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

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

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

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

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

v.

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

RECORD ON APPEAL

Sincerely submitted *and served* in UNBOUND form on 16 November 2023, God willing, by:

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Contents of Record on Appeal in SC Appellate Case 2022-000339

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Charlene Crouch's 2007-GS-20-350 Crouch Guilty Plea transcript	2007-08-15	11 pp	Volume III pp 48 to 58
CMC-made transcript of hearing before Marion Oneida Hanna	2009-11-17	14 pp	Volume IV pp 15 to 28
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Charlene Crouch's GS Guilty Plea & Sentencing Transcript	2013-07-11	14 pp	Volume VI pp 54 to 67
Locations of Transcript of 3 September 2015 Motion Hearing before Acting SC Circuit Judge Strickland			
Extracted, formatted, and highlighted version of Transcript	2015-09-03	5 pp	Volume VII pp 6 to 10
Complete Original as prepared by now-retired Court Reporter Deborah M. McCurdy, RPR, and FILED in *City of Columbia* v. *Marie Therese Assa'ad Faltas*	2015-09-03 2018-10-12	26 pp	Richland County Public Index # 2013CP4003525

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

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

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

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

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

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II. Analysis of appellant's grounds for reconsideration.

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

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

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

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

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

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

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

A. The magistrate provided an adequate return.

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

Judge Newsom filed his notice of return, the record, a statement of all the proceedings in the case, and the testimony taken at trial as required by S.C. Code Ann. § 18-3-40.[1] The return includes, amongst other things, transcripts of both the hearing on the motion to recuse and the motion to reopen, the appellant's 2009 courtesy summons for simple assault, a letter of disposition regarding Charlene Crouch's drunkenness charge, summary court summonses, appellant's motions for a new trial and to reconsider, the Supreme Court Order from the original trial, the Circuit Court Order remanding this case to the magistrates court, and the magistrate's February 27, 2019 Order denying appellant's motion to reconsider his ruling. Judge Newsom's return contains all of the "testimony, proceedings, and judgment" that were before the magistrate at the time of his ruling and is complete. See S.C. Code Ann. § 18-7-60.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Signature Page to Follow]

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Richland Common Pleas

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

Case Number: 2019CP4001374

Type: Order/Other

IT IS SO ORDERED

s/D. Craig Brown (2160)

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STATE OF SOUTH CAROLINA ("SC") **IN THE CIRCUIT COURT OF COMMON PLEAS**

COUNTY OF RICHLAND **No. 2019-CP-40-01374**

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

CITY OF COLUMBIA, Plaintiff

v.

Marie Assa'ad-Faltas, MD, MPH

Defendant/Appellant's *TIMLEY* Rule 59(e) Motion to Reconsider, To Reverse ALL the Magistrate's Oral and Written Rulings, AND to Reopen the Case for Evidence-Taking

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

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

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

> [4] In discussing the need for a Rule 59(e) motion, we explained that
>
> [t]he losing party must first try to convince the lower court it has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred. This principle underlies the

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> long-established preservation requirement that the losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments....
> If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.... Imposing this preservation requirement on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments. The requirement also serves as a keen incentive for a party to prepare a case thoroughly. It prevents a party from keeping an ace card up his sleeve intentionally or by chance in the hope that an appellate court will accept that ace card and, via a reversal, give him another opportunity to prove his case.
> *I'On*, 338 S.C. at 422, 526 S.E.2d at 724.

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

> **SECTION 18-7-60.** Return; when and how made.
> The court below shall thereupon, after ten days and within thirty days after service of the notice of appeal, make a return to the appellate court of the testimony, proceedings and judgment and file it in the appellate court.
> **SECTION 18-7-70.** Return; how made if magistrate is out of office.
> When a magistrate by whom a judgment appealed from was rendered shall have gone out of office before a return is ordered, he shall, nevertheless, make a return in the same manner and with the like effect as if he were still in office.
> **SECTION 18-7-80.** Return; further return when original is defective.
> If the return be defective the appellate court may direct a further or amended return as often as may be necessary and may compel a compliance with its order. And the court shall always be deemed open for this purpose.
> **SECTION 18-7-90.** Return; effect of dead, insane, or absent magistrate.
> If a magistrate whose judgment is appealed from shall die, become insane or remove from the State before having made a return, the appellate court may examine witnesses on oath as to the facts and circumstances of the trial or judgment and determine the appeal as if the facts had been returned by the magistrate. If he shall have removed to another county within the State the appellate court may compel him to make the return as if he were still within the county where the judgment was rendered.

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

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

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

Therefore, Judge Brown is asked to rule in writing why he was satisfied with DMN's grossly incomplete return, and why he chose the *Irvin* standard over the *Kyles* and *Riddle* standards.

Also controlled by error of law is Judge Brown's choice of an antiquated standard for judicial recusal and claim that DMN's giving Dr. Faltas breaks to catch her breath (without which she could have died of heart arrythmias) precludes judicial bias. Due process requires much more than the jurist avoiding a possible charge of negligent homicide. The more recent and now-controling standard is *Caperton* v. *A.T. Massey Coal Co., Inc.* et al., 556 U.S. 868 (2009):

> **The inquiry is an objective one. The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is "likely" to be neutral, or whether there is an unconstitutional "potential for bias."**
>
> * * * * *
>
> *That temptation, Caperton claims, is as strong and inherent in human nature as was the conflict the Court confronted in* Tumey *and* Monroeville *when a mayor-judge (or the city) benefited financially from a defendant's conviction, as well as the conflict identified in* Murchison *and* Mayberry *when a judge was the object of a defendant's contempt.*
>
> **Nor do we determine whether there was actual bias.**

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> Following accepted principles of our legal tradition respecting the proper performance of judicial functions, judges often inquire into their subjective motives and purposes in the ordinary course of deciding a case. This does not mean the inquiry is a simple one. "The work of deciding cases goes on every day in hundreds of courts throughout the land. Any judge, one might suppose, would find it easy to describe the process which he had followed a thousand times and more. Nothing could be farther from the truth." B. Cardozo, The Nature of the Judicial Process 9 (1921)
>
> The difficulties of inquiring into actual bias, and the fact that the inquiry is often a private one, simply underscore the need for objective rules. Otherwise there may be no adequate protection against a judge who simply misreads or misapprehends the real motives at work in deciding the case. The judge's own inquiry into actual bias, then, is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief. In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge's determination respecting actual bias, the Due Process Clause has been implemented by objective standards that do not require proof of actual bias. See *Tumey*, 273 U.S., at 532, 47 S.Ct. 437; *Mayberry, supra*, at 465-466, 91 S.Ct. 499; *Lavoie*, 475 U. S., at 825, 106 S.Ct. 1580. In defining these standards the Court has asked whether, "under a realistic appraisal of psychological tendencies and human weakness," the interest "poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented." *Withrow*, 421 U.S., at 47, 95 S.Ct. 1456.
>
> It is true that extreme cases often test the bounds of established legal principles, and sometimes no administrable standard may be available to address the perceived wrong. But it is also true that extreme cases are more likely to cross constitutional limits, requiring this Court's intervention and formulation of objective standards. This is particularly true when due process is violated. See, *e.g.*, *County of Sacramento v. Lewis*, 523 U.S. 833, 846-847, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998) (reiterating the due process prohibition on "executive abuse of power ... which shocks the conscience"); *id.*, at 858, 118 S.Ct. 1708 (KENNEDY, J., concurring) (explaining that "objective considerations, including history and precedent, are the controlling principle" of this due process standard).
>
> This Court's recusal cases are illustrative. In each case the Court dealt with extreme facts that created an unconstitutional probability of bias that "'cannot be defined with precision.'" *Lavoie, supra*, at 822, 106 S.Ct. 1580 (quoting *Murchison, supra*, at 136, 75 S.Ct. 623). Yet the 2266*2266 Court articulated an objective standard to protect the parties' basic right to a fair trial in a fair tribunal. The Court was careful to distinguish the extreme facts of the cases before it from those interests that would not rise to a constitutional level. See, *e.g.*, *Lavoie, supra*, at 825-826, 106 S.Ct. 1580; *Mayberry*, 400 U.S., at 465-466, 91 S.Ct. 499; *Murchison, supra*, at 137, 75 S.Ct. 623; see also Part II, *supra*. In this case we do nothing more than what the Court has done before.

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

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

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

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

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

[Page 5, lines 17-18] Defendant Faltas: I mean can I put it on the record as a basis?
[19] THE COURT: Sure. Yeah.
[20-21] Defendant Faltas: And there are witnesses, necessary witnesses –
[22] THE COURT: For? For the transfer?
[23 to page 6, line 5] Defendant Faltas: No, necessary witnesses for the actual rule 29(b) hearing who are from other counties. So, in this court I cannot get them; and I cannot get them *duces tecum.* [5-6] Additionally, additionally, your staff has given me hard time about subpoenaing witnesses and having been told that this hearing will just be about those two motions. And, in fact, I have an e-mail from Ms. Raquel Welch – I'm sorry, Raquel Perez, that says exactly that. It says it will just be on the motion to recuse and the motion to transfer. And if –
[6] THE COURT: Hold on a second. Is that correct? [7] (Court confers off the record.)
[8-10] THE COURT: You told him it was just those two motions? No, we've got the whole thing. We've got a motion to reopen. Okay. All right. Continue with your motion to transfer.
[11-15] Defendant Faltas: Since it is the court's own staff who told me that I think I'm prejudiced because I haven't subpoenaed my witnesses; and in any event, I cannot subpoena them, those of them who reside outside Richland County. And as I said the circuit court has broader subpoena power; so, it's a matter of judicial economy.
[16-22] THE COURT: Okay. You are well aware that I'm under the constraints of what the law is now, both appellate cases as well as the statutory cases. The only time we have the right to subpoena records is when it is statutorily provided. Given that, I cannot grant your motion to transfer. The other thing is it was a circuit court that ordered this case sent here. And the way the courts work, Circuit Court is here, I'm down here. If he or she –
[23] Defendant Faltas: I –
[24 to Page 7, line 6] THE COURT: Don't interrupt me. If he or she tells me I will do something, I can't say no. So, it doesn't work that way. And the [6-7] motion, the reason why they sent it back down is because the motion for a new trial is proper in the court, the level of court in which the trial was had. So, it's proper in this court for any other reason. I realize there are some limitations as far as you subpoena people outside the jurisdiction of this court. From what I've been told, you want to subpoena the sheriff –
[7] Defendant Faltas: No, sir.
[8-13] THE COURT: Yes, ma'am. You want to subpoena me; you want to subpoena our court administrator who is retired and lives in another county. Judge Kirby Shealy, you wanted to subpoena him. I am not going to let you abuse the process for folks that have nothing to do with this case. What witnesses that are germane to your motion to reopen are not here?
[14-18] Defendant Faltas: Okay, I'll tell you; but just let me also put on the record that those people that you mentioned were related to the motion to recuse, not the motion to reopen. And you in fact faulted me for not having subpoenaed the Sheriff himself. So, all of this is related but–

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[19] THE COURT: Okay.
[20] Defendant Faltas: I'll tell you who –
[21-23] THE COURT: Who are the witnesses that you want to subpoena that would – and you've got to give me a summary of what their testimony would be.
[23 to Page 8, line 1] Defendant Faltas: Well, yes, sir, I will but under protest -- I know – let me put it on the record please under protest that I'm not [7*8] required to give my defenses –
[2-3] THE COURT: This is not a defense. You have the burden of proof for the motion to reopen the case.
[4-5] Defendant Faltas: Those people have been subpoenaed last time. They did not show up but ...
[6-7] THE COURT: What evidence would you glean from those people?
[8] Defendant Faltas: I'm about to tell you.
[9] THE COURT: Well, good.
[10-11] Defendant Faltas: Okay. First of all, Theodore Nichols Lupton.
[12-13] THE COURT: And what would he testify to that would be grounds for a new trial?
[14-15] Defendant Faltas: He would – I need to put one other thing on the record.
[16] THE COURT: Okay. Go ahead.
[17-18] Defendant Faltas: You, said and you volunteered that you think I like the chase more than the capture. So –
[19-20] THE COURT: That's already on the record. Move on. We are talking about your witnesses.
[21 to page 9, line 2] Defendant Faltas: Because you know now when you said what would they say that would be grounds. What you are going to do is say, no, that won't be grounds; therefore, the witness is not necessary. Therefore, you haven't been prejudiced. Exactly the same process that you think I'm here not for the result, just for the [8*9] process and you will rule against me thinking that I am here just for the process because I like the chase more than the capture. And so I –
[3-4] THE COURT: Dr. Faltas, let me stop you. If there is evidence that is after-discovered evidence that meets the litmus test to grounds for me to reopen, I have no problem at all reopening the case.
[6] Defendant Faltas: I have no confidence in that –
[7-12] THE COURT: I understand that but let's move on. You've asked me to recuse myself a couple of times. I've denied it. Don't go there any more. Tell me about the witnesses that aren't here that you think ought to be subpoenaed; but you've got to tell me what they are going to say. Just because you want to subpoena somebody doesn't mean they are germane.
[Page 59, lines 21-22] THE COURT: We are not dealing with possibilities. You have a motion, you have the burden of proof.
[23-25] Defendant Faltas: Sir, it's either of the two. And these are the only two plausible possibilities and both of them support my motion. I just cannot testify for someone else. I'm telling you –
[Page 60, lines 1-7] THE COURT: And I agree with you. So, that's why I don't know whether you need to testify or not. You are basing your legal argument on what the other people might say and there's nobody here that you've called that can say anything that supports your record. Much the same as if the state summonses a witness and they don't show up for trial. I can't make the witness show up. Okay? Understand that.
[8-11] Defendant Faltas: No, sir. I'm sorry. The 6th Amendment to the U.S. Constitution guarantees a criminal defendant the right to *compulsory process*, compulsory, not voluntarily, not invitational. You are trying –
[12] THE COURT: This is a motion. This is not your trial.
[13-14] Defendant Faltas: It has the same constitutional guarantees –
[15-16] THE COURT: Go on. You can argue that on your appeal if I rule against you.

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[17-18] Defendant Faltas: Of course you are going to rule against me. It was obvious from the beginning.
[19 to page 61, line 1] THE COURT: Ma'am, you say one other disrespectful thing to this court I am going to hold you in contempt. And you know I will because I've done it before. I don't want to do it t. It's a last resort. Do not push. Your disrespect for people and the system is obvious and I think if we put these people under oath that you've brought in here today, none of whom you've called by the way, if they were asked they'd agree. Now you may be respectful or you may stand down and [60*61] I'll rule with what I have at this time.
[Page 64, lines 19-20] Defendant Faltas: Could I finish my response to the objection?
[21] THE COURT: Yes, ma'am.
[22 to Page 65, line 9] Defendant Faltas: So, I (inaudible) if you are saying and I'm not sure you are saying it or not saying it that rule29(b) is cut out from the rules of criminal procedure and not subject to the 6th amendment of the united states. But the 6th amendment includes the [65] right to confront one's accuser, the right to compulsory process and also the right to a speedy trial. This matter has been going on for nine years now, going on the tenth now. But she volunteered to testify. She volunteered that she was still on medication. She is here and I am asking that I examine her. You, of course, can control the questions subject to abuse of discretion. You can control the questions but when it's something that she volunteered emphatically. Several times she said she had the nervous breakdown.
[10-12] THE COURT: Do you have any evidence that she did not suffer a nervous breakdown condition or that she did not take medicine?
[13] Defendant Faltas: Yes.
[14] THE COURT: What's that evidence?
[PAGE 127, LINES 22-23] THE COURT: You assume but there is no evidence in the record there wasn't. Correct?
[24-25] A. No, there is evidence that Charles White whom you are not exercising the compulsory —
[Page 128, lines 1-2] THE COURT: Ma'am, don't go there. Your disrespect to the courts is noted. I don't want it again.
[3] A. All right. My testimony is that Charles White told me.
[4-6] THE COURT: Which is hearsay. And he would have been your witness and you can't testify what one of your witnesses would have been if he didn't come in.
[7-8] A. But there is the argument that I would have wanted the court to enforce its compulsory process.
[11-13] THE COURT: You made that earlier. 1 don't know how we can enforce what we don't have the same powers outside the county as other courts do.
[14] A. That's why I wanted –
[15] THE COURT: I understand. Any more testimony?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The Criteria are *basically* two, not five or six, and aim to promote truth and diligence.

