on there, then I have no idea what it is. And certainly they could have asked Ms. Crouch if she was intoxicated at the time, if she pled guilty to -- Lord knows, they went well beyond the general record, so I don't know -- they obviously made a strategic decision not to ask those questions, but there was certainly -- the confrontation clause was satisfied. Ms. Crouch was on the stand to answer any questions they asked her. They just declined to ask her those kind of questions. [¶] So as far as -- I know -- you are probably used to it by now -- but all those accusations about misconduct. The point is we provided all the documentation we had. And at no point did the Defendant at all raise the issue of this prior drunkenness conviction. If it was such a central tenet to her defense, certainly they should have asked the question on the stand if she was drunk or not. And they did not do that. [¶] And I think there was at one point where there was something brought up about the molestation case. I do recall -- and I don't know if the record reflects this or not. I'm sure it wasn't, because I was talking to her privately. But I do recall asking Ms. Crouch about that. And she indicated I think to the Court too that she didn't know anything about that. So I don't know what happened there. I still don't. I hear what the Defendant says. I don't know what happened there. [¶] And I just don't -- I think Your Honor has already ruled. [¶] About my saying that they were friends, her and Charlene Crouch, well, that is because the Defendant testified that she would talk with Ms. Crouch and share stories about the apartment complex and about some fruit baskets or something. [¶] I mean, they were sharing stories. So I don't think that is a stretch to say that -- I didn't say they were friends, I just said that they were on speaking terms. And they were. And that goes to the credibility of Ms. Crouch, that it wasn't a bitter hostility apparently between them because they both felt comfortable enough talking to each other at certain points during their stay at the apartment complex. So I don't believe that is at all misleading. It is just the record. [¶] If the judge chooses not to believe the testimony of the Defendant, there is no obligation that the judge ask the Defendant to somehow clarify or recant. The Defendant had an opportunity to testify. And if the judge didn't believe what she was saying, which he clearly did not, that is her problem. And she had an opportunity to testify. The judge doesn't owe her any kind of chance to change her testimony or amend her testimony. She chose to say what she chose to say. He found it very unbelievable. And that is just how the trial went. There is no obligation on the Court to somehow give the Defendant an ability to rehabilitate themselves. [¶] The speedy trial. That kind of goes to the other part. There had been numerous requests for speedy trial. We actually tried to try multiple cases before where the Defendant comes up with an illness or mid-trial has an illness where she has to be taken to the hospital. That is not uncommon. Also, on the speedy trial motion, she will either move for the judge to recuse themselves, and I guess sometimes it has worked, obviously required a continuance. Other times she has an injury or the illness thing. Then other times she has demanded that an attorney be appointed, but I find it ironic that sometimes she says she wants to go ahead *pro se*, other times she is demanding that she be appointed a public attorney. [¶] It is all just a shell game, in my experience, that it is either -- it is one thing or the other, but you can't speak out of both sides of your mouth. [¶] On this particular case, like I said, she did not demand to proceed *pro se*. And I think that goes to a speedy trial credibility. Obviously the other judges knew or have heard the speedy trial motion. They found that the contributing factor for why the cases were not tried was due to the Defendant herself, not because of any reluctance on the City's part. [¶] And if Your Honor wants those transcripts, I'm sure the Court can dig them up, but they will reflect that, that it was simply because of the Defendant's own actions and behavior, not because the City in any way was not able to go forward. We were able to go forward for quite some time. [¶] I think I addressed -- unless Your Honor has any remaining concerns, I think I addressed all the issues raised by the Defendant.

[11] **THE COURT:** Thank you.

[12] **MR. FERNANDEZ:** Thank you.

[13] **THE COURT:** Any response, Dr. Faltas?

[14-20] **DR. FALTAS:** Yes, Your Honor. Two housekeeping matters first. I think Your Honor clearly directed me to first argue the assault case; and after he had responded and I had replied, we were going to go to the property case. But he went ahead and argued the property case, which I had not -- did I misunderstand Your Honor?

[21 to page 61, line 2] **THE COURT:** No, ma'am. We started off with that. And I understand that there is some issues that may overlap into the property case, but if you will just skip over the argument so far about the property case, then we'll come -- and actually we will take a lunch break before we get to the property case.

[3 to page 62, line 12] **DR. FALTAS:** All right, thank you. And the other housekeeping matter, Your Honor, is that there had been extreme, extreme financial hardship on me. And part of that is the delay of the appeal and also

the fact that I had to pay an exorbitant appeal bond. [¶] And the appeal bond is just for showing up. It is a bond for me to appear at the next hearing of the Circuit Court, which I did last time when it was scheduled before Judge Barber. [¶] So even if that doesn't count for appeal and that bond is not contingent on the result of the appeal, so I would like Your Honor, since I appeared and defended, I would like Your Honor to order them to refund the bond because it has fulfilled its purpose. And I would like Your Honor, if it please the Court, to order immediately that -- and, God forbid, should Your Honor rule adversely to me, it would be up to Your Honor to set a new appeal bond for me to appeal further, but in that case I will tell Your Honor, as I have told Your Honor before, when I was facing six years plus enhancement under the false harassment charges, I did not escape. I stayed. I defended myself *pro se*. And, thank God, I prevailed. [¶] So also I have a much higher vested interest in getting the false convictions reversed, my professional license, and my ability to convert my lawful immigrant status to citizenship. So Your Honor I think would be completely satisfied so I would like as a housekeeping matter for you to order them to refund my appeal bond, because, you know, my sisters have sold everything they can sell to keep me, to keep a roof above my head for all my past four years.

[13-14] **THE COURT:** All right, Dr. Faltas, I'll consider that matter. But any response?

[15-19] **DR. FALTAS:** Oh, absolutely. Absolutely. Absolutely. Absolutely. Absolutely. First of all, the word duress is in the transcript. And I can show Your Honor the line and page if you would hand me the transcript.

[20-21] **THE COURT:** I intend to read the transcript, so I'll look for it.

[22 to page 63, line 1] **DR. FALTAS:** And I have also, because all upper case transcript is tedious, I had scanned it then converted it to upper case, so I have much it nicer. It is the same -- which I can email Your Honor. But, in any event --

[2-4] **THE COURT:** I have to use the official transcript that has been provided to me, and that is the one that I will use.

[5-21] **DR. FALTAS:** And so Your Honor is absolutely correct that at the pretrial hearing I absolutely said I do not want counsel at all, I want to appear *pro se*. [¶] And Judge Solomon said, no, based on the State Supreme Court order, I will not let you appear *pro se*. So that is in the the non-transcribed, which I have asked several times to be transcribed. [¶] In addition, there is a transcript that Judge Manning has given an order for it, and that is the February 21st transcript before Judge Barber. And that was to relieve Mr. Lupton. And Judge Barber asked me, What do you want? Do you want to represent yourself? And I said, Absolutely, as I have an absolute right to do. [¶] And how about we do this, Your Honor? Is it possible for the clerk to make a copy for you?

[22] **THE COURT:** I'll take a copy.

[23] (Mr. Shaffer hands the Court a copy.)

[24 to page 64, line 11] **DR. FALTAS:** So it will appear that I had requested and preserved the right to self-representation many, many, many times. [¶] Now, he says about a speedy trial. Remember, it is back to November 17. So I wasn't -- at that time I wasn't -- in fact, I was pleasant to Judge Hanna and I told her that I liked her. And at that time I didn't know what a bad judge she was. [¶] And so she said, okay, because the prosecution was not ready. They were proceeding under the now-invalidated idea that the prosecutor in Richland called the case. And Your Honor knows from the case of *State v. Langford* --

[12-13] **THE COURT REPORTER:** I'm sorry, I can't hear you.

[14-20] **THE COURT:** Let's -- Dr. Faltas, I understand that those all relate to speedy trial motions, so you've indicated that you made those motions and he provided what he says are reasons why they did not go forward in the manner and expedience as you would have liked, and a portion of that had to do with recusal of judges and scheduling.

[21 to page 65, line 10] **DR. FALTAS:** No. But no. But no. No. No. That is not true. There was no recusal issue in November, 2009. There was no recusal. There may have been a recusal issue in March 2010, but they insisted, No, we are not biased, we will try it. Except that they refused to schedule them. And I made the motion again. And in October 2010, Hanna said, I'm denying the motion for speedy trial just because. She didn't even give any reason. [¶] Apparently, if she gave a reason at all, her reason for denying the motion for speedy trial was that I had made the motion for speedy trial. Somehow making the motion for a speedy trial is itself a reason to deny the motion. This is totally incongruent. And I have no idea --

[11-17] THE COURT: Let's get to the substantive issues, Dr. Faltas, in terms of the argument about the evidence and the testimony. I think your issue about the speedy trial, we have discussed that. [¶] And I understand that you disagreed with that. And it will take me a while to go through all of this and figure out what I need and what I don't need.