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

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

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

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

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the record *at the time of the ruling*, not the time the motion is filed. *Ortiz* v. *Jordan*, 562 U.S. _, 131 S. Ct. 884 (2011). See also: (1) *Peacock* v. *Bd. of Sch. Comm'rs*, 721 F.2d 210, 214 (7th Cir. 1983) (generally finding that material not in existence until after trial falls within 60(b)(2) only if it pertains to facts in existence at time of trial). (2) *Gray* v. *Bryant*, 298 S.C. 285, 287, 379 S.E.2d 894, 895-6 (1989), (finding juror's letter to newspaper praising doctors and criticizing parties who sue them, which was written on the same day the jury returned a verdict in favor of the defendant doctor and published two weeks after verdict, revealed a preexisting bias and was newly discovered evidence for purposes of Rule 60(b)); (3) *Amesco Exports, Inc.* v. *Assoc. Aircraft Mfg. & Sales, Inc.*, 87 F.Supp.2d 1013, 1015 (C.D. Cal. 1997) (finding plaintiff corporation's receipt of letter from tax commission advising it of conditional revival of its corporate status constituted newly discovered evidence for purposes of 60(b)(2) warranting relief from final judgment); (4) *Nat'l Anti-Hunger Coal.* v. *Exec. Comm. of the President's Private Sector Survey on Cost Control*, 711 F.2d 1071, 1075 n.3 (D.C. Cir. 1983) (stating task reports that came into existence after lower court's decision pertained to facts in existence at time of decision which supported a finding that the reports were newly discovered evidence within the meaning of Rule 60(b), FRCP); and (5) 11 Charles Alan Wright, Arthur R. Miller, & Mary Kay Kane, *Federal Practice and Procedure* § 2859 (2d ed. 2008) (stating "**Rule 60(b)(2) has proved useful, especially when the newly discovered evidence calls into question the validity of the judgment by directly refuting the underpinnings of the theory which prevailed**"). The theory which got Dr. Faltas convicted *at the 25 April 2013 trial* is: (1) Crouch is a woman of "character" with "no dog in this fight" who "clearly stated what she saw," and (2) Steele suffered a "mental injury" suddenly in January 2010 and had to take unnamed medication for three years and three months. ***The underpinnings of that theory are directly refuted by the new evidence.*** Crouch *had* committed a child-rape-equivalent *before* testifying against Dr. Faltas. That crime **refutes Crouch's "character" touted by *the* City regardless of whether it proves dishonesty under a *crimen falsi* theory or not.** Crouch *had* "a dog in that fight": unprohibited access to Steele's tenant, Charles White, who had earlier testified to paying Crouch for sex and from whom Crouch admitted getting $300.^{00}$/month for who knows what. Steele had many avenues to block that access: she could make *White's* continued tenancy in Steele's rental building contingent on *White's* cutting ties with Crouch; Steele could use Crouch's confession to, and conviction of, drunkenly banging on White's window or door as proof of vandalism of

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

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

B. <u>Over two centuries of case law establish that nomenclatures should not cement injustice.</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[N]ewly discovered testimony, which is in a sense cumulative, **may throw such new light on a vital issue and may be of such compelling force as clearly to require a new trial in the interest of justice.** Such was the character ·Page 89 of the after-discovered evidence in the cases of *State v.Wiley*, 106_S.C._437; 91_S.E._382, and *State v. Casey*,116_S.C._280; 108_S.E._112, cited by appellants.

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

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

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

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

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

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

The test whether evidence is cumulative is not whether it tends to establish the same fact, but rather whether it is different in kind, quality or grade.[2] New evidence of a higher grade or character should not be classified as merely cumulative.[3] ***Evidence of disinterested witnesses although repetitious of that given by an interested party is evidence of "another character" and "in justice the two classes of testimony should be distinguished, and the defendant should have the benefit of the declarations of disinterested witnesses."***[4] The criterion to be applied is whether the new evidence, notwithstanding its cumulative character, "possesses sufficient probative force to render probable a different result upon a retrial of the case"; if it does, "it will then warrant and require an order granting a new trial."[5]

In applying the principles stated it is imperative to keep in focus (1) the critical issue at the original trial; (2) the source, grade and quality of the testimony there submitted; (3) the quality and grade of Frayne's newly-discovered evidence and (4) the probable effect of the latter evidence upon a retrial of the case.

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

Cumulative evidence has repeatedly been defined to be additional evidence of the same kind to the same point. *McCabe v. Sloan*, 184 S.C. 158, 191 S.E. 905, 909 (1937); *Johnston v. Belk-McKnight Co.*, of Newberry, 188 S.C. 149, 198 S.E. 395, 399 (1938).

Appellant is entitled to a new trial and the judgment of the lower court is, accordingly, reversed.

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

Ordinarily newly discovered evidence as the term is used in Rule 252 is limited to evidence which existed at the time of trial but which, for excusable cause, the party was unable to produce at that time. Wilkes v. Iowa State Highway Commission, 186 N.W.2d 604, 607 (Iowa 1971). There is, however, authority that when it is 262*262 no longer just or equitable to enforce a judgment, facts which occurred *after* its rendition may be considered in deciding whether it should be vacated or whether a new trial should be granted. [* * * * *] **Most of the cases granting relief on posttrial events have done so when the new evidence,**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Solicitor Weiss never produced Steele's 22 December 2009 *signed* denial of "mental injury" and, **since12 November 2010**, *the* City still refuses to produce a copy thereof and of other documents Dr. Faltas identified while reviewing the "two banker's boxes," the importance of which is proven by relevant transcript excerpts quoted in her Supplement to Application 2019-CP-40-00112 at: https://publicindex.sccourts.org/Richland/PublicIndex/PIImageDisplay.aspx?ctagency=40002&doctype=C&docid=1840087&HKey=8481537810512083486581112975010982122536687756510012199114658487837852978968120511081174848901081 03 and incorporated herein by reference — all added to *the* City's concealment of Crouch's criminal record.

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

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



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

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

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

I. Procedural History

A. Underlying simple assault case.

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

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

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

B. Current Case

Following appellant's April 25, 2013 trial in city court, appellant made a timely Motion for a New Trial. This hearing was delayed, however, pending appeal. The Hon. Philip Newsom of the Richland County Magistrates Court held a hearing on appellant's motion on February 4, 2019.[2]

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

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

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

II. Law

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

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

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

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

III. Recusal

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

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

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

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

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

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

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

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

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

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

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

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

B. After-Discovered Evidence

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

i. Dinah Gail Steele's prescription drug use.

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

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

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

ii. Charlene Crouch's criminal record

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

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iii. Teresa Ingram

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

iv. Charles White

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

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

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

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

V. Conclusion

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

[electronic signature page to follow]

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Richland Common Pleas

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

Case Number: 2019CP4001374

Type: Order/Other

IT IS SO ORDERED

s/D. Craig Brown (2160)

[Page 1] STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
County of Richland) 2019-CP-40-01374

CITY OF COLUMBIA, APPELLANT, [sic])
vs.) TRANSCRIPT OF RECORD
MARIE ASSA'AD FALTAS, MD, MPH, RESPONDENT [sic]) January 28, 2022
Columbia, South Carolina

BEFORE: THE HONORABLE D. CRAIG BROWN, JUDGE, via WebEx.

APPEARANCES: MARSHALL JAMES, ESQ.
DANIEL HAYES, ESQ.
Attorney for the City
DANIEL ADDISON, ESQ.
MARIE FALTAS, MD, MPH

KAREN AMBROZIAK
Official Court Reporter

[page 2] **CONTENTS**

INDEX OF EXHIBITS: (There were no exhibits introduced.) INDEX OF WITNESSES: (There were no witnesses called.)

[Page 3, lines 1-10] **THE COURT**: All right. The next matter is -- involves the attorneys who are in the courtroom with the court reporter: City of Columbia vs. Marie Therese Assa'ad Faltas. [11] This is an appeal from Magistrate's Court – or excuse me, city court -- well, Magistrate's Court. The civil action case number 2019-CP-40-1374. The parties in attendance are Marshall James and Dan Addison. I think there's one other individual in there, as well. Who that might be?

[11-12] MR. HAYES: Daniel Hayes with the City Attorney's Office, Your Honor.

[13] **THE COURT**: I'm sorry, tell me your name again.

[14] MR. HAYES: Daniel Hayes.

[15-17] **THE COURT**: All right. You all may need to come forward and come to that podium when you all speak just to make sure that everyone can hear you.

[18-19] DR. FALTAS: Sir, I still did not hear the name of the city attorney.

[20-21] **THE COURT**: Daniel Hayes, I believe the name was; is that right?

[22] MR. HAYES: Yes, Your Honor.

[23] **THE COURT**: Daniel Hayes?

[24] MR. HAYES: Yes, sir.

[25 to p 4, line 1] **THE COURT**: And Mr. Marshall James, is that seated with you?

[2] MR. JAMES: That's correct, Your Honor.

[3-4] **THE COURT**: All right. And Mr. Addison is seated in the courtroom, as well?

[5] MR. ADDISON: That's correct, Your Honor.

[6-7] **THE COURT**: All right. Are you all ready to proceed here this morning, Mr. Addison?

[8-11] MR. ADDISON: Yes, sir, Your Honor. I didn't know if we were going to -- I don't know if we needed to dispose of Dr. Faltas' motion to have me relieved first. I believe we --

[12] **THE COURT**: All right.

[13] MR. ADDISON: -- may need to do that.

[14-15] **THE COURT**: All right. Dr. Faltas, I'm going to deal with your motion to have Mr. Addison relieved.

[16-24] DR. FALTAS: Thank you, sir. At the threshold, I should not have counsel imposed on me, and the irony of ironies is that in this particular type of situation, a motion to reopen a criminal case involving the City of Columbia Municipal Court based on after-discovered evidence, I have a previous experience of doing an appeal pro se and, thank God, prevailing unanimously and that is City of Columbia vs. Marie Faltas, and that is unpublished opinion number 193 from the State Court of Appeals.

[25 to p 5, line 2] **THE COURT**: Now, Dr. Faltas, I want you to stay focused and give me the reasons that you want Mr. Addison relieved as your lawyer.

[3 to p 6, line 8] DR. FALTAS: [3-17] Okay. Okay. So I'm -- I'm putting on the record first that I shouldn't have to have a lawyer imposed on me; second, that Mr. Addison has not been involved in the factual details of the case, has not even discussed it with me what the arguments should be on the substantive, only communicated with me by sporadic e-mails, have not -- has not kept me informed, has not supplemented the record, but -- but if he is relieved or if he is not relieved under Anders vs.

California and under State vs. Williams, which implemented Anders vs. California in South Carolina, even when one is represented in a criminal appeal and the -- and the appellate counsel doesn't wish to argue the merits of the appeal, then the pro se party -- the party is allowed to proceed, brief the issues. [18-22] *In this case, because -- I think the same process should apply to appeals from Magistrate's Court to Circuit Court as it applies from Circuit Court to either the Court of Appeals or -- the State Court of Appeals or the State Supreme Court.* [23-25] *So if you deny the motion to relieve Mr. Addison, and he does not argue that I should prevail on this appeal, then I should be allowed to argue it myself.* [Page 6, lines 1-6] *In addition, because the Notice of Appeal from Magistrate to Circuit Court requires the grounds of appeal. I had written in my notice detailed preliminary grounds for appeal and indicated that I will await the provision of a -- of a transcript to further supplement the grounds.* [7] *The transcript I think was made from...* [8] *Hello?*

[9] **THE COURT**: I'm still here.

[10-16] *DR. FALTAS: I'm so--- okay. For some reason, it – it had turned off. So I should be, at the very least, allowed the same rights, the same Anders right – rights that the worst serial murderer or the worst serial rapist in South Carolina is allowed, which is to supplement counsel's brief or argument on appeal from a criminal matter.*

[17] **THE COURT**: All right.

[18-22] *DR. FALTAS: If you – if you deny the motion to relieve counsel, I -- I -- I would like the same permission to interlocutory appeal as you gave me yesterday in the PCR case because this discrimination needs to come to a head.*

[23-24] **THE COURT**: All right. Thank you, Dr. Faltas. Mr. Addison, let me hear from you, please, sir.

[25 to p 7, line 1] *MR. ADDISON: Your Honor, can you hear me from back here?*

[2-3] **THE COURT**: I can. Can you hear him, Dr. Faltas?

[4] *DR. FALTAS: Yes, sir.*

[5-6] **THE COURT**: All right. Thank you. Mr. Addison, you may proceed.

[7-13] *MR. ADDISON: Your Honor, I have not filed anything to oppose Dr. Faltas' motion as we discussed in, I think, some of the email stream that went back and forth on this issue with your office and -- and Dr. Faltas and myself.* ¶ *I have moved from Columbia to Charleston. I am practicing with a firm down there. I was appointed to this case in the --*

[14-16] *DR. FALTAS: I'm sorry, I can't hear. I didn't hear what he said. I hear voices, but I can't hear him clearly.*

[17] *MR. ADDISON: I'm coming up –*

[18] *DR. FALTAS: If he can repeat what --*

[19] *MR. ADDISON: – to the computer.*

[20] **THE COURT**: That's okay. Go ahead, Mr. Addison.

[21] *MR. ADDISON: Can you hear me now, Dr. Faltas?*

[22] *DR. FALTAS: Yes, sir. Good morning. Yes, sir.*

[23 to p 9, line 6] *MR. ADDISON:* [23 to p 8, line 2] *Your Honor, I moved from Columbia to Charleston in March of 2020 after I had been appointed to this case. I had been on the case probably five or six months at that point, came down -- came down to Charleston and continued to handle the case.* [3-6] *We did have some matters heard before I left Columbia and moved down, and then we entered, obviously, the pandemic peaks and waited for quite a while for the magistrate to return -- to issue his return.* [7-10] *In that process, I have continued to be in touch with Dr. Faltas. I know she's indicated that I'm a bad lawyer and don't communicate. I believe that I have communicated as necessary.* [11 - 14] *As I have told her continually throughout it's my belief that it's my job to represent her interest and make sure the system treats her correctly pursuant to my responsibilities under the pro bono rules.* [15-19] *As I told your office and Dr. Faltas, I truly have no understanding of what pro bono requires of me once I leave the district. I don't really know why it's there. But I had been assigned to the case, and I've continued to handle it as necessary.* [20-25] *This position that I would not file supplements if it was my position that I didn't believe they were necessary. I think she has made her points clear in her motion to the court on her appeal and the motion that we're dealing with today of the refusal of the judge to recuse himself and some other issues in her appeal at the Magistrate level.* [Page 9, lines 1-2] *That is what we are handling before you today per my understanding.* [3-6] *In terms of this motion for my relief, I have made no opposition to it formally. If Dr. Faltas wants me off the case, and the Court wants me off the case, that's fine. If I am to remain, I will remain and do my job.*

[7-17] **THE COURT**: All right. Thank you, sir. ¶ All right. Based upon what I've heard here today, I am going to respectfully deny Dr. Faltas' motion to relieve Mr. Addison as her attorney in this matter. ¶ As I said yesterday, I believe that the Supreme Court has on more than one occasion issued orders prohibiting her from representing herself in the courts of this state. ¶ I do not hear anything that would lead me to believe that Mr. Addison should be relieved as her attorney and, therefore, that request is respectfully denied. ¶ Now --

[18] *DR. FALTAS: May I --*

[19] **THE COURT**: I'm sorry.

[20] *DR. FALTAS: I'm sorry.*
[21] **THE COURT**: I'm sorry. Go ahead, Dr. Faltas.
[22-23] *DR. FALTAS: I just want to renew the motion for leave to interlocutory appeal, please.*
[24 to p 10, line 12] **THE COURT**: Well, this is what I'm going to do. I thought about this thing yesterday after we broke court, and it's something that woke me up at three o'clock this morning thinking about it. [¶] I do not -- I believe that my decision yesterday is a decision that I made, and I am stuck with it. But I do believe that the decision I made yesterday to continue that case to allow you to appeal that issue was an error on my part, and it will be something that I have to eat crow, so to speak, on -- on that issue. [¶] You will certainly be entitled to appeal this issue after this matter is heard, and therefore, I plan to move forward with this case today. [¶] So Mr. Addison, are you ready to proceed, sir?
[13] *MR. ADDISON: Yes, sir.*
[14] **THE COURT**: Mr. James, are you ready to proceed?
[15] MR. JAMES: Yes, sir.
[16-20] *DR. FALTAS: Sir, may I ask if you've made the ruling on my ability to supplement counsel's argument under Anders vs. California from the U.S. Supreme Court and State vs. Williams from the Supreme Court of South Carolina?*
[21 to p 11, line 1] **THE COURT**: Pursuant to, as I said yesterday, the previous orders of the South Carolina Supreme Court without counsel filing such, you are prohibited from filing such. [¶] All right. Let me hear from you, Mr. Addison, please, sir.
[2-3] *DR. FALTAS: But, sir, this -- this applies to all pro --- all counsel of criminal appellants that they get --*
[4-6] **THE COURT**: Dr. Faltas, I've ruled on that issue. We're going to move forward, and that's my ruling, okay? [¶] All right. Mr. Addison.
[7 to p 15, line 18] *MR. ADDISON: [7-11] Your Honor, the issues before you today on this motion are relatively simple. Dr. Faltas submitted a written motion that she submitted to the Court that's been the issue of quite a few matters we've been dealing with. [12-16] The initial matter was dealt with the prior ruling of Judge Newman where there was no return. There was just an oral order from the magistrate. We needed a return. We finally got the return. That, obviously, took quite a bit of while. [17-25] I think Dr. Faltas actually has a point in her motion that -- within the language of the motion that the return should have been done in a timely manner as per the statute and the requirements under the rules, which is why Judge Newman did rule. She issued an order that said the magistrate was supposed to get us -- get that return to us in a timely manner. He did not. He actually took quite a bit of time. Obviously, I believe Covid may have been a factor in there. [Page 12, lines 1-5] But my primary point that I would have for you today, Your Honor, what I believe is the best argument that Dr. Faltas has in her motion is this: The motion for recusal at that hearing with Judge Newsome, the magistrate, in Richland County. [6-9] She points out that she had prior dealings with Judge Newsome and did not feel like that she could get a fair trial with Judge Newsome because of those prior dealings with Judge Newsome. [10-16] His response to the request for a return is evidence in and of itself to me that he does not like judge -- Your Honor, that he does not like Dr. Faltas. He was very put out that he was going to have to do this return. It took him quite a while to do it. There was a great deal of back and forth with the Court and all of us on his lack of desire to do so. [17-19] If you read transcript from this particular hearing in front of Judge Newsome itself, it's very clear he has a great deal of animosity for Dr. Faltas. [20-23] As we just heard in the motion before you to have me relieved, Dr. Faltas does not do well with personal relationships with most everybody around her. She is an extremely difficult person to deal with. [24 to p 13, line 2] I know she's not going to like me saying any of this, but I believe it goes to the very heart of her motion as to the judge recusing himself in this appeal hearing at the magistrate level. [3-9] He clearly had prior dealings with her. He clearly had a great deal of dislike for her as is evidenced by transcript. And as such, I believe that it was in the best interest of the system that we all want to hold up to a very high standard that he should have said I just need to step away from this case. I'm going let somebody else handle it. [10-13] It's difficult because Judge Faltas -- I keep saying Judge Faltas, I'm sorry, Dr. Faltas at that point had been through about every judge in Richland County. That's why Judge Newsome heard it. [14-20] All the city judges had to recuse themselves for one dealing or another with her, and Judge Newsome is kind of the one who ended up with the last run at it within Richland County. That's why he was assigned to the case. It was actually a city case, obviously, and you have a Richland County magistrate hearing it instead of a city judge. [21 to p 14, line 3] Regardless of all of that, I believe the best thing that could have happened here would have been for Judge Newsome to have said, "You're right, Dr. Faltas. I do not need to hear this case. Let's bring someone else in here to hear it." Then she can make all the arguments she wanted to make and put them up and you would not have had the back and forth banter as much between her and the judge in that particular case. [4-6] If you read the transcript, that's a great deal of what went on, was this, you know, you did this to me in the past and him responding*

yes, I did and here's why. [7-10] So you can see the immediate potential for a belief that there is clear bias of that sitting jurist hearing the case. So I believe that is the strongest argument that the Doctor makes in her motion. [11-16] As to her other motion matters that she's brought up, there was a Brady motion issue that she believes the City did not properly provide her with certain evidence, but to a large degree, I believe that the magistrate pretty much just kind of dismissed without going into a whole lot of detail. [17-23] He did talk to the City some about it. There was some back and forth on it, and there was some admission from the City that it's possible that they may have missed some things. Because of the numerous cases that they are dealing with Dr. Faltas on, that was pretty much the response from the City as to why there might have been some problems. [24 to p 15, line 2] The issue with that is if there was anything missing pursuant to her Brady motion -- it doesn't matter if it was one-third of one page with a little bit of information on it, that's a clear violation of her rights under Brady. [3-7] She should have had any potential evidence that might be exculpatory at her disposal prior to going forward with her -- with her hearing. So I believe the judge was a bit dismissive of that particular motion that the Doctor made at that prior hearing, as well. [8-12] The after-discovered evidence, I'm not going to get into any of that in too -- in too great of detail, Your Honor. She's made her points on those issues. I think that's where Dr. Faltas and I split hairs over what needs to be presented to this Court today. [13-18] I will rest on what Dr. Faltas has presented on that particular issue. She can file her request for supplementals as you have indicated to her. But I believe the two primary issues here are, first and foremost, the motion for recusal and then the Brady motion issues. And that's it, Your Honor.

[19-20] **THE COURT**: All right. [¶] All right. Mr. James.

[21-22] MR. JAMES: Good morning, Your Honor. Marshall James for the City of Columbia.

[23] **THE COURT**: Good morning.

[24 to p 16, line 2] MR. JAMES: May it please the Court. As for the motion to recuse, my reading of the transcript was a little different from counsel's in that the transcript evidenced that Judge Newman -- I didn't read that --

[3-4] DR. FALTAS: Sir, I cannot hear Mr. James. If he can speak a little louder and slower, please.

[5 to p 20, line 2] MR. JAMES: [5] Yes, ma'am, I'm sorry. [6-8] My reading of the transcript, contrary to counsel's reading of the transcript was not that Judge Newsome was necessarily -- or had animosity for Dr. Faltas. [9-14] The transcript is evidence that he gave Dr. Faltas every opportunity to make every argument that she wanted to make, to call witnesses that she wanted to call and to examine those witnesses. And he noted himself that, generally speaking, motions for after-discovered evidence take about ten minutes. [15-19] I think they took -- this one in particular took around three hours. So I think the transcript is evidence that he was very generous with Dr. Faltas in making sure she got to say and argue all of the points that she wanted to -- to make. [20-25] Furthermore, there is no evidence in the record that -- that -- of bias against Dr. Faltas on Judge Newsome's part. In *Christensen* vs. *Mikell*, 324 SC 70, the Court says, "It is not enough for the party seeking disqualification to simply allege bias. The party must show some evidence of bias." [Page 17, lines 1-3] There is nothing in the record from the Magistrate's Court that establishes that Judge Newsome was biased. So we ask that this Court deny Dr. Faltas' motion to recuse. [4-7] As far as the motion for after-discovered evidence, we ask this Court affirm Judge Newsome's denial of Dr. Faltas' motion for after-discovered evidence. It was the correct decision. [8-13] As I'm sure the Court is aware, Judge Newsome's denial should be reviewed for abuse of discretion, and that's under *State* v. *Irvin*, 210 SC 549 at 545. In that case, the Supreme Court in that case also says that grants of motions for a new trial based on after-discovered evidence are generally not favored. [14-21] There are five elements that Dr. Faltas is required to establish, and they are all -- each and every one must be established. And we ask that this Court affirm Judge Newsome's denial based on the fact that he concluded that none of the assertions of newly-discovered evidence that Dr. Faltas made during the hearing met -- met the requirements, and most of them were merely impeaching, which is the -- which is the fifth -- the fifth element. [22-25] He identified about five different assertions of newly-discovered evidence that Dr. Faltas made. The first has to do with the document that opposing counsel mentioned. [Page 18, lines 1-6] Dr. Faltas, at the hearing, produced no evidence that the City withheld improperly a document. That was Judge Newsome's finding. Dr. Faltas did not produce evidence during the hearing to the contrary, so -- so that isn't really after-discovered evidence that would be sufficient for the opening of -- reopening of this case. [7-10] The second assertion of new evidence that Dr. Faltas asserted had to do with Ms. Steele's medications and whether or not she was on medications during her trial and whether or not her doctor should have prescribed Paxil. [11-16] Well, that's not newly-discovered evidence. I think Dr. Faltas says she either was on medications or she was lying about the medications, but -- or the medicines that she was taking, but as Judge Newsome concluded, she could have crossed or examined Ms. Steele about these medications when

[14] **THE COURT**: Anything further, Mr. James?
[15] MR. JAMES: No, sir. Thank you.
[16-17] **THE COURT**: All right. All right. What was that, Dr. Faltas? I'm sorry.
[18-23] DR. FALTAS: If it pleases the Court, I had -- yesterday, I had a housekeeping question. Would there be an -- a written order or a Form 4 order from yesterday, and Mr. Griffith informed me that the State has requested the transcript. So I just wanted the Court to make sure that my side, the Applicant's side, gets a copy.
[24 to p 23, line 1] **THE COURT**: I'm sure Mr. Griffith will be in touch with the Attorney General's Office to address that issue. Okay.
[2-4] DR. FALTAS: So will be there be an order – would there be an order from yesterday? Because I mean, I can't appeal an oral ruling.
[5-6] **THE COURT**: I will issue some order as it relates to that.
[7] DR. FALTAS: Thank you, sir.
[8-13] **THE COURT**: All right. Thank you all again. I won't – this will conclude the matter. [9] Ms. Ambroziak, I thank you for being there today and helping us out on that, and I apologize for any miscommunication as it relates to what happened this morning. Okay.
[14] **THE COURT REPORTER**: That's fine. Not a problem.
[15-16] **THE COURT**: Thank you all. You all have a good weekend.
[17] **(Whereupon, the proceedings were concluded.)**

[Page 24, line 1] CERTIFICATE OF REPORTER:
[3-4] STATE OF SOUTH CAROLINA COUNTY OF RICHLAND
[7-14] I, Karen Ambroziak, Official Court Reporter for the 5th 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 28th day of January, 2022.
[17] September 6, 2022
[20-22] [s/] _____ Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS 2019-CP-400-1374
STATE	)	MAGISTRATE'S RETURN OF APPEAL FROM DENIAL OF MOTION TO REOPEN
VS	)	
MARIA FALTAS DEFENDANT	)	

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

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

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

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

Respectfully Submitted,

Magistrate

CITY Columbia STATE S.C

June 22nd, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	2019-CP-400-1374
	)	
STATE	)	MAGISTRATE'S RETURN
	)	OF
VS	)	APPEAL FROM DENIAL OF MOTION
	)	TO REOPEN
MARIA FALTAS	)	
DEFENDANT	)	

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

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

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

The State called the following witnesses: N/A

The Defendant called the following witnesses:

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

A summary of their testimony is attached.

The State made the following motions: N/A

The Defendant made the following motions:

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

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

The Defendant offered the following items into Evidence:

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

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

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

ELECTRONICALLY FILED - 2019 Dec 12 8:36 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4001374

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP4001374

Marie Assaad Faltas
PLAINTIFF(S)

City Of Columbia et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

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

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

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

State Of South Carolina

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2019 Dec 12 8:36 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4001374

Court Reporter:

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

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Richland Common Pleas

Case Caption: City of Columbia VS Marie Assaad Faltas

Case Number: 2019CP4001374

Type: Order/Electronic Form 4

So Ordered

The Honorable Courtney Clyburn Pope

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

L066971
CASE NUMBER

ORDER

STATE

Vs

Marie Therese Assaad Faltas
P O Box 9115
Columbia, SC 29290
DEFENDANT(S)

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

MOTION DENIED on 2/27/2019.

IT SO ORDERED

JUDGE NEWSOM

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

February 27, 2019

STATE OF SOUTH CAROLINA

Richland County Magistrate's Courts
Case No. L066971 (Transferred from Columbia's Municipal Court)
Also **2013-CP-40-03522** in Circuit Court

CITY OF COLUMBIA, Plaintiff
v.
Marie Assa'ad-Faltas, MD, MPH, Defendant

Defendant's MOTIONS to Reconsider Magistrate's Oral Denial Of her three motions heard on Monday, 4 February 2019 And motion for a free CD and transcript of said hearing.

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

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

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

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

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

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

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

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

Marie Assa'ad-Faltas, MD, MPH, Defendant *pro se*
P.O. Box 9115, Columbia, SC 29209
Phone: (803) 783-4536 Cell: (330) 232-4164
e-mail: Marie_Faltas@hotmail.com **and** MarieAssaadFaltas@GMail.com

State of South Carolina
County of Richland
City of Columbia,
Vs.
Marie Thérèse Assa'ad-Faltas, Defendant.

In the Columbia Magistrate Court
Case # 2019-CP-40-01374

Transcript of Record

Motion to Reopen Hearing held before the Honorable Phillip F. Newsom, presiding judge, in the magistrate court for the County of Richland; Columbia, South Carolina, on February 4, 2019.

Appearances:
Jessica R. Mangum, Esquire, Appearing for the City
Defendant appearing *pro se*

Transcribed by: Nancy S. Ahrens

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Transcription omitted from beginning of audio:

Minute 00:02:51 - 00:02:53 Clerk: The court would come to order. All rise. The honorable Judge Newsom presiding.

Minute 00:02:54 - 00:02:57 THE COURT: All right. You may be seated.

Minute 00:03:01 - 00:03:55 [Page 1, lines 1-2. THE COURT: All right. Dr. Faltas, we are here for your motion for a new trial. I'll be glad to hear from you.

[3] *Ms. Mangum:* Your Honor, I'm sorry, may I briefly?

[4] THE COURT: Sure.

[5-6] *Ms. Mangum:* I was under the impression that we are here today on a motion to recuse.

[7-8] THE COURT: That is one motion. But no. This is the whole thing. This thing has been spread out long enough.

[9-10] Defendant Faltas: And also there is a motion to transfer it.

[11] THE COURT: I'll hear both of those motions.

[12-13] Defendant Faltas: May I address the court from a seated position because of my knee issues, please?

[14-15] THE COURT: If you'll put the microphone close to where we can hear you.

[16-19] *Ms. Mangum:* And, Your Honor, just to clarify the notice that I received from the court today was for a motion to recuse, a motion to transfer and perhaps a motion of non-appointment. Those are the only motions that I understand are before the court.

[20] THE COURT: No, this is the whole thing.

[21] *Ms. Mangum:* Yes, Your Honor.

[22-23] THE COURT: All right. Unless I grant the first two, then, of course, it will be those. All right. Yes, ma'am.

[24] Defendant Faltas: Good afternoon, sir.

[25] THE COURT: Good afternoon.

[Page 2, lines 1-2] Defendant Faltas: First of all, I just want to remind people that I love them; and –

[3-5] THE COURT: All right. Ma'am, get to your point. You had a motion to recuse. Tell me your grounds. I've already denied it once unless you have new grounds.