[18 to page 67, line 21] DR. FALTAS: And, Your Honor, again, I also have where I wrote to the Office of Court Administration. And that was 2011. And they wrote me back saying that it will be scheduled soon, and they weren't scheduled soon. [¶] In fact, as late as 2013, they first said we'll schedule them, then they said, "No, we won't schedule them." And it took the involvement of the Chief Justice who issued her March 7th order saying Judge Solomon has to immediately do a pretrial and give me -- and report every 30 days. Only then did they schedule them. [¶] In my opinion, the Chief Justice's 7 March 2013 order was after -- after the fact of my having to file federal habeas corpus requesting speedy trial. So that totally, totally factually is not correct. [¶] Now, again, yes, there is a lot that Lupton did not do. And that is why I say that it is ineffective assistance. [¶] And then Mr. Shaffer handed me the South Carolina Court of Appeals case of *State v. Johnson*. And it says -- 510 S.E.2d 423. And that is from 1999. [¶] And the part he underlined said: The State nevertheless contends that the Defendant's proper remedy is through the Post-Conviction Relief Act. [¶] If the Court unyieldingly insisted that PCR is the only avenue of relief in this case, there is the real threat that the Defendant may remain incarcerated beyond the legal sentence due to the additional time it will take to pursue such remedy. [¶] So sometimes ineffective assistance of counsel can be based on direct appeal when it appears from the record. And here I think he should have more vigorously examined Charlene Crouch. In fact, during the sentencing, I speak out and tell the judge, I even asked Mr. Lupton to ask Ms. Steele, who is the doctor she went to? What medication did she prescribe? She needed to name them. [¶] I had asked the counsel who was forced on me to do that examination. And he didn't. And even during the sentencing he said, Yes, I didn't do that examination. I am not going to bring the paper that she had -- had filled the paper as my false accuser of harassment, which asked her whether she needed medical attention or has sought medical attention. She had said no, no. [¶] So here -- so that appears on the record. The ineffectiveness appears on the record. And on direct appeal -- of course, I am not incarcerated, but I have a 20-day sentence which can harm me and also have been for four years having this stress and prevented from --

[22-23] THE COURT: Let's get back to the specific issues.

[24 to page 69, line 21] DR. FALTAS: I'm sorry. So the only thing that Mr. Fernandez is correct about is Mr. Lupton didn't do vigorous cross-examination; but that is, you know, part of his ineffectiveness, and there was no way -- in fact, in the other hearings where I have -- and in that other trial, which the jury returned not guilty verdict, in the middle, Judge Solomon asked me, Did you give this information to Mr. Lupton? I said, Yes. I figuratively kissed his feet for him to read it, but he wouldn't. So I was tolerant about that. [¶] Now, to Mr. Fernandez's claims that Charlene Crouch and I were on speaking terms, well, of course at one time we were on speaking terms. This story about the fruit basket happened in December 2008, eight, 2008. And Your Honor may remember from one other -- of course you are allowed to take judicial notice -- of the evidentiary hearing that was heard before Your Honor on December 1st, 2009. All this misery was done to me because mother and I bought that adjacent land on March 3rd, 2009. [¶] And then Charlene Crouch started shining mirrors through my window so I couldn't sleep. And I sued her in August -- I'm sorry, in September, 2009. [¶] So for him, for Mr. Fernandez, to stand and say, Oh, they were on friendly terms, in April 2013 or even in December of 2009 is total prosecutorial misconduct. [¶] And, yes, Mr. Lupton did not object, but he didn't object because he was ineffective. And if I had objected I would have been held in contempt of court. Not only would have, I had been held in contempt of court in the property trial, which was on April, 11, 2013. So that was an issue. [¶] Now, if they don't transcribe the pretrial hearing, which actually the Chief Justice has ordered -- not ordered the transcript, but ordered that there be a pretrial hearing. And in it I did very specifically raise that I want to represent myself. So even if they don't transcribe it, I can make Your Honor a link, because that is the only way that it can be done. [¶] Oh, I'm sorry, I did file the audio that I can submit at which particular minute at which hearing I did raise my right to proceed *pro se*. [¶] So what was the other factual issue?

[22] THE COURT: I think that was it.

[23 to page 70, line 2] DR. FALTAS: Okay. So, yes, I talked to Charlene Crouch in 2008. I sued her in 2009. And in 2011 a man

testified in court that she is a prostitute. And so in 2013 Mr. Fernandez had absolutely no ground to say that she had --

[3-4] THE COURT REPORTER: I'm sorry, you need to speak up.

[5-9] DR. FALTAS: Mr. Fernandez had absolutely no ground in April 2013 to say that Charlene Crouch and I were on friendly terms at that time or that we were exchanging stories. In fact, I did not speak to her at all, lest I be accused of --

[10-11] THE COURT: Are you saying that you accused her of being a prostitute?

[12-14] DR. FALTAS: No, ma'am. A man testified that she was a prostitute and that he was giving her money for sex. And actually --

[15-17] THE COURT: I guess I'm failing to understand how that shows that you and her did not have problems, that you and Crouch had problems?

[18 to page 71, line 18] DR. FALTAS: He testified during the small claims lawsuit I had brought against Crouch for having gotten into the habit of shining a mirror through my window at night so I do not sleep. And she started doing that in August and September, 2009. It did not go to trial until March 2011. [¶] And so there was this testimony. [¶] And, in fact, in my public record search that I did, that very same man had tried to get a restraining order against Charlene Crouch. And in it he said that she was a prostitute who was banging on his window and requesting money for drugs. And then she had the grand larceny conviction. And he testified in the March 2011 hearing that he paid her bond and her restitution in return for the sexual favors. [¶] So this is very important factual testimony that Charlene Crouch had a huge dog in the fight in that Charles White, who was a tenant of Dinah Steele, and Dinah Steele has a no-trespassing order against Charlene Crouch going to 300/304 Byron Road, but she was waiving it and protecting it so that Charlene Crouch could continue to prostitute herself with Charles White and get money from him all in return for Charlene Crouch falsely testifying against me.

[19-20] THE COURT: And did Mr. Lupton bring out any of those matters during her testimony?

[21 to page 72, line 14] DR. FALTAS: He did not bring them, but I had asked him. In addition, we know from the actual record that I gave him, the actual recording and the actual complaints by White against Crouch. And it is on the CD that Lupton burned and filed a copy with the Municipal Court and served a copy on Fernandez. [¶] And I also asked about it in the hearing that Your Honor got a copy of. And Lupton said that he did file reciprocal discovery and served it on Fernandez. [¶] So this is, you know, ironclad. That material was provided to me, it was provided to the prosecution. For the prosecution to stand up, knowing that the false accuser was a drunken prostitute, and whom I had sued, for him to stand up and say because I had once talked to her in 2008 that she has no dog in the fight is prosecutorial misconduct. And I stand by this.

[15-20] THE COURT: All right. Anything else, Dr. Faltas? We are going to take a lunch break. And I'm trying to finish this case, because when we come back the only thing we are going to talk about is the other one. So is there anything else on this case?

[21 to page 73, line 13] DR. FALTAS: I don't think so, Your Honor. [¶] And -- but Your Honor did not give me clear direction on Number 1, getting the exhibits. [¶] Oh, yes, one other thing, if I may. One of the exhibits that were introduced was Dinah Steele's habit of whenever -- in fact, there was a photograph that was introduced into evidence of Dinah Steele and Mason and some third person standing at the mailbox and doing this movement, Go away, go away, go away, when I was going to get my mailbox. So what had happened -- and I testified that what she was saying, Go away, go away. And I was trying to give her the one sheet of paper. I put it on her arm when she was doing this. So evidently it fell. But I touched her. So -- but before it fell, you know, she instinctively touched her own chest, and that is when they falsely accused me.

[14] THE COURT: All right.

[23 to page 74, line 1] DR. FALTAS: All of them. So the fact -- and, again, the structural error of my not being allowed to represent myself, that is not stuff that would have been done by Dr. Faltas. Had I been representing myself I would have insisted on discovery and I would have done a better cross-examination of everybody in this courtroom like I did when I was falsely accused of harassment. [¶] So -- and then the exhibits I have early on asked Mr. Shaffer to get them from Municipal Court. [¶] He didn't. I cannot -- my ineffective counsel cannot be imputed to me.

[2-5] THE COURT: So we are going to take a lunch break. [¶] Dr. Faltas, do you have the same or similar issues on the property case?

[6-10] *DR. FALTAS*: I will keep all of them. There is a jury tainting issue. There is a jury tainting issue and the federal constitution issue of non-sovereign. Those are going to be my main arguments.

[11-16] *THE COURT*: And the second argument is a similar one to the one you made with respect to the assault charges; is that correct? That the municipality is not a sovereign and it doesn't have the authority or the right to be able to enact special statutes or its own statutes?

[17-24] *DR. FALTAS*: Yes. But also as far as health and safety, I will go a little bit into that. [¶] And -- I'm sorry. Thank you very much, Your Honor. [¶] The very important issue, which is peculiar to the argument is the *Florida v. Jardines* argument, a US Supreme Court decision, which was part of the transcript. During that trial, I put it in the trial transcript.

[25 to page 75, line 5] *THE COURT*: Well, we are going to take a lunch break. And we are going to come back at 2:30. And I'll hear the arguments as it relates to that particular case. And you have kind of briefly outlined them, and so I'll be prepared to hear that information.

[6] *DR. FALTAS*: Thank you very much, Your Honor.

[7] *THE COURT*: We are down until 2:30.

[8] *DR. FALTAS*: Thank you.

[9] *MR. SHAFFER*: Do I need to be back?

[10-11] *THE COURT*: I don't particularly need you. I don't know if Dr. Faltas needs you or not.

[12-13] (WHEREUPON, a lunch break was taken at 1:33 p.m.)

[14-15] (WHEREUPON, the proceedings resumed at 2:39 p.m.)

[16-21] *THE COURT*: We're going to pick up the 3525 case, 13-3525, and talk about the grounds for the appeal in that one. [¶] And you were limited to a couple of arguments before we took a lunch break, and so let's pick up there, Dr. Faltas.

[22 to page 76, line 9] *DR. FALTAS*: Thank you very much, Your Honor. [¶] And, please, before I do, just a couple of housekeeping matters, if I may? [¶] I did ask for Mr. Shaffer to be relieved. And I had also asked to have standby counsel, if for no other reason than the fact that, you know, I'm suffering from physical health issues, and at any time I might become physically unable to pursue my rights. So I was hoping Your Honor would give consideration to appointing standby counsel for me. [¶] That was done before. And the understanding is that the standby counsel would step in only if there is a physical issue.

[10-12] *THE COURT*: And Mr. Shaffer is still here, so I took it that you wanted him to continue on and stay here.

[13-17] *DR. FALTAS*: Well, actually, I asked him to stay for another reason, but if Your Honor wants to appoint him as standby counsel and if he is willing, I'm not going to say no. I had other ideas, but whatever Your Honor decides.

[18-21] *THE COURT*: Well, I'm hoping that you will be able to get through the rest of it. So let's see how that goes. And if something were to happen with him sitting here, then we may impress upon --

[22 to page 77, line 9] *DR. FALTAS*: Yes. I think if, God forbid, Your Honor were to rule against me, then there is the next appeal, and if I were physically disabled in between. That is why I would need standby counsel. [¶] The other housekeeping matter is that I did file a copy of the CD in one of the cases that does have the different hearings in which I had asserted my right to self-representation. I'd be more than happy to give Your Honor another copy and Mr. Fernandez another copy, so that in case they do not do the transcript quickly enough. But we have -- it is their official recording, not mine.

[10-13] *THE COURT*: And you indicated that there were transcripts, I mean, that there were other recordings? I think you provided a tape or something?

[14 to page 78, line 11] *DR. FALTAS*: Yes. Yes. Yes, Your Honor. But these are the ones from the recent hearings in Municipal Court. There is one which is missing, which I had been also asking for. I don't even have the audio of that. And that is the July 25, 2013, trial of *The State v. Teresa Ingram*, where I was the victim, the proven victim now. And during that hearing -- I alluded earlier -- I presented Judge Solomon with what I filed in Federal

Court about the perjury and all the issues that I had. [¶] You asked me if I had raised them in the lower court. And my answer was, Yes, I did, on July 25th, 2013, by providing Judge Solomon with a copy of my federal pleadings -- of my federal submissions which contained all of those facts. But -- but -- if a transcript is necessary, I would like Your Honor to issue a writ of mandamus for the Municipal Court to provide those transcripts. And I think Mr. Shaffer has already presented where he had emailed the Chief Administrator of the Municipal Court for the transcript of those hearings.

[12 to page 79, line 1] *MR. SHAFFER*: I did, Your Honor. It was in July. Whenever I was representing her, I did email her and asked for the exhibits and recordings. [¶] She -- Judge Turner had said that she would -- she needed the specifics of the case. So I provided her with the specifics of the case. She then called me. And I honestly do not recall the phone call right now. Or she had asked me to call her, I believe. She gave me her cell phone number and asked me to call her. And I don't recall the exact substance of that conversation, but it had something to do with her providing it. [¶] Your Honor, I did not file mandamus, obviously. I did email her this morning about it as well -- or last night -- asking about it. It might have been this morning. But --

[2] *THE COURT*: The only thing --

[3-4] *MR. SHAFFER*: -- I haven't had a response, Your Honor.

[5-7] *THE COURT*: The only thing I received from you, Mr. Tristan, was related to the hearing before Judge Barber.

[8] *MR. SHAFFER*: Yes, Your Honor.

[9-10] *THE COURT*: But I didn't receive any additional information.

[11-23] *MR. SHAFFER*: Yes, Your Honor. This would have been transcripts that have not been produced, my understanding is. I had requested transcripts for the pretrial hearings: March -- the morning of March 12th, 2013; April 10th, 2013; and April 24th, 2013. Apparently there were pretrial hearings in this. After looking at it, I thought -- the arguments that I had intended on raising I thought were sufficiently preserved by the introduction of that transcript, which I believe was actually -- I believe there should be a copy of that transcript in the Clerk's Office, the one from Judge Barber, the one that I provided you, Your Honor.

[24] *THE COURT*: Yes, sir.

[25 to page 80, line 9] *MR. SHAFFER*: I believe that there is a copy. [¶] I know that the Court has a file that -- prior to her appeal coming up here, the Clerk's Office here had like a miscellaneous type file for things coming from Circuit Court jurisdiction that had concurrent jurisdiction over those. Like all the paperwork the clerks produced by Judge Barber all came through -- and they had a file in the Clerk's Office, I believe. So I believe that that transcript might have been in there.

[10-12] *THE COURT*: Well, it appears that audio recordings were presented and covered some of those pretrial hearings.

[13] *MR. SHAFFER*: Okay.

[14-18] *THE COURT*: There is March 12th, 2013; March 21st; April the 8th of 2013; April the 10th; April 11th. And those appear to be all CDs that Dr. Faltas attached to some filings. So that is the same documents?

[19 to page 81, line 6] *DR. FALTAS*: Yes, Your Honor. So -- but if in case they need to be transcribed for Your Honor to be satisfied that there is no merit to Mr. Fernandez's claim that I did not preserve those arguments, then I ask for Your Honor to issue a mandamus to the Municipal Court for them to transcribe it, and to also return the exhibits, both the proffered exhibits and the admitted exhibits. [¶] And I would like to say that the issue of a transcript being complete and error-free, the U.S. Supreme Court has also spoken on that. It was *Chessman v. Teets*, and I think it is from 1955.

[7-8] *THE COURT*: All right. Now I'll hear your arguments on your case, please.

[9 to page 89, line 9] *DR. FALTAS*: [9-16] Yes, Your Honor. On the property issue, on the property maintenance case, there are several issues I did list. There was one that I wanted to add, which is the South Carolina Department of Health and Environmental Control defines "rubbish" very differently from the City. So the state definition preempts any City definition. But this is a subsidiary issue. [17-25] I would repeat the sovereignty issue Your Honor heard before, but specifically when they claim to be legislating in things that affect health and safety,

these matters require expertise just for the same reason that in federal and also in state cases there is deference to the agency that is charged with implementing the statute or scheme of laws because that agency has the technical expertise. [page 82, lines 1-7] So the agency that has the technical expertise in safety issues in South Carolina is DHEC. And although this is not directly a Steele and Mason charge -- that is the only charge, Steele and Mason -- formal charge, but the fact of the matter is they were the ones who instigated that, and that was by the testimony of the City's own agent. [8-11] So initially they called DHEC and claimed that I had infectious material there. And DHEC came immediately and did an unfettered inspection. And they said there was nothing wrong there. [12-17] And I had tried to subpoena the DHEC person, but, again, because of ineffective assistance of counsel, it wasn't done in a timely manner. But I proffered the DHEC determination, and I had asked that it be introduced under the theory that public records are self-authenticating. [18-20] So they claim that I had wood there. Oh, there is one other issue, which was the misinterpretation of the selective prosecution. [21-24] Let's go back to *Florida v. Jardines*, because this is a very important U.S. Supreme Court case that few have understood the implication of it just because it is recent. [25 to page 83, line 7] And the Curtilage -- C-U-R-T-I-L-A-G-E -- Doctrine is rather old, but in *Florida v. Jardines*, the U.S. Supreme Court, built on previous *United States v. Jones* trespass issue, which they said that the government cannot have -- the government cannot put a recording device on somebody's car without their knowledge, because that is trespass on his car. [8-14] So in *Florida v. Jardines*, they built on *Jones v. United States* and said that the government agents cannot go to the front yard of somebody's home and collect evidence of a crime. And they cannot trespass. They cannot go to any area where they are not invited by the owner and collect evidence of a crime. [15-20] Of course, I contend that I committed no crime whatsoever. But it was established that the land had no trespass on all four corners, that the City agent went in without my permission or invitation and took pictures from close range to create an optical illusion of things being haphazard. [21-22] So that should be reversed under *Florida v. Jardines*. [23 to page 84, line 3] The other thing is that the ordinance claims to criminalize the possession of scrap metal. But even their agent testified that there is no definition of scrap metal. And he had to look it up on Wikipedia. So the ordinance is way void for vagueness. [4-10] And *Florida v. Jardines*, *Jones v. United States*, and before that, *Lucas v. South Carolina Coastal Council*, which was a case that the U.S. Supreme Court reversed the State Supreme Court on, that when you own land, even land, you acquire a bundle of rights that the government may not intrude upon. [11-13] So if I choose to keep rusted metal on my land, the government has absolutely no right to criminalize that. [14-18] In addition, the state agency that has expertise said there is no safety issue. For heaven's sake, even the City's stop signs are rusty. This is totally oppressive and unreasonable. [19 to page 85, line 10] In addition, they have specious claims for pretending that -- they said, We don't want water to collect. And, Your Honor, and given there are pictures, but of course we need the exhibits transported, because part of the harassment of me was that the neighbor was bringing their dogs to pollute the lot that mother and I own. And also the next -- the further down on the other side, he wasn't cutting his grass regularly. And that even appeared in the City's pictures. And the weeds would blow to my land. So I placed a series of identical in color inverted buckets along the border to mark the border and also to act as a natural barrier that would not, you know -- so there is absolutely nothing wrong with that. And this is not just my opinion, it is the opinion of the DHEC inspector who has the expertise. [11-15] So they claim, Well, things can hold water and that can give rise to mosquitoes. Just next-door in the parking lot of Dinah Steele, who has Larry Mason to consult, there are potholes and there are big areas of stagnant water. [16-24] So selective prosecution is a relevant issue that was totally not allowed to be heard fairly below. Because they said, Well, you cannot tell a prosecutor, a prosecutor has absolute discretion. No, no, no. *United States v. McDonald* said that the prosecutor does not have absolute discretion. They do not have absolute discretion. They cannot exercise a prosecutorial decision based on discriminatory or vindictive reasons. [25 to page 86, line 1] And I would say in my case there were both discriminatory and vindictive reasons. [2-11] And then they say mosquitoes. Well, mosquitoes can gather or lay eggs in the water collecting in the potholes. And they can lay eggs in the stream. The state bird -- a joke is the state bird of Minnesota is the mosquito. So there is no possibility of eradicating mosquitoes by eradicating water. That just doesn't happen. Even the trash can that the City has will collect water when it is raining. So this is just totally unreasonable. [12-17] And that is why I'm saying this is one more example that small non-sovereign without expertise and without checks and balances