[6-8] Defendant Faltas: Well, the new ground you are aware of it and I think it would be totally inappropriate during the pendency –

[9-12] THE COURT: I totally disagree with you for those reasons. And after having conferred with the Office of Disciplinary Counsel, I'm denying your motion. We are going forward. Next. What is your other motion?

[13-15] Defendant Faltas: All right. The next motion is the motion to transfer to circuit court for several reasons. And, sir, I'm taking exception to your denying.

[16] THE COURT: I understand that.

[17-19] Defendant Faltas: May I just put on the record why because you know the rules that one has to put the reasons on the record or one has waived it.

[20] THE COURT: You can quickly make a summary of them, yes.

[21-22] Defendant Faltas: Sir, I think it is unheard of for a jurist to sit while there is a disciplinary complaint against him.

[23] THE COURT: Okay.

[24 to page 3, line 2] Defendant Faltas: Because the law is the appearance of impartiality. Any reasonable person would say that there is an appearance of partiality and there is the presumption of vindictiveness.

[3-4] THE COURT: Is there a case about presumptive, presumption of vindictiveness?
[5] Defendant Faltas: A whole lot of cases.
[6] THE COURT: Okay. Can you cite one?
[7] Defendant Faltas: Not off the top of my head.
[8] THE COURT: Okay. I didn't think so.
[9-10] Defendant Faltas: No, no, no. I can bring them. And this includes cases where, for example, a person –
[11-18] THE COURT: All right. Let me just stop you right there. You can submit whatever you want in support of that. I'll tell you directly I conferred with counsel and I asked could it be proper given that and I was told emphatically if I thought I could give you a fair trial I could proceed. That's the litmus test, not what you think, not what you hope, whether I can give you a fair trial. Now at the conclusion of this hearing and any other hearing I hear, if I don't do that, then you have protections in there. Okay?
[19-20] Defendant Faltas: First of all, sir, Disciplinary Counsel is not the authority on that.
[21-22] THE COURT: All right, ma'am, I'm not going to debate it any more. Do you want to go to the next motion?
[23] Defendant Faltas: Could I just put on the record –
[24] THE COURT: No.
[25] Defendant Faltas: – my other grounds.
[page 4, line 1] THE COURT: Quickly.
[2-3] Defendant Faltas: Okay. The presumption of vindictiveness –
[3] THE COURT: We've – we already heard that.
[5-6] Defendant Faltas: is when a judge gets reversed in a case he doesn't get to sit on the same case upon remand. So, there are –
[7-8] THE COURT: When I get reversed, if I get reversed, I wouldn't sit on the case. I agree.
[9-12] Defendant Faltas: Okay. The other thing is that given what you did to me when you sent me to be stripped naked before two strange females who for all we know may have been lesbians, we don't know. But I do not feel it is safe for me to advocate –
[13-14] THE COURT: You made that at the last hearing; and I heard that motion and I denied it. Okay.
[15] Defendant Faltas: I need to put it on the record.
[16-18] THE COURT: No, you don't. That's part of the record. It's already in the record. That whole thing is in the record. You don't need to do it again.
[19-22] Defendant Faltas: Well, speaking of record, the last CD that I received was not possible to download from the disc. The previous CDs – okay. The CD that I received last time it was like the music CD you buy at the store. The previous one –
[23 to Page 5, line 1] THE COURT: I don't know that. There were two CDs provided that I've seen transcripts for that our courts submitted a transcript to the appropriate authorities for the two hearings. We [4-5] have only had two. All right. Let's go on to the motion to transfer.
[2-6] Defendant Faltas: Okay. The motion to transfer is for judicial economy because there is in the circuit court a pending PCR case from the same conviction. And it also includes after-discovered evidence as it must because the law is that after-discovered evidence can also be raised in PCR.
[7] THE COURT: Okay.
[8-15] Defendant Faltas: So, it's judicial economy too. The second is that the subpoena power in circuit court is broader and, in fact, Rule 13 has just been submitted as an amendment to the General Assembly that now under Rule 13 two things can happen. A party can request the subpoena and can also request that it be a subpoena *duces tecum* which used to be in civil cases but not in criminal cases. The other thing is that in magistrate court you can only subpoena within your county; but –
[16] THE COURT: I know all that very well, yes.
[17-18] Defendant Faltas: I mean can I put it on the record as a basis?
[19] THE COURT: Sure. Yeah.
[20-21] Defendant Faltas: And there are witnesses, necessary witnesses –
[22] THE COURT: For? For the transfer?
[23 to page 6, line 5] Defendant Faltas: No, necessary witnesses for the actual rule 29(b) hearing who are from other counties. So, in this court I cannot get them; and I cannot get them *duces tecum.* [5-6] Additionally, additionally, your staff has given me hard time about subpoenaing witnesses and having been told that this hearing will just be about those two motions. And, in fact, I have an e-mail from Ms. Raquel Welch – I'm sorry, Raquel Perez, that says exactly that. It says it will just be on the motion to recuse and the motion to transfer. And if –

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

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

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

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

[23] Defendant Faltas: I –

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

[7] Defendant Faltas: No, sir.

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

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

[19] THE COURT: Okay.

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

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

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

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

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

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

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

[9] THE COURT: Well, good.

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

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

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

[16] THE COURT: Okay. Go ahead.

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

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

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

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

[5] Defendant Faltas: I have no confidence in that –

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

[13-17] Defendant Faltas: Okay. The first one is Theodore Nichols Lupton. He was a lawyer and he provided, served on the City of Columbia discovery including mental examination and physical examination, all medical records. They did not give him anything. At least that's what I think if he's truthful he is going to testify.

[18-19] THE COURT: **How does that fall into the category of after-discovered evidence?**

[20] Defendant Faltas: I'm getting to it.

[21] THE COURT: Okay,

[22-25] Defendant Faltas: Lo and behold, in the middle of the trial, my false accuser masquerading as my victim says that she has been on medication since January 2010 and she used the word "still." So, she was on medication for three and a half–

[Page 10, line 1] THE COURT: **And what's this person's name?**

[2] Defendant Faltas: Theodore Nichols Lupton.

[3-5] THE COURT: No, I'm talking about the witness, your accuser. You said Mr. Lupton, he subpoenaed records and they didn't give them to him. Okay. Tell me the other person,

[6] Defendant Faltas: Dinah Gail Steele.

[7] THE COURT: Okay. And you want her to testify?

[8] Defendant Faltas: Absolutely.

[9-10] THE COURT: **And what will she say now that would be after-discovered or different from before?**

[11-21] Defendant Faltas: That she either did not actually go to the doctor, she did not actually have prescriptions; or if she did – I'm saying –I'm not saying that I'm telling you, promising you that this is what she will say. I'm telling you that if she tells the truth this is what she will have to say. It's one of two things. Either she was on medication that day and that would also have affected her competence to testify or she wasn't and she lied. And the reason that I need the *duces tecum* power is that I need to subpoena her medical records as far as what she volunteered. She just blurted it out. Nobody had even asked her. She said I'm still on medication for it. Okay.

[22] THE COURT: Okay. Who else?

[23-25] Defendant Faltas: So, the other thing is if she did have a nervous breakdown or whatever and did go to a doctor, we need the records because –

[Page 11, Lines 1-3] THE COURT: **I've already ruled I can't do that. I can't change the law. I know what you want the law to be. I can't change it. We are operating under the terms of the law as it stands.**

[4-5] Defendant Faltas: But under the – if it were transferred –

[6-7] THE COURT: It's not going to be transferred. I've ruled on that.

[8-9] Defendant Faltas: Okay. Let me say one other thing just to put it on the record to protect myself.

[10] THE COURT: Okay.

[11-12] Defendant Faltas: That the circuit court has concurrent jurisdiction because –

[13] THE COURT: I'm well aware of that. I went to law school.

[14-16] Defendant Faltas: Well, you know something, Your Honor. And I'm not being flip or anything. For some reason on the Bar, it doesn't say which law school Your Honor went to.

[17-18] THE COURT: Okay. That has nothing germane to this hearing. Go forward.

[19] Defendant Faltas: Okay. So ...

[20-21] THE COURT: What other witnesses would you have and what evidence?

[22-24] Defendant Faltas: I need to take my breath please. I need to take my breath. You are aware I'm functioning only on half a larynx. Or if you're not aware –

[25 to Page 12, line 4] THE COURT: **Do you have something in writing that you've** [11-12] **submitted as far as your grounds for reopening. So far, you've told me two people. One to subpoena records. You knew that at the trial. That's not after-discovered. Even if it were, the other is the witness against you that you accused of lying at the trial.**

[5-7] Defendant Faltas: No, I have something in writing. I have two things in writing. One of them – so could you please take mercy on my ability to get my breath.

[8-16] THE COURT: **I'll give you five minutes; but when you come back, I need to -because I'm going to make a decision about whether I need to continue in the interest of justice to get witnesses. If there's witnesses on something that is right on point that would be sufficient as the rules of law are for a motion for a new trial based on after-discovered evidence and that's what you filed for after-discovered evidence. I believe you said there were two people who had lied; and you had evidence of that.** I want to hear a summary of that before I determine whether I need to subpoena those people.

[17-18] Defendant Faltas: And I don't need a five-minute break. I may need just ten-second breaks.

[19-21] THE COURT: Sure. Oh, yeah, absolutely. If you need longer than that, Dr. Faltas, let me know. I'll be glad to give you five minutes if you need it or so.
[22-23] Defendant Faltas: So, you asked me if I had something in writing. And in fact, I have two motions in writing.
[24] THE COURT: Okay.
[25 to Page 13, line 9] Defendant Faltas: One was before the circuit court to [12-13] suspend the appeal so I could bring the after-discovered evidence to the trial court. And that was filed in December 2013; and it was never scheduled for a hearing. The second thing I filed is with the Columbia Municipal Court in February 2014; and that is the motion for after-discovered evidence itself. For some reason, not only did the Columbia Municipal Court not send you the full file, your staff when, I came to look at the full file, were very non-cooperative and would not let me look at what the City sent and would not go back and ask the City to send --
[10-11] THE COURT: Now which staff are you referring to as my staff? Dentsville staff or central court?
[10-11] Defendant Faltas: Well, actually at that time they were both there, the two Stefanies. And in fact, Mr. Truluck witnessed it.
[14-16] THE COURT: Because I'm not aware that we've ever had the full file at the Dentsville office. The file has been kept here at central court.
[17-19] Defendant Faltas: Well, I came in late March of last year to look at what the City of Columbia had sent you. And it did not include the actual motion.
[20] THE COURT: Okay.
[21-22] Defendant Faltas: And, in fact, before it was transferred to your office --
[23-24] THE COURT: I know I've reviewed that motion. I wouldn't be familiar with what I just told you if I had not. It's been a while.
[25] Defendant Faltas: So, I mean please --
[Page 14, line 1] THE COURT: Well, you know your motion.
[2] Defendant Faltas: Pardon me?
[3] THE COURT: You know the basis of your motion.
[4-5] Defendant Faltas: I do know it; but you asked me if there was something in writing. And there is something in writing and --
[6-15] THE COURT: All right. Let me rephrase that so you -- what evidence do you -- tell the court, that you would have if you could call a witness to say that evidence. Let me read you the litmus test you are going to have to go through. In order to obtain a new trial on after-discovered evidence, the party must show that the evidence would probably change the result of the trial if a new trial were had. Has it been discovered since the trial, could not have been discovered before the trial by the exercise of due diligence, is material to the issue of guilt or innocence and is not merely cumulative or impeaching. That's by South Carolina Supreme Court.
[16-18] Defendant Faltas: And just for your information I may be the only person in South Carolina who orally argued a rule 29(b) motion before the Court of Appeals --
[19-20] THE COURT: And that's good but it has nothing to do with this case.
[21] Defendant Faltas: I know the standard.
[22] THE COURT: Okay.
[23] Defendant Faltas: And I previously --
[24 TO PAGE 15, LINE 1] THE COURT: Now, Dr. Faltas, I'm going to give you one more chance to tell me what evidence it is that you have that there is a [14-15] witness that did not get subpoenaed that I need to continue --
[2] Defendant Faltas: Okay. The witness is Charlene Crouch.
[3-5] THE COURT: And what would Charlene Crouch say? She was one of the other ones you called, said lied at the trial, correct?
[6] Defendant Faltas: Yes, sir.
[7-9] THE COURT: And she's told you she lied and she's going to come forward and confess that? Or you are hoping to put her on the stand and break her down. What is it?
[10] Defendant Faltas: Can I answer fully --
[11] THE COURT: Yes, I've asked you.
[12-14] Defendant Faltas: Okay. She lied about her criminal records; and I have after that, after the trial obtained objective evidence that she lied about her criminal record.
[15] THE COURT: Okay.
[16-20] Defendant Faltas: And that evidence was provided in mid-January 2014 by then-Chief of Columbia Municipal Court; and it was two copied, it was a letter to me that was copied at that time to Chief Justice Toal and Judge Lee and to the City of Columbia. There was a charge of drunkenness.
[21] THE COURT: That's not impeaching.

[22] Defendant Faltas: (inaudible)
[23-24] THE COURT: That would not be allowed. Ma'am, that would not be allowed to be brought out anyhow.
[25] Defendant Faltas: And I —
[Page 16, lines 1-2] THE COURT: You would not be able to ask her if she had a conviction for that because that is not one of the ones that goes —
[3-4] Defendant Faltas: It doesn't matter whether I would be allowed or not if she voluntarily said that she had not been —
[5] THE COURT: And you have a certified copy of her record?
[6-7] Defendant Faltas: Yes, sir, I do but I did not bring it in because I came in expecting to be —
[8-9] THE COURT: And that's the information I'm trying to glean from you. All right?
[10-11] Defendant Faltas: Okay. No, I mean I have it in the car. It's just that I didn't —
[12] THE COURT: We can take a break and you can get it.
[13] Defendant Faltas: Yes, thank you.
[14-19] THE COURT: Because if I determine that some evidence or person that is not here today because you all thought we were just going on those other two things, I can continue that part in order to get them. But if it's somebody that lives in Summerville — I just picked that town out, I don't know if there's any witnesses that live in Summerville– I can't subpoena them. Okay?
[20] Defendant Faltas: May I —
[21-22] THE COURT: Yes. Oh, yeah, anything you want to submit to me.
[23] Defendant Faltas: Could we ask you to make a copy of it.
[24-25] Mr. Truluck: Your Honor, permission to show it to opposing counsel.
[Page 17, line 1] THE COURT: Sure. Absolutely.
[2] Defendant Faltas: The reason it matters are two things.
[3] THE COURT: Okay.
[4-5] Defendant Faltas: The first thing is that she volunteered it.
[6] THE COURT: Okay.
[7-9] Defendant Faltas: The second thing is that that arrest involved also her having been put on trespass notice from my false accuser's property.
[10] THE COURT: Okay.
[11] Defendant Faltas: By that woman, Charlene Crouch.
[12] THE COURT: Okay.
[13-15] Defendant Faltas: In your court in 2011, that day when you had me strip-searched, that was the trial and there was a man, Charles White —
[16] THE COURT: Do you want to bring it up?
[17-20] Mr. Truluck: Yes, Your Honor. I've showed opposing counsel what I believe I'm handing you is an incident report for Mrs. Charlene Crouch and a disposition sheet and a letter from judge Turner, Your Honor.
[21] THE COURT: (pause) Okay.
[22-25] Defendant Faltas: So, in your very court, that man, Charles White, testified under oath but in-camera and I have the recordings and I got the recordings from the court. I did not sneak a recording device or anything.
[PAGE 18, LINE 1] THE COURT: Okay.
[2-3] Defendant Faltas: And he said that, yes, he was paying that woman for sex. In addition —
[4] THE COURT: What's that got to do with —
[5] Defendant Faltas: Okay. Follow with me, please.
[6] THE COURT: — after-discovered evidence.
[7] Defendant Faltas: Follow with me.
[8] THE COURT: Okay. I will but speed it up.
[9] Defendant Faltas: Okay.
[10-11] THE COURT: Because if you heard that in 2011, that is a classic proof of not after-discovered evidence.
[12] Defendant Faltas: Could you please follow with me?
[13] THE COURT: Yes, ma'am.
[14-15] Defendant Faltas: In April of 2012, Charlene Crouch went — and that's not an allegation, that's a conviction.
[16] THE COURT: Okay.