should not be allowed to legislate and should not be allowed to criminalize conduct or prosecute crime because it is ripe for abuse. [18 to page 87, line 1] The other thing is about scrap metal. Again, one man's trash is another man's treasure. Not only are the most of the stop signs in the city rusted, they have this huge thing on Taylor Street, a pipe or something that is made of scrap metal. In front of the Washington Square building, which is the City of Columbia's office building, there is Rita the meter maid which is a statue made out of scrap metal. [2-10] So, you know, people have the right to keep what they want at their own homes or on their own land so long as it is not per se criminal. I mean, I'm not saying I have the right to keep, God forbid, marijuana or drugs or anything. But none of those things -- metal, wood, inverted containers that do not hold water -- that is totally within the property rights, totally immune from government regulation. [11-24] The additional issue in this particular case was the tainting of the jury pool, because during jury selection on April 8th, Columbia Municipal Judge Bogan, who is formally recused, still presided over the jury qualification. And then I needed to have a list of the jury. And he said, Okay, let's give her a list for the jury list. And then a Columbia police officer by the name of Officer Hampe came and whispered something in Mr. Bogan's ear, and then Mr. Bogan said out loud, within the hearing of the entire jury panel, We will not give you the jury list because you were held in contempt for not returning the jury list before, and we don't want you bothering the jurors. [25 to page 88, line 8] And so when I appeared before Judge Solomon I explained to him that that was false. I was never held in contempt of court. That, in fact, after Mr. Bogan in another case had said that I should return the jury list, and Fernandez tried to hold me in contempt for not having done that, Mr. Bogan said that he looked and realized that I have the right to keep the jury list, and therefore he will not hold me in contempt. [9-14] Yet, the same -- the same J. Steedley Bogan -- in the presence of the jury venire said, You were incarcerated for contempt for not returning the jury list and we don't want to give you the jury list this time because we don't want you bothering the jury. [15-22] That is as prejudicial as anything can be. And I brought it up. But, again, that time it was Mr. Briggs, not Mr. Lupton, who was the forced counsel on me, and he suggested that to do a curative instruction. And I said, No, a curative instruction would only highlight the prejudicial comments that the jury heard. But of course I was not allowed to make decisions for myself. [23 to page 89, line 1] In addition to that, because the City of Columbia's Municipal Court doesn't give jurors badges or buttons or anything, no one knows a juror from a non-juror. [2-9] And in a previous appearance -- because this one is also subject to the speedy trial issue -- Steele and Mason brought one of their -- sorry -- partners in crime, and I say that advisedly because I have proven that they had a prostitute tenant and drug-dealing tenant and a drug-dealing family. And there is an issue of Larry Mason having either murdered his second wife or having murdered --

[10] **THE COURT:** Dr. Faltas, let's move on.

[11-20] **DR. FALTAS:** All right. They brought a man, who is their associate, who was mingling with the jurors. And at that time it was Judge Jenkins. And I brought it to his attention. And later Judge Jenkins recused himself because of Steele and Mason, not recuse myself -- himself from my case, he recused himself from cases involving Larry Mason, Dinah Steele, and I think Alden Wheeler, which is the man they brought to mingle with the jurors that day.

[21-24] **THE COURT:** So what you are saying, Dr. Faltas, is that on the day of jury selection that there were witnesses who were -- and parties intertwined with the jurors?

[25] **DR. FALTAS:** On the day of --

[page 90, line 1] **THE COURT:** Of selection?

[2-5] **DR. FALTAS:** On the selection. There were prejudicial comments that were made. But in another case there was a witness who was mingling with the jurors.

[6-7] **THE COURT:** Well, I have to refer to what is going on in this particular case.

[8 to page 93, line 9] **DR. FALTAS:** [8-12] In this particular case Dinah Steele went and mingled with the jurors. And I brought it to the judge's attention on the record. And, once again, he said for her not to -- for her to stop doing that. But the harm was already done. [13-19] And, in fact, Your Honor, for what it is worth, just to make my record and to preserve my issues, it might become an issue later, I think immigrants should have the right to vote and should have the right to sit on juries. Otherwise, a lawful immigrant like me will never be tried by a jury of her peers. [20 to page 91, line 1] The other issue I wanted also to put for posterity is that after *Holmes v. South Caro-*

lina, the rule that if a defendant offers evidence he does not go last, but if he does not offer evidence he can go last in the closing argument. Is the rule no longer acceptable under *Holmes v. South Carolina*? [2-8] Now, *Holmes v. South Carolina* did not address who goes first and who goes last in closing arguments in criminal trials. And in most states the prosecution goes last in the arguments in criminal trials. However, only in South Carolina a defendant can go last in closing argument if she does not offer evidence in defense. [9-14] So this is a rule that discourages the presentation of a defense by holding a reward, because everyone knows the power of the last word, by holding a reward for the defendant to not present everything by making it possible to argue last. [15 to page 92, line 6] So either the defendant always closes regardless of whether she presented a defense, or the prosecution always closes regardless of whether the defendant presented a defense. But it cannot be one or the other closing dependent on whether the defendant -- and these are issues of first impression. No one has brought them up. And, again, Your Honor, I have been immersed for the past four years in all these criminal matters and criminal laws and peculiarities of South Carolina than I ever imagined in my life. But some ideas evolved and there is no reason someone of your unique integrity and brilliance should not rule on them. They are issues of first impression. And, of course, they did prejudice me in that I was not allowed to have the last word because I presented a defense. [7-11] And, of course, I was also prejudiced because the jury pool did not contain immigrants because immigrants are not allowed. So I can never be judged by a jury of my peers. [12-13] And there were issues of the exclusion of evidence, especially the exclusion of evidence on selective prosecution. [14-20] And there was also an issue of the judge refusing to qualify me as an expert witness. I am an M.D. and I hold a Master's of Public Health in Epidemiology and Biostatistics. And the City's claim was that what I had was hazardous, or something. So I was perfectly qualified to testify that it wasn't. [21-25] And then in his cross-examination for me, Mr. Fernandez really tried to introduce voodoo medicine. He said, Can people get tetanus from rust? Of course not. But he was saying, Well, what if a child goes there? [page 93, lines 1-9] This is a private vacant lot of land with four corners, Do not trespass and markings. It is not a public playground. It is not a public nursery school. So the City is totally confusing the police power to regulate public establishments from the Fourth Amendment respect of the property and the rights of privacy. So they should not be there at all. They should not be legislating. They should stop harassing me.

[10] **THE COURT:** All right.

[11] **DR. FALTAS:** Thank you.

[3] **THE COURT:** Mr. Fernandez?