[17-20] Defendant Faltas: She was drunk and she went to Charles White, her prostitution customer, and she was banging on his window and wanting the money. He called the police and the police issued her a no trespass on that.

[21] THE COURT: Okay.

[22 to Page 19, line 5] Defendant Faltas: She got convicted in May 2012. In April, 2013, which is when my trial was, she volunteered that she didn't have the trial for that drunkenness yet. So, that's a lie. The second thing is that in between she had an agreement with Steele that she would [18-19] testify for Steele against me in return for Steele not enforcing the trespass against Charlene so Charlene can go to Charles White who is a tenant of Steele and give him her services and get money. In fact, in fact, I also have pictures of Charlene in her car going to that place for which she had been —

[6-7] THE COURT: And you had those pictures back in 2011 or whatever, did you not?

[8] Defendant Faltas: No, no, no. Those were after the trial.

[9] THE COURT: After the 2011 trial?

[10] Defendant Faltas: No, after the 2013 trial.

[11] THE COURT: Okay. All right.

[12-14] Defendant Faltas: Okay. In addition, recently because, when this matter was before the circuit court, Charles White called me at four o'clock in the morning —

[15] THE COURT: Okay.

[16-20] Defendant Faltas: And told me that he would tell me stuff but that I would have to relieve him from the subpoena and one of the things he told me is that he now gives Charlene Crouch three hundred dollars a month for her to go to his apartment and do services.

[21] THE COURT: Okay.

[22-24] Defendant Faltas: So, if that trespass notice is in place, that would indicate — in addition, I have an actual letter from this Charles White saying —

[25] THE COURT: I'll be glad to see it.

[Page 20, line 1] Defendant Faltas: What?

[2] THE COURT: I'll be glad to see it. A letter to you?

[3] Defendant Faltas: I have it in the car.

[4-5] THE COURT: Okay. We'll take a break and let you go out and get it.

[6-13] Defendant Faltas: And also, also it is in the record of the Supreme Court in the appeal on that case, there is that letter from 2009 by Charles White. In any event, so the — he had said there was an agreement -- and again I'm not saying that he won't come here and lie but what we know from your 2011 trial — I mean from the 2011 trial over which you presided — is that he admitted under oath that she's a prostitute and he uses her for prostitution services. He told me when he woke me up —

[14-15] THE COURT: Again, what's that got to do with this case and grounds to reopen?

[16-19] Defendant Faltas: If you read the transcript and if you read the actual motion where I highlighted; and it was a bench trial under duress because there were reasons I was prevented from having a jury trial.

[20-21] THE COURT: Which time is this you are talking about? In 2011? That was a jury trial, ma'am.

[22-23] Defendant Faltas: April 25, 2013, the conviction which I'm trying to reopen —

[24] THE COURT: Was a bench trial.

[25] Defendant Faltas: Yes, sir.

[Page 21, line 1] THE COURT: Okay.

[2-3] Defendant Faltas: And it wasn't a bench trial voluntarily, it was a bench trial under duress.

[4] THE COURT: Okay.

[5-9] Defendant Faltas: But if you read the transcript, and I have highlighted that part in the two motions, the bench judge, who's no longer on the City of Columbia, said he relied most significantly on Charlene Crouch who was basically — I'm not quoting him here *verbatim* but I am quoting him *verbatim* in the motion.

[Minute 00:35:10 of audio recording] [10] THE COURT: Uh-huh.

[11-16] Defendant Faltas: That she is neutral and reliable. If he knew that she was unreliable and had an interest — this is classical, classical rule 406(c) that evidence that indicates that the witness has a reason to lie is admissible. Right? Has interest. So, her interest was to be able to go to her customer in spite of the trespass that she had.

[17-18] THE COURT: But you raised that in the trial about the trespass.

[19-20] Defendant Faltas: No, I didn't know about it. *I didn't have the police report.* That's the point.

[21] THE COURT: Okay.

[22-23] Defendant Faltas: I got the police report much later. And in fact –

[24-25] THE COURT: Whether or not she was on trespass notice, what would that have to do with –

[Page 22, Line 1] Defendant Faltas: That she lied in order to have Dinah Steele –I'm sorry. I'm so sorry. Those two minutes.

[3] THE COURT: That's all right. Catch your breath.

[4-5] Defendant Faltas: That she lied to help Dinah Steele in order to have Dinah Steele not enforce that trespass.

[6] THE COURT: You assume this.

[7-8] Defendant Faltas: No, I'm not assuming. Charles White told me.

[9] THE COURT: Is Charles White here?

[10-11] Defendant Faltas: He's not here because he wasn't subpoenaed.

[12] THE COURT: Or was subpoenaed and didn't come.

[13] Defendant Faltas: Last time he was subpoenaed —

[14-15] THE COURT: Did he give you a deposition or sworn statement saying that he would testify to that?

[16-18] Defendant Faltas: Well, you can put me on the stand; and I can tell you that he told me that. Now when do you want me to have to take a deposition if you aren't —

[19 to Page 23, line 6] THE COURT: All right, ma'am. Ma'am, I'm not going to get not an argument with you. Okay? Most of these hearings of this type take about five to ten minutes. I'm giving you a little bit longer. All right. I've yet to hear one thing that meets the criteria of the law to reopen the case. It's a hope or, if not, it was after-discovered evidence and understand the caveat. Let me read you that last little part where it says is not merely cumulative of impeaching. This has to do [22-23] with whether or not you assaulted somebody. That was the issue that you were tried on and you said that the person who you assaulted lied and you said this other lady lied also. Now what is the evidence? She said that at the trial. In the Supreme Court case, they said that you alleged that both of those witnesses lied. That was your argument.

[7-8] Defendant Faltas: At that time, I did not have the proof; and the proof was that which came after the trial.

[9] THE COURT: What is that proof?

[10] Defendant Faltas: The proof is what Mr. Truluck gave you.

[12] THE COURT: A court record from 2012?

[13] Defendant Faltas: Yes.

[14-16] THE COURT: And if it was a court record in 2012, you went to court in 2013. Tell me why you could not have discovered it under reasonable effort at that time?

[17-20] Defendant Faltas: Because they did not put it on the public index. They specifically hid it from the public index to this day. They are the City of Columbia; and your court and every court, they are supposed to send every conviction to SLED.

[21-22] THE COURT: But S.L.E.D. and the public index are two different places.

[23-24] Defendant Faltas: Okay. They didn't send it to SLED and they did not put it on the public index.

[25] THE COURT: Okay.

[Page 25, lines 1-2] Defendant Faltas: So, it could not show up on any reasonable search —

[3-6] THE COURT: And if assuming what you said could not have been discovered at that time, tell me why the fact that she did not acknowledge a drunkenness charge would be other than merely impeaching as to — criteria says it has to be more than that.

[7-8] Defendant Faltas: It's not that she did not acknowledge it. It's that she lied —

[9] THE COURT: She lied about it. Okay.

[10-13] Defendant Faltas: Voluntarily lied about it. It wasn't as if she was unbiased. It hid the concomitant trespass notice which went with it which gave her an incentive — Judge, may I just put on the record your facial expression –

[14 to Page 25, Line 1] THE COURT: I'm trying to digest what you are saying and, no, ma'am. You have in the past tried to manipulate the record. I saw the alleged transcript that you sent with the extra comments that you put in about shocked expressions from so and so. So, for you to accuse me — I'm sitting here trying to in my mind to see if there are sufficient grounds to give you a chance for either a continuance if there is some witness that has something — you have yet to tell me something yet — that's not here, I would strongly consider giving a continuance to get them. And if there is some evidence that you have that's after-discovered that's not merely impeaching, I'll be glad to give you a new trial. It doesn't bother me in the least. You seem to want to accuse everybody of having the worst motives, not being [24-25] truthful, not being this. Okay.

[2] Defendant Faltas: Judge, may I show you something just —

[3-5] THE COURT: What I'd like you to do is tell me what the evidence is you purport to have that would support the motions for after-discovered evidence.

[6-7] Defendant Faltas: The evidence is that, previously, in the harassment case which, thank God, I defended myself *pro se* —

[8-11] THE COURT: I don't want to hear any ad libs about what you did. It doesn't matter whether you went to the Supreme Court, whether you represented yourself. Just give me the evidence, okay? I need the evidence.

[12-21] Defendant Faltas: Okay. The evidence is there is a long pattern of Dinah Gail Steele forcing her tenants to lie against me and to get me convicted and the most recent instance of that is Charlene Crouch lying in the April 25, 2013, trial in order to overcome the trespass notice which she earned by virtue of her drunkenness conviction on Steele's property and which I have evidence that she violated later either by the consent of Steele and by White telling me that there was an agreement. First of all, as I told you, I have a written letter from White dating back to August 2009, and it's written and it was actually admitted —

[22-23] THE COURT: I'll give you thirty seconds if you need it. I'm not going to hold you to that. Okay.

[24 to Page 26, line 1] Defendant Faltas: The written letter from Charles White that says that the tenants will testify against me [25-26] to protect their own interest with Dinah Steele who is their landlady or was their landlady.

[Minute 00:44:01 of audio recording] [2] THE COURT: And that was 2009. Correct?

[3-4] Defendant Faltas: But then back in January of 2018, when that motion was going to be heard in circuit court —

[5] THE COURT: Yes, ma'am.

[6-18] Defendant Faltas: Charles White called me at four o'clock in the morning and gave me information and he was trying to negotiate with me, if he gave me that information I wouldn't subpoena him or I would relieve him from the subpoena. I think he had at that time already received the subpoena but he did not show up. And in any event, the Honorable Jocelyn Newman she as you say transferred the motion to the Columbia Municipal Court. I had the hearing in early March 2018 before Municipal Judge Susan Porter; and to her I presented the actual motion that was filed with the Columbia Municipal Court and that the Columbia Municipal Court did not send here. So that motion has all the information I'm telling you. So, Charles White was not subpoenaed this time here because we thought it was only going to be those two motions. He was subpoenaed last time.

[19] THE COURT: And didn't come.

[20-24] Defendant Faltas: He didn't come. And also he was subpoenaed to the circuit court twice. One time he did show up but at that time Judge G. Thomas Cooper recused himself; but then the second time before Judge Jocelyn Newman, he did not show up; but he called me at four o'clock in the morning.

[25] THE COURT: Where does this gentleman live?

[Page 27, line 1] Defendant Faltas: He lives on Byron Road.

[2] THE COURT: Just a second. He was summoned to come to court the same as everybody else. He was summoned to come to court today the same as everybody else. We summonsed all of them.

[5] Defendant Faltas: He's not here.

[6] THE COURT: I understand.

[7] Defendant Faltas: Why is that my fault?

[8] THE COURT: You've yet to tell me — clearly, he's not going to be a voluntary witness to say what you want him to say if he doesn't show up but there's a summons.

[11] Defendant Faltas: Say that again, please.

[12-14] THE COURT: It doesn't appear he's going to be a voluntary witness to say what you are telling me you hope he'll say by his not showing up.

[15] Defendant Faltas: So, how do we solve that?

[16-17] THE COURT: **We don't.** You have the burden of proving to me that you have evidence. Right now you don't have the evidence.

[18-20] Defendant Faltas: Well, sir, I don't have the evidence because I don't have the witnesses and I don't have the witnesses because they didn't show up. So, if I —

[21-22] THE COURT: What other witnesses didn't show up? Ms. Steele is sitting here.

[23] Defendant Faltas: Teresa Ingram.

[24 to Page 28, line 1] THE COURT: And what would she be able to add that was after-discovered that would be likely if the case was reopened [27-28] would result in a different verdict?

[2-3] Defendant Faltas: That she too was paid in the form of free rent by Dinah Steele to testify falsely against me.

[4-7] THE COURT: **And you learned this how?** I'm just trying to make the record, help you out. If you need to catch a breath, I'll be glad to let you catch your breath. If you need more time, if you need a five or ten minute break, I'll be glad to give it to you.

[4-7] Defendant Faltas: I continuously learned about it. Some of it recently. I learned after the harassment trial in which Ingram was a false witness against me.

[11] THE COURT: when was that trial? Is that the 2011?

[12] Defendant Faltas: 2010 in General Sessions.

[13] THE COURT: Okay.

[14-16] Defendant Faltas: Now, I am answering you honestly; but please take note of the completeness. I began to learn about it after the trial; but I continued to learn about it —

[17-18] THE COURT: Did you raise that issue in the 2013 criminal trial **what you already knew about her motivation for not being —**

[19] Defendant Faltas: In fact, —

[20] THE COURT: Yes, ma'am.

[21-25] Defendant Faltas: If you look at note twelve, since you all think that *City of Columbia versus Assa'ad-Faltas* from the state supreme court is like the word of God from Mt. Sinai or something, but it specifically said that I shouldn't have brought that in. In fact, they fault me for trying. If you look at note twelve.

[Page 29, lines 1-12] THE COURT: And I'll read for the record. **"Appellant spent most of this time discussing circumstances surrounding her unrelated harassment charges in circuit court, including details of how she successfully defended herself *pro se* against these charges despite not having received full discovery although the municipal court gently reminded appellant to please stay on the topic of the assault charges. Appellant balked at the suggestion that her testimony might be irrelevant and continued to discuss immaterial matters. Appellant also submitted into evidence transcript excerpts from unrelated court proceedings and described in detail how her involvement in numerous litigation endeavors has disrupted her life."**

[13 to Page 30, line 10] Defendant Faltas: May I just say that, in a motion to open for after-discovered evidence, you are not bound by that because that was based on the limited record without the after-discovered evidence. Second, when they say that time, I was given only five minutes; and I was cut off mid-sentence. So, I didn't; you asked me whether I brought that up in the April 25, 2013, trial. I was very limited to five minutes. When I tried to bring it up I was interrupted, as you see the Supreme Court relates, by the trial bench. And so, Judge, it cannot be a catch 22. **It cannot be that they affirmed on an incomplete record; therefore, I cannot complete the record with after-discovered evidence. I am not saying you really have to throw away any preconception based on the supreme court's affirmance because that was based on an incomplete record.** What [29-30] you really have to test is whether the record as complete with the after-discovered evidence will result in a different result. **And you cannot foreclose me from submitting a record complete with the after-discovered evidence which would have been admitted had it been known at that time by the fact that the conviction was affirmed on an incomplete record.** Do you see what I'm saying? **You are putting me in a catch 22.** You are saying our great infallible state supreme court affirmed the conviction; therefore, there can never be anything that I would hear that would impugn that conviction. And what I'm telling you–

[Minute 00:53:31 of audio recording] [11-12] THE COURT: I've not said that at all. That's not the standard.

[13] Defendant Faltas: No, I know. The standard –

[14-20] THE COURT: **I understand the standard.** Okay? **I don't need your argument about what you think the standard ought to be. I have the standard in front of me.** Okay. What I need from you is give me this evidence, this elusive

evidence, that somebody who was subpoenaed is not here. You've given us Charles White. Part of this information was available to you in 2009 and at the trial, the 2011 trial.

[21] Defendant Faltas: No, no, Your Honor.

[22] THE COURT: Okay. Any other evidence that you have?

[23-24] Defendant Faltas: Yes. Let me make clear. There was evidence given to me in January 2018.

[25] THE COURT: Okay.