[13 to page 99, line 5] **MR. FERNANDEZ:** Yes, Your Honor. The only thing preserved in this case was the argument of *Beachfront Entertainment v. Town of Sullivan's Island*. I addressed that earlier. I will just reiterate it just so the record is clear. [¶] Section 6-9-60 gives municipalities the authority to enact regulations and code and property and fire code maintenance regulations. It provides what we can and cannot do. [¶] The City adopted the International Property Maintenance Code published by the International Code Council, which was what the legislature preferred in the City Ordinance 5-151. And we simply enforced the code as instructed by the International Property Maintenance Code and the state legislature. There is no -- that is the only thing that was preserved in this case. [¶] As to the other arguments that do not have any bearing on this -- or should not have any bearing on this appeal, but I will address them anyway -- there was a number of -- for Your Honor's reference, there was a number of documents that the Defendant wanted to put into evidence, that the judge ultimately declined to. As Your Honor is aware, the admission or exclusion of evidence is usually typically within the discretion of the trial judge's actions by showing an abuse of discretion. There has not been any assertion of that here, and I don't think any discussion was made of that, or allegation. [¶] There were hundreds of photographs. I don't know if there were thousands, but there was many photographs that the Defendant sought to introduce. [¶] And the judge did let some in. They were mostly duplicates. They were -- they showed nothing remotely relevant. And that is ultimately what the judge decided with the large volume of those photographs. [¶] The DHEC letter was a letter from a gentleman who apparently went out there. It was not appropriate for authentication reasons, it was simply a letter someone wrote. It was not a formal official document. It was a letter that the gentleman from DHEC wrote. And it had nothing to do with the nature of these charges. It simply said that there was -- at the time he went out there was no areas harboring mosquitoes. And I don't recall the date and time he went out there, but apparently it was one time, whenever. [¶] The testimony that was provided, though, did indicate there were many spots that would harbor mosquitoes, at least when our folks went out there multiple times. So it was merely a conflict in the time that he -- apparently the time when the DHEC gentleman went out there was not the time that we were citing her for. [¶] The City of Columbia employees trespassing on property, that did not occur. I think the tes-

timony actually addressed that. He never -- at no point did he ever step foot on the property. It is an open lot and he simply had a camera there to take pictures of the trash. [¶] Ultimately, what we had was -- and there were the buckets lined -- 50 or so buckets lining this piece of land. And they -- the wind would blow them over and water would fill them up. And the water -- there was quite a bit of rain, so the water would fill the buckets. [¶] In the middle of the property there is a -- this is a picture that shows there was a bunch of piled up stuff. There was wood and jagged metal and trash cans and buckets and chain. I mean, it is just a bunch of everything. And it was rotting and rusted. [¶] I think the testimony could establish that it was multiple complaints, not just the theory that it somehow evolved around Steele and Mason, because there were numerous complaints from the community about that piece of property. [¶] In the selective prosecution he outlines that they initiated an investigation after there are complaints, and there were many complaints. It wasn't that the City initiated the investigation at the outset. The community did. [¶] Regarding the tainted jury pool, the trial judge did address that. There is nothing improper about one judge qualifying the general jury, because there are more than one person's trial that we qualify. [¶] Judge Solomon, who was only going to handle Faltas' trial, he was not a general trier of any jury trial that was going on in addition to hers. [¶] Judge Bogan did qualify. There was some argument about whether or not Faltas would be able to have the juror list because there were issues of that before. [¶] And, ultimately, Judge Solomon reviewed everything. I think he even acknowledged that, Giving all credit to what you say, assuming everything you said is true, it still doesn't convince me that there was anything improper that went on. [¶] And I think they also listened to the audio of the jury qualification. And he was not convinced that anything was to the level of needing to disqualify the jury. [¶] I don't even know if I need to address the fact that there are no immigrants on the jury. It is a jury of peers of the City of Columbia citizens. [¶] She put up -- and I don't know if I should address the part where the South Carolina law provides that a defendant goes first in closing arguments. She chose to put up a defense. She knew about that going into the trial. She shouldn't be surprised if she gets to argue first in that respect. [¶] And the fact that she wasn't sworn as a witness, her expert, first of all, she is the Defendant. Second of all, her expertise has nothing to do -- no job qualification for making any determination on rules and regulations of DHEC or state or city. She has no expertise there. [¶] She's a medical doctor. Never once testified as an expert in that respect. And it wouldn't make much sense for her to be an expert in her own trial. [¶] But the judge heard the argument for it, and he ultimately decided that he didn't feel it warranted her to testify as an expert in this case. [¶] And, again, none of that was -- the grounds are very clear here. [¶] And, similar to the other one, there was no request for proceeding Pro Se in this case. In fact, from all the transcripts that were going to be provided -- and I feel certain that we could provide transcripts where she actually asked for an attorney, or demanded an attorney. So I don't know how Your Honor is going to handle that, but there are conflicting messages coming from Dr. Faltas. [¶] At times she demands an attorney, and other times she demands to appear *pro se*. It does change a few times. So there is going to be that issue that Your Honor will see in those other transcripts.

[6] **THE COURT:** Any response, Dr. Faltas?

[7-24] **DR. FALTAS:** If it pleases the Court? And I'll try to be very brief, but I hope I don't leave anything out from the representations that he made. [¶] First, all of it was preserved because I was allowed before sentencing to make a motion for a new trial. And I brought up all the issues except possibly that there are no immigrants on the jury pool. But I did bring up the issue of the last argument. And what Judge Solomon had done after the jury convicted me in the property maintenance case, he withheld sentencing until all the other pending cases were finished. [¶] I was acquitted of everything else. There were three other pending cases. Thank God I was acquitted of all three. And there was only two. [¶] You will see that the sentencing for the property is also in the transcript of the assault case.

[25] **THE COURT:** Yes, ma'am, I read that.

[page 100, line 1 to page 104, line 12] **DR. FALTAS:** [page 100, lines 1-2] Thank you, Your Honor. And so I was allowed to make a motion for a new trial, and in that motion I raised all the issues. [4-13] Now, it is not correct that the DHEC was a letter. In fact, it was their documentation of their activity. It wasn't addressed to anybody. I had gone and gotten a printout. And they stamped it true -- a certified true copy, which is self-authenticating. It is their record of what they had done. And it is contemporaneous and it is addressing the same items that the DHEC said nothing wrong with them. But the City said, Blah blah, blah. [14-24] In addition, nothing in the property maintenance says you shall not have rusted metal. Nothing in the property maintenance says you shall not have wood. And he claims that the City didn't know until somebody complained. But we have their agent saying that Steele is the only one who gave her name -- but all the other ones were anonymous. It is too late in the game to doubt that Steele and Mason operate through their gang of criminal tenants by calling and saying to come arrest this woman. And they have no right to arrest me anyway. [25 to page 101, line 10] And, in fact, the City's own agent said, I went there and there was nothing wrong. But the calls kept coming. And the calls kept

coming from the very same people who had previously -- we know that because that was proven in General Sessions Court. They tried to frame me for harassment. It was proven in Municipal Court. They tried to frame me for trespass and disorderly conduct, and whatnot. And I was acquitted. So it is the same people. It is too late in the day to doubt that they were -- that that was abuse of power. [11-16] And absolutely -- you have the transcript before Your Honor -- I absolutely said, Here is the trespass sign. Here are the men, the City agents, way inside the trespass sign. And specifically he was asked, Did she invite you in there? And he said, I do not recall her doing that. [17-22] Also, there was never, ever any testimony that there were mosquitoes. He said there could have been mosquitoes. He theorized that under the circumstances there could have been mosquitoes. But he asked him, Did you at any of the many times go there find mosquitoes? He said, No. [23 to page 102, line 9] And this is very different from the property maintenance or the International Property Code because trash is different from rubbish. What the International Maintenance Code forbids is stuff that attracts and fosters vermin. So it doesn't include all of this stuff about rusted metal or wood. It is something that the City of Columbia fabricated, totally separately, totally not included in the International Property, because vermin would not feed on rusted metal, even if it were rusted. And they also said that it was scrap because it was bent in a certain way. [10-14] I testified that part of my invention has special kind of shelving that requires the metal to be bent, so they were bent not because they were scrap, but because I had them that way. I had made them that way. [15-19] So, I mean, the next thing the City is going to say that if you part your hair to the left you are a criminal. I mean, this goes beyond anything in the legal long-term. There is no rational government interest in doing that. [20-23] Yes -- for example, food debris attracts vermin, but there was no such thing. DHEC looked. There was no such thing. But to say that rusted metal is unsanitary is totally baseless. [24 to page 103, line 7] Now, none of that is a discretionary finding or a factual finding. Whether that comment that Dr. Faltas was held in contempt of court and would go bother the jurors, this is not a credibility finding. This is a total error of law. And it is not due any deference. And even the admission of exhibits or evidence is not unfettered discretion of the trial judge, it was clear abuse of discretion. [8-17] And the evidence for abuse of discretion is that on April 11, 2013, when I attempted to testify to the jury as an expert on public health issues, which that involved, he said, No, you are not an expert. But on the 12th -- April 25th, 2013, trial when I offered my testimony that it is impossible to have struck somebody in the chest so severely to cause them to turn around, or whatever she said it was. Mr. Fernandez objected, but Judge Solomon said, No, I'll allow it. [18 to page 104, line 1] Well, you know, I'm always learning, but the difference between April 11th and April 25th, the two weeks, I didn't add that much to my fund of medical knowledge. Either I was an expert on April 11th and continued to be on April 25th or was never an expert. But this shows that even if it were committed to his discretion, he exercised his discretion in an arbitrary manner, in a manner contrary to law. [2-14] I graduated in 1977 from medical school With Honors. And I also passed all the equivalency licensing examinations in America. And I got my Master's in Public Health degree from the University of North Carolina in Chapel Hill on a Fulbright scholarship. So obviously that -- and I think in some cases the qualification of an expert by the court -- the failure to qualify an expert who is an expert is not due any deference, but it is the law. There is no room for continued error of law.