[Page 31, lines 1-16] Defendant Faltas: By Charles White by phone at four o'clock in the morning that he pays Charlene Crouch three hundred dollars a month and there was an agreement for her to testify against me in return for Steele not enforcing the trespass notice because Charlene was no longer a tenant there. At one time she was; but she was either forcibly or I don't know what the deal was in 2010. And about Teresa Ingram – and I'm sorry, before I had to get my breath I wanted to finish – not to finish but to make sure that it's in the record that the written letter from Charles White was admitted by your colleague, Beverly Stroman, at that time was Beverly Stroman Boyd, in an eviction trial in September, the end of September and the first day of October 2009. So, that letter is of record in this court. So, the pattern is classical. As I said, rule 406(c) which is a witness's incentive to lie. As far as Teresa Ingram, in that eviction trial she pretended she saw me. I don't know what she said but she pretended to have been an eyewitness to that incident.

[17] THE COURT: Which incident? The alleged assault?

[18] Defendant Faltas: The alleged assault, yes, which is –

[19] THE COURT: And she testified at the trial? [20] (pause)

[21-22] Defendant Faltas: The date of the alleged assault is in September 11, 2009.

[23] THE COURT: Did she testify at the trial in 2013?

[24] Defendant Faltas: No.

[25] THE COURT: Okay.

[Page 32, lines 1-2] Defendant Faltas: And please realize that I had no control whatsoever over my defense.

[3] THE COURT: Okay.

[4-11] Defendant Faltas: And, in fact, they faulted me for wanting to have participation in my defense; and lo and behold, recently in 2018, the U.S. Supreme Court said, No, no. It's not the defense counsel who is in control of the defense, it's the defendant. So, I'm sorry you all love to – sorry, I take that back. I have been told that I'm frivolous when it was ahead of the law and when decisions by the U.S. Supreme Court, not in my case but in other cases, vindicated me. Another one –

[12-15] THE COURT: All right. I don't care about any other case. Stick to the point. I've got five: Ted Lupton, Dinah Steele, Charlene Crouch, Charles White and Teresa Ingram. What else? What's your other evidence?

[16] Defendant Faltas: Teresa Ingram.

[17] THE COURT: And she's not here.

[18] Defendant Faltas: I know but was she summoned?

[19-20] THE COURT: I have no idea. If she was on the list, she was summoned, yes.

[Minute 00:58:14 of audio recording] [21] Defendant Faltas: Okay. So, she's not here.

[22] THE COURT: Okay.

[23-25] Defendant Faltas: So, she would testify if she tells the truth that Dinah Steele has a pattern of bribing witnesses against me. And one of the bribes –

[Page 33, line 1] THE COURT: And you know that how? She told you that?

[2] Defendant Faltas: I'm sorry?

[Minute 00:58:31 of audio recording] [3] THE COURT: She told you that?

[4] Defendant Faltas: I'll tell you who told me.

[5] THE COURT: Mr. White in a letter of 2009.

[6-7] Defendant Faltas: No, he told me that after Teresa Ingram was evicted.

[9-10] THE COURT: Well, what does it matter if she would lie or not lie if she didn't testify at the trial you are trying to get reopened?

[11-14] Defendant Faltas: I'll tell you what does it matter. What it matters is that initially Dinah Steele said she had three witnesses and she listed the three witnesses, in fact, in the case –

[15] THE COURT: And did not call all of them. Is that what you are saying?

[16-17] Defendant Faltas: No, that's not exactly what I'm saying.

[18] THE COURT: Okay. What is it?

[19-21] Defendant Faltas: What I'm saying is that the prosecution did not call Teresa Ingram even though Dinah Steele pretended that she was an eyewitness.

[22-24] THE COURT: That's just exactly what I said. She said she was a witness and then didn't call her and you said, no, that's not what happened.

[25 to page 34, line 5] Defendant Faltas: But could I complete that? The reason [33*34] they did not call her is that she no longer was beholden to Dinah Steele because Dinah Steele had already evicted her and Teresa had gone back to live in Sumter. In addition, that's what I wanted to show you. (pause) This is an annotated transcript of Teresa Ingram's testimony in the harassment trial where she was the false accuser.

[Minute 01:00:53 of audio recording] [6-7] THE COURT: **And the harassment trial has nothing to do with your trial in 2013.** They addressed that in your appellate record.

[8 to page 35, line 5] Defendant Faltas: I am trying to tell you that Teresa Ingram, if she tells the truth would say that, yes, Dinah Steele paid her in the form of free rent to testify against me. And when it didn't work, and this is annotated, it's not just —it's objective three hundred — and I'll tell you exactly how many. It's annotated with the footnotes three hundred seventy-six objective evidence of perjury. So, by 2013, Teresa Ingram, whom Dinah Ms. Steele had listed as an eyewitness and had also put on the stand in the eviction trial to say that she witnessed; it and it was Dinah Steele, the plaintiff *pro se* and she called Teresa Ingram. So, she suborned her perjury right on the stand. But by 2013, Teresa Ingram was no longer beholden to Dinah Steele because Dinah Steele has evicted her in March 2010. So, not only did she not call her, she said, "No, no, no, no. Teresa wasn't one of the three witnesses." So, if Teresa would tell the truth, she would say that Dinah gave her free rent to testify against me, that after she testified falsely against me and they still could not get me convicted, she was evicted. She was of no use to her; and then that is more evidence that Dinah Steele lied. She lied about the identity of [34*35] her witnesses because she knew that the witnesses she had listed when they were beholden to her were no longer beholden to her. And, Judge, actually as I told you, I jokingly call myself the queen of Rule 29(b) because and let me — I mean the fact that the Court of Appeals reversed Judge G. Thomas Cooper based on my oral argument, **my *pro se* oral argument —**

[7-12] THE COURT: Again, **I have no interest in any other case in which you may have been successful.** I'm well aware you have over fifty appearances at the Supreme Court, twenty something the Court of Appeals. You've been to the U.S. Supreme Court. All those has nothing to do with this hearing or the purpose of this. Let me say this. You need to wrap up. Have you got anything additional?

[13] Defendant Faltas: Yes.

[14-17] THE COURT: I'm not interested in anything about Teresa Ingram because you could have discovered that before with reasonable due diligence and she didn't testify at the trial. Anything else?

[18-19] Defendant Faltas: Well, yes, I'm trying to tell you that one of the standards in the after-discovered –

[20-21] THE COURT: Let me deal with the standards. I'm asking you if you have some evidence.

[22] Defendant Faltas: Yes, sir, I do.

[23] THE COURT: What is it?

[24 to page 36, line 1] Defendant Faltas: But that evidence has to do with the new light that the evidence may not fit neatly in light of the five [35*36] items that you said.

[2-3] THE COURT: But I'm bound by what the law is, not what you want it to be.

[4-8] Defendant Faltas: Actually, the law says that if new evidence sheds a new light on the entire situation; and I have a case that says that; and I have argued that case to the Court of Appeals and won. And that was also the new light. **So, I'm telling you that the cumulative —**

[9-11] THE COURT: Okay. I'll consider that when I hear everything. Anything additional other than what you've said and **I'll give you a chance to talk to me about the cumulative.**

[12-16] Defendant Faltas: Yes. There was after discovered, in 2016, that in the house that Dinah Steele owns alone a homicide happened. That homicide was apparently by the same gun and in the sole presence of the same man, Larry Mason, whose second wife died by homicide, gunshot wound to the head –

[17-19] *Ms. Mangum:* Your Honor, I'm sorry, I hate to be rude but I just have to object to this. This is very personal in nature, not at all related to what's going on.

[20] THE COURT: Yes. How is this related to your trial?

[21] Defendant Faltas: I'll tell you how it is.

[22] THE COURT: Very quickly.

[23-25] Defendant Faltas: She said that she collapsed and went to the doctor in 2010, January 2010, and she was taking medication at least until April 2013.

[Page 37, line 1] THE COURT: She being who?

[2] Defendant Faltas: Dinah Steele, my false accuser.

[3] THE COURT: Okay.

[4-6] Defendant Faltas: So, if she did go to a doctor, it may be that she was living with people who had access to guns and who have a history of using them for homicides.

[7] THE COURT: Okay.

[8-9] Defendant Faltas: Not because she was so frightened that I gave her a letter that she had to be treated for four years. So, ...

[10] THE COURT: Go ahead. [11] (pause)

[12-13] THE COURT: Again, I'll offer you. If you need a five-or-ten-minute break, we'll be glad to break.

[14] Defendant Faltas: When I do this, I need ten seconds.

[15-16] THE COURT: That's fine. And just for the record, I've given you the breaks every time that you've asked.

[17] Defendant Faltas: And I thank you for it.

[18-19] THE COURT: Sure, no problem. Common courtesy and I do that.

[20-21] Defendant Faltas: I want to say that I love you. I believe love —

[22-23] THE COURT: If it pertains to this case, you can say it. If it doesn't pertain to this case, wait and say it another time.

[24 to page 38, line 12] Defendant Faltas: Okay. What I want you to be aware of if you please, and I'm putting this as one of my arguments, that [37-38] anything that happened at the trial was new evidence because there was no prior discovery on it. And, in fact, if you read the transcript not only did the judge say that he relies on Charlene Crouch because she's neutral, the Prosecution, the very Prosecution which is the City of Columbia, they intentionally did not submit the conviction to SLED in order to prevent discovery of it, said that she didn't have a dog in that fight and that, she meaning Charlene Crouch, and that she is of sterling character because she came and testified so many years after the fact. What we discovered after that is that she had a dog in that fight; and that it wasn't because she was of sterling character. It was because she is a prostitute who wants to have access to her customer who had once —

[13] THE COURT: *I don't need to hear that* any more.

[14 to page 39, line 4] Defendant Faltas: All right. The other thing is I would say and, you know, as I've said, I've been pioneering several things where I've been vindicated. I would say that the transcript itself, the transcript of the trial is after-discovered evidence for me, for Marie Assa'ad-Faltas, the *pro se* defendant. Because even if stuff was said during the trial, and I was there to hear it, I had no control over impeaching or following up or anything. In fact, something that is so incompetent by Ted Lupton and that's why he needs to be here. It may be, it may be but I'm not sure, but this is something that I need to explore, that he was pressured to throw that case. Once Dinah Steele blurted from the witness stand that she is on medication still, and that was her word, not mine, not anyone's. She volunteered. Any competent [39-40] lawyer would have said, "Judge, I don't think this witness is competent to testify today. We need to know what medication she's on and if it is affecting her mental status." He didn't do that. Why? Why didn't he do it?

[5] THE COURT: Again, this is not your PCR hearing, ma'am.

[6-7] Defendant Faltas: No, I know it's not the PCR hearing; but that's the hearing –

[8-13] THE COURT: I'm going to give you thirty more seconds to quickly summarize any other additional evidence you may have. I don't need any lengthy things about the hearing 2010 to 2012, 2011. I'm interested in the 2013 after-discovered evidence that I have to make a decision based on the standards of the Supreme Court in spite of whether or not you approve of their rulings. I'm bound by them.

[14-16] Defendant Faltas: All you need to make a decision now is whether you are going to allow me to subpoena these witnesses. I haven't presented —

[17] THE COURT: They have been summoned, ma'am.

[18-22] Defendant Faltas: All right. If you'll grant me a continuance so you can enforce your summons. I was not allowed to present any evidence so far because I don't have my witnesses. But if you do want the evidence I can take the witness stand and testify from the witness stand.

[23-24] THE COURT: And your testimony would be what? What they said?

[25] Defendant Faltas: What I discovered after the fact –

[Page 40, lines 1-2] THE COURT: You've been going on for an hour about what you allege you discovered.

[2-4] Defendant Faltas: But that is argument of advocate, it's not testimonial.

[5-14] THE COURT: You know what, ma'am, before – before at these hearings, before we even get to where the need – whether I feel there is a need to take testimony, I glean from the lawyer or the defendant if they are unrepresented what the summation is and then I have to make the decision about whether I need to have any testimony. Okay. If there is nothing on the basis, just on the face of it, that comes close to meeting the criteria, I could not take testimony on a fishing expedition calling up witness after witness in hopes that if they feel the same way about life and things as you do that they'll change and say what you want them to say.

[15-16] Defendant Faltas: That's putting the cart before the horse, Your Honor. And as I told you –

[17-19] THE COURT: And if I'm wrong, if I rule against you after this is over and I'm wrong and you appeal and they overrule me, then, okay, we'll live with that.

[20 to Page 41, line 1] Defendant Faltas: Judge, I want to testify because I need to put evidence on the record that's evidence, not as argument, because you are setting me up not only to not get my after-discovered evidence hearing in a fair way, but also to be easily overruled by an appellate court because I didn't present evidence. And what I'm telling you is evidence comes from the witness stand, [40-41] not from argument of advocate.

[2-4] THE COURT: What is it you would testify to in a summary that would meet the criteria that I've read to you? And I'll be glad to read those five criteria again.

[5-6] Defendant Faltas: Well, I told you I know those criteria than better than Judge G. Thomas Cooper who is a circuit judge and who has misapplied them in my –

[7-8] THE COURT: I missed the point of Judge Cooper having any relevance to this case.

[9-10] Defendant Faltas: I'm telling you I know the factors and it also know –

[11-20] THE COURT: Then if you know the factors, then please share with me. I'm only reading them, okay? Share with me what it is your testimony, if I need it; I need to make a decision whether you can testify to something, that you have something to offer direct evidence other than you think in your heart the same thing as you argued in your trial that these people lied against you. Okay? Merely because you say you think they lied, I need now for after-discovered proof that they lied. What is it that you can testify to directly that could do that? If there is, I'll be glad to put you on the stand and swear you in and let you testify. Can you summarize it?

[21-22] Defendant Faltas: What I was told by Charles White, not what he feels or what I feel, what I was told.

[23] THE COURT: Which is hearsay.

Defendant Faltas: Well, it's hearsay because you didn't enforce the summons.

[Page 42, lines 1-3] THE COURT: Ma'am, we summonsed him. If he doesn't show, it might suggest to you he wasn't going to say what you hoped he would say.

[4] Defendant Faltas: What?

[5-6] THE COURT: It might suggest to you that he wasn't going to testify and say what you would hope that he would say.

[7-11] Defendant Faltas: No, *it actually suggests the opposite.* And this is very new and very unfair assumption. It doesn't say that the court will not enforce a summons or a subpoena just because it thinks that if a witness showed up. I mean this is so unfair. I'm sorry; and if I quote you on that. To the contrary, it shows –

[12] THE COURT: All right. What else could you testify to?

[13-15] Defendant Faltas: That I did not assault that woman, that after I read the transcript, I found more evidence that I could not have discovered that they didn't send it to SLED.

[17-18] THE COURT: What was the evidence that you found?

[17-18] Defendant Faltas: That the woman had been convicted and had a trespass notice since May 2012; but in April 2013 –

[19] THE COURT: She lied about her conviction.

[20] Defendant Faltas: And that she had interest in being –

[21-22] THE COURT: Do you know where in the transcript that she testified?

[23] Defendant Faltas: Absolutely.

[24] THE COURT: Do you have a copy of that?

[25 to Page 43, line 6] Defendant Faltas: No, *you* should. I mean I have a copy in [42-43] my car because I didn't again expect to have the full thing. But if the City of Columbia had returned the entire record to you,

you should have it. Again, I go back to March 2018, when I asked your staff. I asked the two Stephanies to make sure that the City of Columbia returns the full record and they said no, the judge has what he needs. And I said it's not the judge's burden.

[7-11] *Ms. Mangum:* Your Honor, if I might assist on page six of the transcript on the simple assault trial in the City of Columbia Municipal Court, there is a pretrial discussion about several of those charges to include the drunkenness charge. That is on page six, Your Honor.

[12] Defendant Faltas: It wasn't pending,

[13] THE COURT: All right. Hold on a second.

[14-15] Defendant Faltas: In addition, she said she didn't know anything about the sexual battery charge but at that time —

[16-17] THE COURT: Do you have — now I have a transcript of record. Is this the complete transcript of record or is this —

[18-19] *Ms. Mangum:* No, Your Honor. I'm sorry. It's a hundred and thirty plus pages.