[13 to page 105, line 8] **THE COURT:** All right. Dr. Faltas, what I will do in these matters is I will -- I am going to request that the exhibits be sent to me and that any pretrial hearings involved in these matters be transcribed, so -- and any orders relating to those matters with copies to be sent to both sides. [¶] Let me just state that I ask that neither side provide me any additional information unless I make a specific request for it. I know that sometimes after hearings people want to supplement or add things. I think I have heard your arguments. If I have a question about one of your arguments, I will be sure to contact you about them. But I think until I receive -- until I have a chance to read both transcripts and receive all the exhibits, then I will be in a position to be able to make a decision. So I ask that there not be any additional information unless I make a request. [¶] **Regarding the housekeeping matter as to your bond, I will issue an order that allows the bond, the appeal bond, to be released.**

[9] **DR. FALTAS:** Thank you, Your Honor.

[10- 15] **THE COURT:** In this matter, I doubt that you'll be able to get any -- be able to retrieve any funds that were deposited with the Municipal Court until next week, but I'll get the orders and have them executed and send them to the appropriate authorities.

[16] **DR. FALTAS:** Thank you.

[17-19] **THE COURT:** Thank you all very much. I appreciate you coming forward and presenting the arguments. And I will review them further.

[20-22] **DR. FALTAS:** May I ask that the clerk not give me trouble if I come and see the exhibits and let Mr. Fernandez copy me the additional transcripts?

[23 to page 106, line 4] **THE COURT:** Yes. And actually I am going to have the City provide them to me. To the extent that Mr. Fernandez gets copies of them, then he should provide you with a copy of them. And I'll request the exhibits. They will be made a part of the record in the matter, so once I receive them, then they will be part of the appropriate file.

[5-16] **MR. FERNANDEZ:** Your Honor, as to that, typically what happens in our court is that the court will prepare the -- will transcribe any of the hearings. They will probably send you a copy and they will likely send me a copy. Typically the court does charge Defendants for transcription costs. And I don't know exactly what the cost is, but it is some sort of fee that they work out. So I don't generally share transcripts with other people. They are supposed to obtain it through the court. I don't know if Your Honor wants me to -- I just expect it to be a number of pages.

[17-25] **THE COURT:** I'm sure that it probably will be a number of pages. So I guess -- I don't know how that is handled normally. I know that I get a copy. And if she wants to come up here and get them. I think that if a copy is provided to you, then a copy needs to be provided to Dr. Faltas. I mean, if they only want to give you one copy and it comes to me, then that is a different story. But I'll leave it at that.

[page 107, lines 1-2] **DR. FALTAS:** I just wonder if Your Honor could extend Judge Manning's order on the transcript.

[3-16] **THE COURT:** And I don't know the parties' expenses on that, but that has to be done through an attorney, so if Mr. Tristan -- Mr. Shaffer wants to do that, that's what has to occur. Just because there is an order out there, it has to go through OID. And it is presumed that when Judge Manning -- that when any judge signs an order for somebody who is representing a defendant and someone has been appointed, that those funds come from the Office of Indigent Defense, and they are the ones who administer those funds. And so to the extent that Judge Manning has issued such an order, then the attorney will be responsible for submitting the costs to OID.

[17-24] **MR. SHAFFER:** And we have a slight, I guess, disagreement between me and Dr. Faltas, which hopefully will get resolved very soon, Your Honor, regarding that. But I do believe that the statute on the return from a municipal or magistrate court requires that they actually do provide a copy, both parties with a copy. I think it is stated in the statute that they provide them in the return.

[25 to page 108, line 3] **THE COURT:** And so, as I stated, if the Court is going to send the City a copy, the City Attorney's Office, then you need to send a copy to Dr. Faltas.

[4] **DR. FALTAS:** Thank you very much, Your Honor.

[5] **THE COURT:** Thank you.

[6-7] (WHEREUPON, the proceedings were concluded at 3:32 p.m.)

[25] (END OF TRANSCRIPT)

[page 109]

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 13th day of December, 2013.

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

October 13, 2015

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR

Fifth Circuit Court Reporter

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CITY OF COLUMBIA

SOUTH CAROLINA

MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, SC 29202 / (803) 545-3150 FAX (803) 733-8433

January 21, 2014

Dr. Marie Assa'ad Faltas, M.P.H.
P. O. Box 9115
Columbia, South Carolina 29209

Re: January 3, 2014 communication

Dear Dr. Faltas:

In response to your written communication dated January 3, 2014, please be advised as follows:

Parking fees are paid into the City's Parking Fund. The Municipal Court does not control refunds from the Parking Fund. It is my understanding that the Parking Division is considering refunding your payment.

If you would like a copy of the transcripts recently provided to Judge Lee, the Municipal Court will allow you to pay \$3.25 per page. Payment must be made in cash or by certified funds.

The Municipal Court does not have the "bankers boxes" you reference.

The Municipal Court has not received \$5.00 from you for the purchase of the CD of the trial City vs. Ingram. We will prepare a disk(s) for you. When we have the disk(s) ready, we will contact you. You will be required to pay \$5.00 per disk at that time.

We are investigating whether the case was heard by a jury in Ms. Ingram's absence. If so, we will make the appropriate changes on the public index.

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Ms. Marie Faltas
January 21, 2014
Page Two

As indicated in prior communications, the Court's records do not reflect a case involving Ms. Crouch on April 25, 2012. I am including what I believe to be the disposition letter that you are looking for with regard to Ms. Crouch.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dana D. Turner".

Dana D. Turner
Chief Administrative Judge

The Honorable Jean Toal
Chief Justice
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

The Honorable Alison Lee
P. O. Box 192
Columbia, SC 29202

Mr. David A. Fernandez, Esq.
Assistant City Attorney
City of Columbia Legal Department
P. O. Box 667
Columbia, SC 29202

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CITY OF COLUMBIA
SOUTH CAROLINA

MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

LETTER OF DISPOSITION

Defendant's Name: Charlene Crouch

Race: W Sex: F DOB: [REDACTED]

Warrant/Ticket Number: 32051GA

Violation Date: 04/22/2012

Charge: Drunkenness

Disposition of Case: Guilty

Sentence: 2 days

Condition(s): Credit Time Served

Original Court Date: 05/18/2012

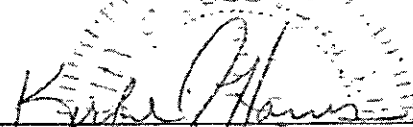
Session: 0001

Page: 02

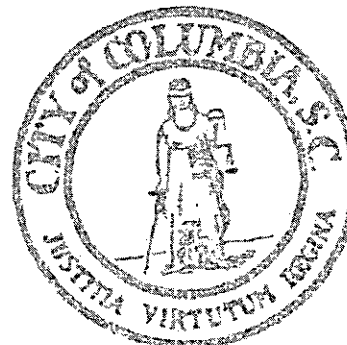
Line(s): 06

Honorable **Judge Jenkins** is presiding at the hearing

CERTIFIED TRUE COPY


Kirby J. Harris/Staff Assistant

Date: JAN 21 2014



FEB 06 2014

Before the Supreme Court of South Carolina

In the Matter of Marie Assa'ad-Faltas, Respondent.

Appellate Case No. 2013-000862

S.C. SUPREME COURT

**EXTREME EMERGENCY MOTION for The Court to Direct the Lower Courts to Comply
Because Columbia's Municipal Court ("CMC") and Richland County's Clerk of Court Are NOT Filing
Documents Submitted in FULL COMPLIANCE with This Court's Orders
AND/OR Are Refusing to Schedule Them for Timely Hearings**

AND For the Court to Reconsider Its Limiting Respondent's Use of Electronic Communication.

Marie Assa'ad-Faltas, MD, MPH, *pro se* shows that: (1) in April/May 2011, she suffered MRI-confirmed fracture of her left knee and, as she had to ambulate to defend herself against criminal charges from most of which she was, thank God, fully and finally exonerated, she shifted her weight to her right lower limb. Thank God, the left knee healed; (2) in March/May 2013, she suffered *another* MRI-confirmed fracture of her right knee, which has not yet healed; (3) filing in person or by U.S. mail imposes additional ambulation burdens on her which amount to physical torture; and (4) as she expected, the City of Columbia ("COC") and its CMC threaten to arrest her when she goes to file in piece, LIE about receiving regular mail, refuse to receive certified mail, and do NOT send her notices. Also, CMC scheduled a curious "Rule to Show Cause Hearing with documents" in a case which is on appeal and from which CMC is divested of jurisdiction BUT DID NOT SEND ANY DOCUMENTS TO Dr. Assa'ad-Faltas, who detected it ONLY from the Public Index but still does not know: (1) who issued the purported "Rule to Show Cause" "documents and (2) on what basis.

SC's re-elected Chief Justice boasts modernizing SC's courts and moving them to the electronic age; yet, Chief Justice Toal is making the physically disabled Dr. Assa'ad-Faltas ambulate when she can inquire electronically.

Dr. Assa'ad-Faltas attaches hereto: (1) USPS tracking of the certified letter containing her timely Rule 29(b) motion to CMC, which certified letter CMC failed to pick up from the post office for two days now, (2) the Public Index of criminal appeal 2011-CP-40-03547, where Dr. Assa'ad-Faltas had moved for counsel for belated appeal or PCR in July 2013, but her motion was NEVER heard or adjudicated, (3) Public Index of Ordinance Summons 201310 with the mysterious "Rule to Show Cause Scheduled"; and (4-5) Public Indices of criminal appeals 2013-CP-40-03522 and 3525 showing: no (a) public filing of the exhibits and additional transcripts Judge Lee ordered in December 2013 or (b) scheduling of Dr. Assa'ad-Faltas' 23 December 2013 motion to suspend appeal 2013-CP-40-03522 to present her after-discovered evidence to CMC; i.e., the trial court.

Dr. Assa'ad-Faltas asks this Court to hold itself and trial judges to *Riddle v. Ozmint*, 631 S.E.2d 70 (SC 2006), "the failure to correct false evidence is as reprehensible as its presentation" "the issue is not why Jason failed to tell the truth: rather, it is why the solicitor, who knew Jason's testimony to be false, failed to correct it."

It is now *objectively proven* that Charlene Crouch LIED when: (1) she represented that her drunkenness charge was "still pending" on 25 April 2013, after she had been adjudged GUILTY of it on 18 May 2012; (2) she represented that "she had not been to court" for her sexual battery of a vulnerable adult; and (3) testified that she had called the police on Dr. Assa'ad-Faltas on 11 September 2009. It is also objectively *provable* that Dinah Steele was not "still on medication today" for what she pretended Dr. Assa'ad-Faltas did.

Yet, none of the judges or supposed-prosecutors who know the foregoing wants to give Dr. Assa'ad-Faltas the Rule 29(b) hearing to which she is entitled. WHEREFORE, this Court should remedy that.

Submitted and served by hand-delivery on Richland County's Clerk of Court and on Judges Lee, Manning and Hood, and SC's Attorney General and on CMC and CAGA Fernandez on 6 February 2014, all God so willing.

Marie Assa'ad-Faltas, MD, MPH, "Respondent" *pro se* for the purposes of this Motion
P.O. Box 9115, Columbia, SC 29290, Cell Phone: (330) 232 - 4164
e-mail: Marie_Faltas@hotmail.com

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February 4, 2014 , 10:56 am	Arrival at Unit	COLUMBIA, SC 29202
February 1, 2014 , 6:57 pm	Dispatched to Sort Facility	COLUMBIA, SC 29206
February 1, 2014 , 1:58 pm	Acceptance	COLUMBIA, SC 29206

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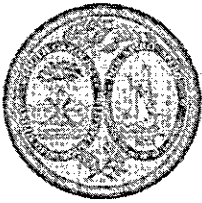
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Richland County 5th Judicial Circuit Public Index


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Switch View

City of Columbia vs Marie Therese Assaad Faltas

Case Number:	2011CP4003547	Court Agency:	Richland County Common Pleas	Filed Date:	05/31/2011
Case Type:	Common Pleas	Case Sub Type:	Magistrate Crim 920	File Type:	Non-Jury
Status:	Dismissed	Assigned Judge:			
Disposition:	Other / Circuit Civil	Disposition Date:	09/17/2012	Disposition Judge:	Lee, Alison Renee
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the  icon to show associated parties.

Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
 Assaad Faltas, Marie Therese					Defendant		07/01/2011
 Assaad Faltas, Marie Therese	P.O. Box 9115 Columbia SC 29290				Defendant Pro Se		08/29/2011
 Briggs, Orin Gail	PO Box 85085 Lexington SC 290730022				Defendant Attorney		09/17/2012
 City of Columbia					Plaintiff		09/17/2012
 City of Columbia					Plaintiff Pro Se		07/01/2011
 Fernandez, David Amado	PO Box 667 Columbia SC 29202				Plaintiff Attorney		09/17/2012

Actions

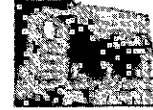
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Assaad Faltas, Marie Therese	Motion to Appoint Counsel	Motion		07/09/2013-11:21	07/09/2013-11:21	
City of Columbia	Form Order Motion for Reconsideration DENIED.	Order		10/19/2012-15:09		
City of Columbia	Order Appellant's Appeal is DENIED and lower court is AFFIRM	Order		09/17/2012-13:45	09/17/2012-13:45	
City of Columbia	Notice of Case Roster Publication Sent	Action		04/16/2012-14:02	09/17/2012-14:02	
Fernandez, David Amado	Notice of Case Roster Publication Sent	Action		04/16/2012-14:02	09/17/2012-14:02	
Briggs, Orin Gail	Notice of Case Roster Publication Sent	Action		04/16/2012-14:02	09/17/2012-14:02	
Assaad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		04/16/2012-14:02	09/17/2012-14:02	
City of Columbia	Notice of Case Roster Publication Sent	Action		04/16/2012-11:50	09/17/2012-11:50	
Fernandez, David Amado	Notice of Case Roster Publication Sent	Action		04/16/2012-11:50	09/17/2012-11:50	
Briggs, Orin Gail	Notice of Case Roster Publication Sent	Action		04/16/2012-11:50	09/17/2012-11:50	
Assaad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		04/16/2012-11:50	09/17/2012-11:50	
City of Columbia	Certificate of Exemption/Withdrawal from Arbitration and Med	Filing		07/01/2011-12:45	09/17/2012-12:45	
City of Columbia	Certificate	Filing		07/01/2011-12:44	09/17/2012-12:44	
City of Columbia	Transcript And Return	Filing		07/01/2011-12:44	09/17/2012-12:44	
City of Columbia	Transcript Of Record	Filing		07/01/2011-12:44	09/17/2012-12:44	
City of Columbia	Verification/Verified	Filing		06/06/2011-11:07	09/17/2012-11:07	
City of Columbia	Appeal/Notice of Criminal Appeal	Filing		05/31/2011-17:02	09/17/2012-17:02	
City of Columbia	Service/Certificate Of Service	Filing		05/31/2011-14:24	09/17/2012-14:24	

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Richland County 5th Judicial Circuit Public Index



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Switch View

State of South Carolina vs Marie Assaad-Faltas					
Case Number:	201310	Court Agency:	City Of Columbia Municipal Court	Filed Date:	07/02/2013
Case Type:	Criminal	Case Sub Type:			
Status:	Show Cause Hearing Scheduled	Assigned Judge:	City Of Columbia Municipal Court	Disposition Judge:	Solomon, Carl L
Disposition:	Guilty Jury Trial				
Disposition Date:	04/26/2013	Date Received:		Arrest Date:	
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

Case Parties

Click the icon to show associated parties.

Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
Assaad-Faltas, Marie	P.O. Box 9115 Columbia SC 29209		M		Bond Entity		04/26/2013
Assaad-Faltas, Marie	P. O. Box 9115 Columbia SC 29209	Other	F	04/04/1952	Defendant		04/26/2013
Lupton, Theodore Nichols	140 Gibson Rd. Lexington SC 29072				Defendant Attorney		03/08/2013
Slms, Myron C	1136 Washington Street Columbia SC 29217				Officer		07/02/2012
Slms, Myron	1136 Washington Street Columbia SC 29217				Officer		04/02/2013

Charges

Name	Charge Code - Charge Description	Original Charge Code - Original Charge	Disposition Date
Assaad-Faltas, Marie	401061-CTY International Property Maintenance: Unlawful Acts 1st Offense	401061-CTY International Property Maintenance: Unlawful Acts 1st Offense	04/26/2013

Sentencing

And/Or	Description	Amount	Units	Begin Date	End Date	Completion Date	Consecutive or Concurrent
	30 Days Suspended		30 Days	04/26/2013	05/26/2013		

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Assaad-Faltas, Marie	Show Cause Hearing with Document	Event		02/17/2014-08:45		
Assaad-Faltas, Marie	Bond Comment To Notes Screen	Filing		04/26/2013-11:47		
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Day Certain	Event		04/11/2013-08:00	04/26/2013-08:01	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Day Certain	Event		04/11/2013-08:00	04/11/2013-08:01	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		04/02/2013-08:00	04/11/2013-08:01	
Assaad-Faltas, Marie	Continued	Filing		03/12/2013-10:12	04/02/2013-10:12	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		03/12/2013-08:00	03/26/2013-08:01	
Assaad-Faltas, Marie	Continued	Filing		12/04/2012-16:54	03/12/2013-10:54	
Assaad-Faltas, Marie	Continued	Filing		12/04/2012-10:55	03/12/2013-10:55	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		12/04/2012-08:00	11/05/2012-08:01	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		11/06/2012-08:00	12/04/2012-08:01	
Assaad-Faltas, Marie	Continued	Filing		08/13/2012-13:03	11/05/2012-13:03	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Day Certain	Event		08/13/2012-08:00	08/13/2012-08:01	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		08/07/2012-08:00	08/13/2012-08:01	
Assaad-Faltas, Marie	Continued	Filing		07/12/2012-11:52	08/07/2012-11:52	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Day Certain	Event		07/10/2012-08:00	08/07/2012-08:01	
Assaad-Faltas, Marie	Criminal/Traffic Court	Event		01/02/2012-08:00	07/10/2012-08:01	