[20-21] THE COURT: I don't know if it's here. Do you have a copy of it?

[22] *Ms. Mangum:* I do.

[23] THE COURT: Let me see it.

[24] Defendant Faltas: Could I see?

[25 to Page 44, line 1] THE COURT: Sure. Absolutely. I want you to make sure [43-44] that that's the transcript. I don't want ....

[2-3] Defendant Faltas: But I want again to put on the record that I object to the fact that the City did not return the whole thing.

[4] *Ms. Mangum:* The whole record is available online.

[5-6] Defendant Faltas: It's not. The City's record is not available, the actual —

[7-8] THE COURT: Look at page six, please, ma'am. (pause) Have you reached page six? [9] (pause)

[10] Defendant Faltas: Now I have page six.

[11] THE COURT: Do you have page six?

[12-13] Defendant Faltas: I have page six now; and may I say something?

[14] THE COURT: Sure. Yes.

[15] Defendant Faltas: I will read it.

[16-17] THE COURT: No. I want to see it. You don't need to read it to me, I can read.

[18] *Ms. Mangum:* Your Honor, may I approach?

[19] THE COURT: Sure.

[20] *Ms. Mangum:* It does continue on to page seven. [21] (pause)

[22 to page 45, line 2] THE COURT: So, there was a decision made at that time that she would be allowed to be impeached based on a conviction for one charge but then there was another charge that she wasn't allowed, then there was discussion of this after-discovered. That pending case [44-45] that apparently was decided and they said it wasn't decided but apparently had been. Is that —

[3-4] *Ms. Mangum:* Your Honor, I was not the prosecutor in this case. Today is the first time that I've had anything to indicate a prior conviction —

[5-7] THE COURT: Let me just put on the record. Even if she — in the discussion about the ability to impeach people on prior convictions, a drunkenness charge is not an impeachable offense.

[6] Defendant Faltas: Judge, it's not the charge itself. It's the fact of the trespass —

[10-11] THE COURT: She would not have been allowed to ask her about that charge if it was not an impeachable offense. Okay?

[12-14] Defendant Faltas: No, sir, I would have been allowed to ask about the trespass under Rule 406(c) which is the witness's motive to not tell the truth.

[15] *Ms. Mangum:* Your Honor, if you look at the transcript —

[16] Defendant Faltas: But the reason, the reason —

[17] THE COURT: Stop. You interrupted counsel. Yes, ma'am.

[18-20] *Ms. Mangum:* If you look at the transcript continuing on page seven, I believe there's some discussion about the fact that she would not be able to use that to talk about as far as motive.

[21] THE COURT: I saw that. Go ahead, Ms. Faltas, Dr. Faltas.

[22-25] Defendant Faltas: It's a *U.S. vs. Giglio* issue in that the City of Columbia had that conviction of Charlene Crouch and did not send it to SLED where it would not show on her rap sheet and did not put it on the —

[Page 46, line 1-2] THE COURT: Do you have evidence of that or do you suspect that because it wasn't there?

[3-6] Defendant Faltas: Oh, no, no, no. Let's get back to the transcript because in the transcript it said that they go by what SLED has. And SLED is not like God up in the sky. They only get the convictions from the courts.

[7] THE COURT: I agree with that.
[8-9] Defendant Faltas: So long as the court doesn't send the conviction —
[10-11] THE COURT: Or if they sent it and SLED hasn't gotten around to having the personnel to put it on a timely basis.
[12] Defendant Faltas: No, no, no, no, no. That wasn't -
[13-14] THE COURT: I'm just trying to help you out there. I'm sorry.
[15-21] Defendant Faltas: No, no, not helping me out because my theory is that the city knew of Charlene Crouch from before that and I'll tell you why and that's why I want to testify because back when they brought the first harassment charges against me Charlene Crouch was one of the witnesses against me and one of the people they tried to develop. And I have evidence and I can introduce that evidence through my testimony.
[22] THE COURT: What is that evidence?
[23 to Page 47, line 3] Defendant Faltas: It's that at that time Turner, Dana Davis Turner, who was the chief judge of the Columbia's Municipal Court, she pulled Charlene Crouch's conviction record, including [46*47] drugs and other things which - and grand larceny. And they did not provide it to me in the discovery of this case even before Lupton got involved.
[4-5] THE COURT: Do you have proof that there was convictions of the drugs?
[6] Defendant Faltas: Absolutely
[7] THE COURT: Now? Do you have written proof?
[8] Defendant Faltas: Absolutely.
[9] THE COURT: Let me see it.
[10] Defendant Faltas: And I also have conviction —
[11-12] THE COURT: Let me see that. Take a deep breath. We'll wait ten seconds or more if you need it.
[13-15] Defendant Faltas: What's more important is the conviction of the grand larceny. But what I'm telling you is that the evidence would give a reasonable inference —
[16] THE COURT: I understand. Please find a written statement.
[17-18] Defendant Faltas: I'm sorry. Let me put the standard on the record as far as I am (inaudible) it so I'm protected on appeal.
[19-20] THE COURT: Dr. Faltas, I'm going to give you a chance to find and show me some written things, okay? [21] (pause)
[22 to page 48, line 2] *Ms. Mangum:* Your Honor, would you consider taking a slight side step to address. Teresa Knox is present for the city. She is the city attorney. She was subpoenaed to be here today. I don't believe Dr. Faltas has given the court any indication about Ms. Knox's [47*48] presence being required for this motion. I wondered if the court would consider allowing her to leave.
[3-16] Defendant Faltas: She is the custodian of the records and I'm about to tell you that this incident was alleged on September 11,2009. Okay. Thad an appearance in court on November17, 2009, when I was allowed to represent myself before all that pro se nonsense happened. So on the record, and there is a transcript which should be in the City of Columbia to return the whole thing to you. The transcript of November 17, 2009, when they gave me the discovery but that discovery did not include Charlene Crouch's criminal record. So, there is enough to at least to a prima facie case that the City of Columbia who is the prosecutor in this case or in the conviction that happened was actively hiding Charlene Crouch's criminal convictions for at least those criminal convictions over which the city had control. There were other criminal convictions over which the city did not have control.
[17-18] THE COURT: These would have been impeachable convictions?
[19] Defendant Faltas: Yes.
[20] THE COURT: What would they be?
[21] Defendant Faltas: The grand larceny and again —
[22-24] THE COURT: That was on the record. I read that. They allowed you all to cover that with her on the stand. That was on the record back then. That is an impeachable offense.
[25 to Page 49, line 1] Defendant Faltas: Sir, again the issue is not the drunk- [48*49] -enness conviction itself.
[2] THE COURT: I'm not talking about the drunkenness.
[3-4] Defendant Faltas: You asked me if there were convictions of Charlene Crouch and I'm about to give you, because —
[5-7] THE COURT: All right. Stop talking and look. Okay? While she's looking is the duties of the city attorney in City of Columbia to be the custodian of records?
[8] *Ms. Mangum:* No, Your Honor.
[9-10] THE COURT: Okay. I don't want to interrupt her looking so I'm not going to address that [11] (pause)
[12] THE COURT: Yes, ma'am.
[13-15] Defendant Faltas: I did not enter it into evidence but if the court wants to copy those pages. This is a booklet that was (inaudible) in general sessions circuit court and —
[16-18] THE COURT: I'll be glad to look at it and I can make a decision about whether I can consider it. Unlike a jury I can look at stuff —

[19] Defendant Faltas: Right. Correct.

[20-21] THE COURT: That couldn't affect my decision one way but if it's not admissible I couldn't regard it. I'll be glad to look at it.

[22 to Page 50, line 2] Defendant Faltas: But that is what I knew on March 9th 2010. Of course, now I know more and what I'm trying to tell you before I forget is that Charlene Crouch had another General Sessions trial and conviction for sexual battery of a vulnerable adult. Her [49-50] priors did not include the drunkenness conviction because the city had not sent it to SLED.

[3] THE COURT: You've made that at least four times already.

[4-7] Defendant Faltas: And that raises the inference of prosecutorial misconduct after discovered which was to hide those convictions so as to give Charlene a better chance of not getting a heavy sentence on her other convictions.

[8-9] THE COURT: All right. This is an incident report? Is that correct? What you have provided me was an incident report?

[10] Defendant Faltas: there are several incident reports.

[11] THE COURT: Okay. Which are normally not admissible.

[12] Defendant Faltas: Well, that is the SLED –

[13-15] THE COURT: Let me see the SLED if there's a SLED, that's all I need to look at is the SLED because the rest of it doesn't matter. Let me hold it, sir. Let me look at the SLED.

[16] Defendant Faltas: Just turn the pages. [17] (pause)

[18-22] THE COURT: I see an arrest from 1989 for contributing to the delinquency of a minor. No conviction. Leaving the scene of an accident, conviction 1991. That is not admissible as an impeaching... Disorderly conduct conviction. That is not admissible to impeach somebody.

[23 to Page 51, line 5] Defendant Faltas: Your Honor, we are not talking – I'm sorry I keep repeating myself but the other thing I wanted to make you aware is that they admitted there was no physical injury and [50-51] there was no offer of physical danger but they claim there was emotional injury. And I would want to testify as a medical doctor that it's not possible for a reasonable physician to prescribe medication for three and a half years for someone pretending to have emotional –

[6-7] THE COURT: There is no evidence that anybody was prescribed anything.

[8-9] Defendant Faltas: Oh, yes. Yes. The transcript. Let's get back the transcript please. Oh, yes.

[10] THE COURT: What medicine are we talking about?

[11-12] Defendant Faltas: We don't know because that was – and that was one of the things –

[13-15] THE COURT: All right. This goes back to catch 22. You either know it or you don't know it. If it's in the transcript, was there something about somebody being on medicine for three years?

[16] Defendant Faltas: Absolutely. I show you.

[17] THE COURT: And do you know what the medicine was?

[18-23] Defendant Faltas: I said I don't because I wasn't allowed to control the defense and the incompetent Lupton did not ask. And I also have judge lee's order that says that this is an issue of competence of counsel. And that's why I needed Lupton to be here so we can ask him why he wouldn't ask such a basic question. May I introduce this, judge?

[24-25] THE COURT: I'll be glad to look at it. I don't know whether I can consider it. Yes.

[Page 52, line 1] Defendant Faltas: Do I need to show it to her?

[2-3] THE COURT: It would help. Now, counsel, what's this lady's name who is the city attorney?

[4] *Ms. Mangum:* Your Honor, this is Teresa Knox.

[5-7] THE COURT: Okay. Are you going to call Teresa Knox? Tell me what she would say that would be in support of your motion. If not, I'm going to let her go back to work.

[8-9] Defendant Faltas: Judge, if somebody can produce the transcript of –

[10-11] THE COURT: She's not the keeper of records. I asked and they said she is not.

[12-13] Defendant Faltas: All right. Then she advised the City of Columbia –

[14-15] THE COURT: I don't know. I don't know what her job description is with the City.

[16] Defendant Faltas: well, can we ask her?

[17-18] THE COURT: That has nothing to do with this case. You are trying –

[19-23] Defendant Faltas: Yes, it does because I want the transcript of November 17, 2009, when I was given discovery that did not include the knowledge of Charlene Crouch's criminality. When later I saw a document where Dana Davis Turner pulled Charlene Crouch's criminal record and hid it from me.

[24] THE COURT: And this lady can testify to that?

[25 to Page 53, line 2] Defendant Faltas: I don't know what she can testify to [52-53] But she's a reasonable person to ask. She's a reasonable person to ask —

[3] THE COURT: Come around. I'm going to swear you in, ma'am.

[4-5] *Ms. Mangum:* And, Your Honor, just for your edification, Ms. Knox was not the city attorney when any of this took place.

[6-8] THE COURT: Okay. In that case we don't need to call her. If she wasn't the city attorney then, how would she know what somebody did at that time?

[9] Defendant Faltas: I just need to ask three questions.

[10] THE COURT: What are those three questions?

[11-12] Defendant Faltas: If she was the city attorney in 2018 when the city returned the record to you.

[13] THE COURT: Okay.

[14-16] Defendant Faltas: If she had authority to advise the Columbia Municipal Court to send the complete record and if she was consulted about whether the City may withhold parts of the record.

[17] THE COURT: Come around. [18-19] Teresa Knox, after being duly sworn by the court, testifies as follow:

[20-24] THE COURT: Would you state your full name, please have a seat and answer those three questions that — (inaudible) expand and allow you to ask additional questions but I'm not going to go too much on a fishing expedition. What is it in thing I'm supposed to be supporting what you are saying, Dr. Faltas?

[25 to Page 54, line 2] Defendant Faltas: That you have to read everything [53-54] after the trial and after discovered to me because Judge Lee — Judge, I'm sorry, you are distracting me. Now I have to focus on this witness.

[3-4] THE COURT: Okay. Ask your questions. I'll ask you to state your name?

[5] A. My name is Teresa Knox.

[6-7] Q. (by Defendant Faltas) If you remember the question. Were you the City of Columbia attorney in 2018?

[8] A. 2018?

[9] Q. Yes.

[10] A. Yes.

[11] Q. Your answer is yes?

[12] A. Yes.

[13-14] Q. Do you get consulted by the Columbia Municipal Court about various matters?

[15] A. No. The judges are separate and apart from our office.

[16-18] Q. Is your office I'm sorry. I'm going to another question. Is your office as the city attorney the prosecutor in Columbia's Municipal Court?

[19] A. The prosecutors are part of the city attorney's office.

[20] Q. Are you the supervisor of those prosecutors?

[21] A. I'm the supervisor of every attorney in that office.

[22] Q. In (inaudible).

[23] A. In the city attorney's office.

[24] Q. And that includes the prosecutors in municipal court?

[25] A. Yes.

[Page 55, line 1] Q. Yes?

[2-4] A. Yes. They are city attorneys. We have prosecutors that are not — maybe not within our office sometimes but if they are city attorneys, yes.

[5-6] Q. Okay. Who is supposed to give the criminal defendant in municipal court discovery if the case is prosecuted by an employee?

[7-8] *Ms. Mangum:* Your Honor, I object. This goes outside of the three questions scope.

[9-10] THE COURT: Say the question again. I might allow it. I said I might allow her to expand it.

[11-12] Q. (by Defendant Faltas) I was asking who is responsible for giving a criminal defendant discovery.

[13] THE COURT: I think that's a fair question.

[14] A. It depends on the discovery request.

[15-19] Q. (by Defendant Faltas) If somebody is a criminal defendant in Columbia Municipal Court and the case is prosecuted — let me digress for a second. Do you have of your own knowledge do you know that David Fernandez was at one time an assistant City of Columbia attorney?

[20] A. No, that would have been before my time.

[21] Q. Okay. But do you have no knowledge of that fact?

[22] A. I know his name. I do not know him or he did not work for me.

[23-25] Q. What happens when an assistant city attorney leaves and another is part of the Columbia Municipal Court prosecution? Does a new lawyer take over?

[Page 56, line 1] A. Sure.