Financials

Summary					
Fine/Costs:	\$540.00	Total Paid for Fine/Costs:	\$540.00	Balance Due:	\$0.00

Costs				
Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to General Fund	AFNEGR	\$200.00		\$200.00
Victim Services Assn 38.0013% / \$7821%	ASRVIC	\$24.00		\$24.00
Victim Conviction Surcharge \$100 / \$25	CVSRCH	\$25.00		\$25.00
Law Enforcement Funding Surcharge \$25	LEFSUR	\$25.00		\$25.00
SC Criminal Justice Academy Training	SCCJAT	\$5.00		\$5.00
State Assessment	STAASH	\$191.00		\$191.00
Refund	REFUND	\$470.00		\$470.00

Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
04/26/2013	10123	CTYWESTONR	BP	\$470.00
10/28/2013	19203	CTYDAVIS0	PY	\$470.00

Bonds

Bond Information							
Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount
2013B402161304896	04/26/2013	04/26/2013	Solomon	Cash Bond	\$470.00	Cash Bond	\$470.00
Post Information							
Bond Id	Bond Type	Amount	Date Posted	Posted By			
2013B402161304896	Cash Bond		\$470.00 04/26/2013	Assaad-Faltas, Marie			

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Richland County
5th Judicial Circuit
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Switch View	City of Columbia vs Marie Therese Assa'ad Faltas				
Case Number:	2013CP4003522	Court Agency:	Richland County Common Pleas	Filed Date:	09/17/2013
Case Type:	Common Pleas	Case Sub Type:	Municipal Appeal 930	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:			
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the X icon to show associated parties.

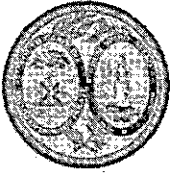
Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
X Assa'ad Faltas, Marie Therese					Defendant		06/17/2013
X Assa'ad Faltas, Marie Therese	Po Box 9119 Columbia SC 29290				Defendant Pro Se		07/09/2013
X City of Columbia					Plaintiff		06/17/2013
X Fernandez, David A	PO Box 667 Columbia SC 29203				Plaintiff Attorney		11/19/2013
X Lupton, Theodore Nichols (inactive)	140 Gibson Rd. Lexington SC 29072				Defendant Attorney		06/27/2013
X Shaffer, Tristan Michael	140 Gibson Road Lexington SC 29072				Defendant Attorney		06/27/2013

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Assa'ad Faltas, Marie Therese	Reply to CMC's Chief Administrator Turner's 27 December 2013	Filing		01/07/2014-08:59		
Assa'ad Faltas, Marie Therese	Filing/Notice of Appeal	Filing		01/07/2014-08:45		
City of Columbia	Order for Municipal Court to produce court records	Order		12/31/2013-14:43		
City of Columbia	Order Request for Appeals bond to be Released is DENIED.	Order		12/31/2013-14:42		
Assa'ad Faltas, Marie Therese	Motion to Suspend This Appeal For Initial 30 Days to Allow D	Motion		12/23/2013-09:30		
Assa'ad Faltas, Marie Therese	Motion to Relieve Counsel and Motion to Allow Defendant to P	Motion		12/09/2013-10:44		
Assa'ad Faltas, Marie Therese	FIFTH Supplement to Pro Se Motion Permitted by SC's Supreme	Filing		12/05/2013-13:10		
Assa'ad Faltas, Marie Therese	Declaration Under Penalty of Perjury in Support of Both Atto	Filing		12/05/2013-13:03		
Assa'ad Faltas, Marie Therese	Fourth Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		12/02/2013-12:50		
Assa'ad Faltas, Marie Therese	Advisement to The Court and Respectful Request For Urgent C	Filing		12/02/2013-11:59		
Assa'ad Faltas, Marie Therese	Third Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		11/27/2013-09:11		
Assa'ad Faltas, Marie Therese	Second Supplement to Pro Se Motion Permitted by SC Supreme C	Motion		11/25/2013-09:34		
Fernandez, David A	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Shaffer, Tristan Michael	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Assa'ad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Assa'ad Faltas, Marie Therese	Supplement to Pro Se Motion to Relieve Tristan Shaffer as C	Filing		11/05/2013-08:46		
Fernandez, David A	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
Shaffer, Tristan Michael	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
Assa'ad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
City of Columbia	Verification/Verified	Filing		07/08/2013-13:58		
City of Columbia	Order Authorizing Funding for Production of Transcripts	Order		07/08/2013-10:08		
Assa'ad Faltas, Marie Therese	Motion to Relieve Counsel	Motion		07/05/2013-15:41		
City of Columbia	Order DENYING Defendant/Appellant's Request to Proceed Pro S	Order		07/03/2013-09:38		
City of Columbia	Certificate of Exemption/Withdrawal from Arbitration and Med	Filing		06/17/2013-14:54		
City of Columbia	Certificate/Certificate	Filing		06/17/2013-14:54		
City of Columbia	Transcript and Return	Filing		06/17/2013-14:54		
City of Columbia	Transcript Of Record	Filing		06/17/2013-14:54		
City of Columbia	Appeal/Notice of Criminal Appeal	Filing		06/17/2013-10:52		
City of Columbia	Service/Proof Of	Filing		06/17/2013-09:36		

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Switch View

City of Columbia vs Marie Therese Assa'ad Faltas

Case Number:	2013CP4003525	Court Agency:	Richland County Common Pleas	Filed Date:	06/17/2013
Case Type:	Common Pleas	Case Sub Type:	Municipal Appeal 930	File Type:	Non-Jury
Status:	Appeal	Assigned Judge:			
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the icon to show associated parties.

Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
Assa'ad Faltas, Marie Therese					Defendant		06/17/2013
Assa'ad Faltas, Marie Therese	Po Box 9115 Columbia SC 29290				Defendant Pro Se		07/08/2013
Briggs, Orlin Gail(Inactive)	PO Box 85085 Lexington SC 290730022				Defendant Attorney		06/27/2013
City of Columbia					Plaintiff		06/17/2013
Fernandez, David A	PO Box 667 Columbia SC 29202				Plaintiff Attorney		11/15/2013
Shaffer, Tristan Michael	140 Gibson Road Lexington SC 29072				Defendant Attorney		06/27/2013

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
City of Columbia	Order for Municipal Court to Produce Court Records.	Order		12/31/2013-14:45		
City of Columbia	Order Request for Appeals bond to be Released is DENIED.	Order		12/31/2013-14:45		
Assa'ad Faltas, Marie Therese	Motion to Relieve Counsel and Motion to Allow Defendant to P	Motion		12/09/2013-10:43		
Assa'ad Faltas, Marie Therese	FIFTH Supplement to Pro Se Motion Permitted by SC's Supreme	Filing		12/05/2013-13:10		
Assa'ad Faltas, Marie Therese	Declaration Under Penalty of Perjury in Support of Both Atto	Filing		12/05/2013-13:07		
Assa'ad Faltas, Marie Therese	Fourth Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		12/02/2013-12:51		
Assa'ad Faltas, Marie Therese	Advisement to The Court and Respectful Request For Urgent CI	Filing		12/02/2013-12:00		
Assa'ad Faltas, Marie Therese	Third Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		11/27/2013-09:05		
Assa'ad Faltas, Marie Therese	Second Supplement to Pro Se Motion Permitted by SC Supreme C	Motion		11/25/2013-09:29		
Fernandez, David A	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Shaffer, Tristan Michael	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Assa'ad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		11/15/2013-10:42		
Assa'ad Faltas, Marie Therese	Supplement to Pro Se Motion to Relieve Tristan Shaffer as C	Filing		11/05/2013-08:45		
Fernandez, David A	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
Shaffer, Tristan Michael	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
Assa'ad Faltas, Marie Therese	Notice of Case Roster Publication Sent	Action		10/11/2013-10:52		
City of Columbia	Verification/Verified	Filing		07/08/2013-14:26		
City of Columbia	Order Authorizing Funding for Production of Transcripts	Order		07/08/2013-10:07		
Assa'ad Faltas, Marie Therese	Motion to Relieve Counsel	Motion		07/05/2013-15:40		
City of Columbia	Order DENYING Defendant/Appellant's Request to Proceed Pro S	Order		07/03/2013-09:36		
City of Columbia	Certificate of Exemption/Withdrawal from Arbitration and Med	Filing		06/17/2013-14:39		
City of Columbia	Certificate/Certificate	Filing		06/17/2013-14:39		
City of Columbia	Transcript and Return	Filing		06/17/2013-14:38		
City of Columbia	Transcript Of Record	Filing		06/17/2013-14:38		
City of Columbia	Appeal/Notice of Criminal Appeal	Filing		06/17/2013-11:29		

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