[2] Q. And becomes the custodian of the records of that case?
[3-4] A. They would be the custodians of our records of the case, not the court records of the case.
[5-7] Q. Do your records include transcripts that were prepared by the Columbia Municipal Court for a case that was prosecuted by your office in Columbia Municipal Court?
[8] A. they could.
[9-11] Q. And in those cases would your office be also responsible for giving the defendant discovery if asked for under *Brady* and under Rule 5 and/or under Rule5?
[12-13] A. Our office would be responsible for handing over any discovery that the defendant was entitled to.
[14] Q. Do you have of your own knowledge –
[15-18] THE COURT: I have it on a timer. **I'm going to give you a couple more questions because you are going into an area– she's already said she's not the custodian of the record and she wasn't in that capacity at the time that you are alleging.**
[19-22] Q. (by Defendant Faltas) Do you know or do you have subordinates who can find out if you had the transcript for November 17th 2009, as it relates to this case, *City of Columbia versus Marie Assa'ad-Faltas*, on a courtesy summons for simple assault?
[23-25] A. I have no direct knowledge of any evidence in your file. Now we've got the chief prosecutor here. She would be your best person to answer any questions about the evidence in your file.
[Page 57, line 1] Q. And she has custody over those files?
[2] A. She would have custody of her file. Not the court's file.
[3] Q. I understand, but she would –
[4-8] THE COURT: **I'm failing to see the relevance here. I'll give you two more questions unless you get something that might have some ... I don't want any legal argument about it. I'll give you a couple more questions. I don't see any relevance where you are going here.**
[9] Defendant Faltas: Judge, (inaudible)
[10-11] THE COURT: I said I don't want any more argument. I need a couple more questions.
[12] Defendant Faltas: I don't have more questions.
[13-14] THE COURT: All right. You may step down and you may be released to go back to your job. [15] (witness to the side)
[16] THE COURT: **Okay. Anything else, Dr. Faltas?**
[17-18] Defendant Faltas: A lot of other things but I mean not from her.
[19–25] THE COURT: What is your other things? I want to see the relevance before I allow just – because, quite frankly, I don't see the purpose of this lady being harassed and asked about something after she answered the question that she was not the custodian. I'm not going to allow you to go on a fishing expedition. If there is something that pertains to this case and if you can show me some evidence that –
[Page 58, lines 1-2] Defendant Faltas: I object to your saying that I harassed. I asked her questions and when she said –
[3-4] THE COURT: That's fine. I'll note your objection. Now, move on. What other evidence do you have?
[5-7] Defendant Faltas: I was in the middle of trying to get the transcript to show you that the woman said that she was still on medication.
[8-9] THE COURT: Do you have the transcript? Do you know what page it's on?
[10] Defendant Faltas: Not off the top of my head. (inaudible)
[11-12] THE COURT: Okay. What else after that because I want to get to the point where we are done or you can point out stuff.
[13-14] Defendant Faltas: I'm sorry. You want to get to the point what?
[15-20] THE COURT: Where you are done or you can point out stuff that needs to be addressed. Okay? If you would, when you get a chance, tell me whether or not she was on medicine that caused her to lie. You are trying to impeach her. You said she lied. In your thing you said you had two people, you had evidence that people committed perjury. What's the medicine?
[21-25] Defendant Faltas: I'm not saying that her blurting out that she's on medication caused her to lie. I'm saying that this is objectively verifiable that she is a lie and said she was on medication when she wasn't or she was on medication that affected her competence to testify.
[Page 59, line 1] THE COURT: **Which was it then?**
[2] Defendant Faltas: I don't know because –
[3-5] THE COURT: **And that's my point. You want to do a fishing expedition to see if one thing or the other but you don't know the answer to either one.**
[6] Defendant Faltas: That's why people take evidence.
[7-10] THE COURT: No. No, no. Not for the motion for a new trial, ma'am, okay? **Now if you have something that seems to be germane I will allow you to testify or call a witness. If not, I'm getting ready to rule.**

[11] Defendant Faltas: Could I find –

[12-19] THE COURT: I'll give you five minutes. We'll take a break and you get five minutes, you can use your counsel, anybody else you want. Okay? Now you just answered a question that I suspected all along that you didn't know whether or not she was on medicine and therefore was incompetent or she lied and said she wasn't. You don't know. You want to call people in hopes that you can prove stuff. But the grounds you have the burden of proving and I have no evidence yet —

[20] Defendant Faltas: But these two possibilities –

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

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

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

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

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

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

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

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

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

[2-5] *Ms. Mangum:* Your Honor, if you will, would you allow us to put a couple of things on the record I would appreciate that. (inaudible) I just want to be sure the record is clear in terms of the City's position.

[6-8] THE COURT: I want her to be able to pay attention to what you are putting on the record so I'm not going to let you say that now while she's looking through. That would not be fair to her.

[9 to Page 62, line 2] Defendant Faltas: Page twenty-nine. It starts page twenty-eight at the bottom. *"So, you didn't have"* – that's Mr. Lupton asking Steele, page twenty-eight, line twenty-four. *"So, you didn't have a nervous breakdown by this event?"* Line twenty-five, Steele answering, *"I would say it was partly, yeah, I would say yes." "You had it because of this?"* That's Lupton asking on line one, page twenty-nine. Yes. Line two Steele answered, *"Yes. I was assaulted my man." "And you talk about you are still on medication from it?"* Steele, yes. I'm sorry. So what she blurted out would be (inaudible). I'm sorry. Page twenty-eight, line six, Mr. Lupton asking Steele, *"So, what you said was she came over here and harassed me and pushed me."* Line eight, Steele answers, here. Line nine, Lupton, *"And in that recording you didn't say anything about being injured or hurt, correct?"* Lines eleven through thirteen, Steele answers, *"No, I wasn't. 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."* Question, *"You are not saying that that nervous breakdown was solely related, was caused [61-62] by this, are you?"* Line sixteen, *"I would say collectively because that was the last straw."* And I'm sorry I think she said it before that.

[3-5] THE COURT: I've got a question. Was the charge this time simple assault under the old statute or was it just assault and battery, third.

[6] Defendant Faltas: City. City ordinance.

[7-8] *Ms. Mangum:* Yes, Your Honor, it was a city ordinance simple assault.

[9] THE COURT: Simple assault. Okay.

[10-20] Defendant Faltas: Page twenty, line twenty-five. Mr. Lupton was asking Steele, *"And did you have any marks or anything as a result of the"* – and on page twenty-five at the top – I'm sorry, lines one to two. She

interposes, *"No, I did not. Mentally because like I said I ended up having a nervous breakdown over this. I'm still on medication today."* And line three says "inaudible." Lines four to seven, *"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?'"* And line eight I say, Yes. And line nine the court says, *"Please do not do that."* So, on page twenty-one – would you like to see it?

[21] THE COURT: I've heard it.

[22 to Page 63, line 14] Defendant Faltas: So, she volunteers, she volunteers. She interposes the question for Lupton. She volunteers that she's still on medication. He doesn't ask her what medication. And then she keeps on referring to the nervous breakdown several times after [62-63] that. And what I'm saying, and I want to be clear that what I'm saying. This is not a fishing expedition. This is only two plausible possibilities. You know either the light was red or green or yellow. It can't be violet or it can't be both at the same time. And we get witnesses to say whether the light was yellow or red. So the two possibilities are that she was not on medication and she lied or she was on medication and that medication affected her competence to testify, or which is not mutually exclusive she was on medication because she was living with people with guns and homicidal tendencies and that nervous breakdown if it was true was more likely the result of living with homicidal people than my having injured her (inaudible) which was in response to a piece of paper that she had sent to me herself (inaudible). So, it's not a fishing expedition and I'm very politely saying –

[15-16] THE COURT: **I'll note for the record you are being very polite now, yes. You may continue.**

[17-20] Defendant Faltas: In *Riddle vs. Ozmint* the state supreme court said either the prosecution had taken the witness to the location or it hadn't. They said the only two plausible possibilities. If it had (inaudible).

[21] THE COURT: Do you have that transcript?

[23] Defendant Faltas: Oh, yes, sir.

[23] THE COURT: If you will pass it over to her.

[24] Defendant Faltas: You don't want to look at it?

[25] THE COURT: You read it.

[Page 64, line 1-2] Defendant Faltas: I don't know how many times she said that she had a nervous breakdown.

[3] THE COURT: I understand.

[4-9] Defendant Faltas: Therefore, I think she is here and I need to ask her about which is it, whether she was on medication, what that medication was and who the doctor who prescribed it is or if she wasn't why did she lie. I think that is very air and I don't think the court loses much by my asking that question and I think frankly it would be a lot of judicial economy to do that.

[10-11] THE COURT: Call whatever witness that's here, the use of the summons.

[12] Defendant Faltas: May I call Dinah Steele?

[13] THE COURT: Yes, ma'am.

[14-18] *Ms. Mangum:* Your Honor, just for the record this over the City's objection. I think it's completely improper for the defendant *pro se* to ask these kind of questions to the victim in this case, Your Honor, without at least a finding by the court that this is necessary to determine the matters that are before you.

[19 to Page 65, line 7] THE COURT: All right. Dr. Faltas, she's raised an objection and I'm not going to *sua sponte* deny you the right to call somebody but she's raised an objection now and she's saying that it's not proper for you to call the victim. Victims have rights in this state as you well know under the law. Are you aware of a medicine that would – I mean let me get back to the point. Tell me what – and I do not agree with your theory, okay? It would not be after discovered because [64-65] you were at your trial. You were conducting part of the cross examination so it's not something you would have discovered. You were there. You were there at the trial so you knew it at that time. Any issues that could have been raised either were raised or it's too late. Now I also read quickly the order from the appeal to the circuit court in which the judge there covered the same things that you are raising now. This is not after-discovered evidence. Okay?

[8] Defendant Faltas: Could I respond to the objection?

[9] THE COURT: **Yes, absolutely. You have a right to do that.**

[10-11] Defendant Faltas: **Okay. Rule 29(b) of the South Carolina rules of criminal procedure is part of the criminal adjudication process.**

[12] THE COURT: Yes.

[13-15] Defendant Faltas: All criminal process is subject to the 6th Amendment to the United States Constitution. And it guarantees that I confront one's accuser.

[16-18] THE COURT: And you confronted her at the trial. This is a motion hearing, okay? This is a motion hearing. And I have to make a determination whether it's relevant.

[19-20] Defendant Faltas: Could I finish my response to the objection?

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

[22 to Page 65, line 9] Defendant Faltas: So, I (inaudible) if you are saying and I'm not sure you are saying it or not saying it that rule29(b) is cut out from the rules of criminal procedure and not subject to the 6th amendment of the united states. But the 6th amendment includes the [65] right to confront one's accuser, the right to compulsory process and also the right to a speedy trial. This matter has been going on for nine years now, going on the tenth now. But she volunteered to testify. She volunteered that she was still on medication. She is here and I am asking that I examine her. You, of course, can control the questions subject to abuse of discretion. You can control the questions but when it's something that she volunteered emphatically. Several times she said she had the nervous breakdown.

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

[13] Defendant Faltas: Yes.

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

[15] Defendant Faltas: That evidence was the ...

[16-17] THE COURT: I'm granting you ten seconds, twenty or thirty, however long you need or minutes if you need it.

[18-21] Defendant Faltas: The evidence was the piece of paper that she filled out in December of 2009 and that's also in the transcript. I'm sorry. That transcript is going to be coming back and forth but I am entitled to give you the full answer.

[22] THE COURT: Sure.

[23] Defendant Faltas: So, could I have the transcript again?

[24-25] THE COURT: And what does it say in 2009? She filled out something?

[Page 67, lines 1-3] Defendant Faltas: that she filled out a paper saying that she does not have a nervous breakdown and that she does not need a doctor. Could I have the transcript?

[4-14] *Ms. Mangum:* Your Honor, if I may, I believe Dr. Faltas—she references this in the transcript which I think supports the finding that this is not after discovered but she does reference a 2009 document. The testimony from the victim in this case which is in the transcript is that after this event she went to the doctor because of some medical problems. So, whether or not in 2009 she filled out a document it's not relevant, Your Honor, to the testimony that she provided to the court at this trial. Additionally, Your Honor, the fact that it's in the transcript that Dr. Faltas is looking for it today supports the finding that it's not in fact after-discovered evidence. She knew about that document prior to the trial.

[15-16] Defendant Faltas: I am sorry, Your Honor. I was answering your question whether I have evidence –

[17-18] THE COURT: You may look. You may look. Continue to look. I'll be glad to see it.

[19-20] Defendant Faltas: But she's not and I'm telling you that there are only two plausible –

[21] THE COURT: You've told me the plausible thing. Look.

[22-23] Defendant Faltas: And that plausible either or is under *Riddle vs. Osmint* (inaudible)

[24-25] *Ms. Mangum:* I believe the discussion starts on page seventy-five of the transcript.

[Pages 68 to 70] Defendant Faltas: It actually is on page seventy-four, line nine, Mr. Fernandez says objection. Lines ten to twelve, the court says I let you – *"I tell you what we are going to do. Mr. Lupton has finished his questions. Dr. Faltas, I am going to give you five minutes if there is anything else you want to tell me."* And my answer, and remember I was under affirmation, *"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 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 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 some difficulties. And Judge James, and there is a transcript, and Judge James said with whom. She said –Heather Weiss said she just has stress."* Then on lines twenty-four to twenty-five on page seventy-four Mr. Fernandez, *"I just have objection to this evidence*

and hearsay." The court it's a standing -- page seventy-five, line twenty-two, the court, in standing objection. I understand both relevance and hearsay. All right, fine. Then I continue testifying lines ten to eleven. *"All right, fine. But she said she had stress from me from December 2nd to January 10th when she claimed she saw a doctor. I wasn't even there. I was under a bond not to go to my apartment. 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 the* [68-69] *record, public record self-authenticating. She made the motion that the case against the defendant Teresa Ingram would go forward. I defended myself* pro se. *The jury deadlocked and after that both cases were dismissed."* But I ... Lines twelve to fifteen, *"Let me stop you one second, Dr. Faltas. I'm going to let you have your last three minutes; but I would 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."* And line sixteen I say, *"It's relevant to the lies, Your Honor."* Line seventeen to nineteen the court says, *"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."* Page seventy-five, line twenty, I was testifying; and I responded to what she falsely said. *"So, I wasn't given for 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 sheet"* and they have an inaudible and going to page seventy-six *"And signed by Dinah Steele sometime in December 2009, after I was arrested. There is a question. Do you have psychological effect? She said 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 medication until today. I would like to read in November 2009, that she tried to get a temporary restraining order against me so I don't drive my own car in my parking lot. And I want to read it. And at that* [69-70] *time she was pretending to be called Ms. Mason and, of course, she's not."* And that Mr. Fernandez, lines ten to eleven, says, *"Your Honor, I just point out that this is after this occurrence."* So, what I'm saying is I with my own eyes saw a sheet that Dinah Steele filled out in December 2009, when she denied having psychological effects. She denied going to the doctor and she denied -- I think she denied needing a doctor as well. If we had that sheet with us which is really in the banker's boxes with the city attorney. So, that was in answer to your question whether I have evidence that she did not go to a doctor and my answer is yes, I have evidence. That piece of paper that she signed and that is in the possession of the Prosecution. So, I think at a minimum I'm entitled to call her to the stand and ask her if she did sign that document in December 2009, whether it was true what happened if she did actually change that. I think I'm entitled to that. And, judge, remember that courts are first and foremost temples of truth. If there is a possibility that someone lied to the court, the court itself more than I should be racing to get to the bottom of what the truth is so as to vindicate the public interest (inaudible).

[19] THE COURT: Counsel.

[20 to Page 71, line 10] *Ms. Mangum:* Your Honor, unless I am missing something the testimony that was just read to the court is clear evidence that Dr. Faltas knew of the existence of some piece of paper before the trial. If she had questions or concerns; she certainly had an ability to investigate. What's before you today is a motion for after-discovered evidence and there's just simply nothing here. There is not [70-71] even a cursory meaning of that, Your Honor, in terms of the after-discovered evidence that Dinah Steele somehow I suppose perjured herself is what Dr. Faltas is attempting to say although, Your Honor, I will point out that what it sounds to me is that really it's a credibility of the witnesses argument. The victim was on the stand in front of the judge testifying at a certain point she had a medical breakdown. The court heard that testimony and it was up to the court to determine the credibility of the witnesses. Again, that's a trial finding. That does not reach any of the issues before the court today in terms of after-discovered evidence.

[11-12] THE COURT: Dr. Faltas, I'll give you a chance to respond to her.

[13 to Page 72, line 18] Defendant Faltas: Thank you, Your Honor. And I'm sorry I have to go back to the case I won in the court of appeals because that was precisely and I transcribed my oral argument and they said anything that was given for the first time at trial is not going against the defendant. Unfortunately, the case is not published but it was -- I had then, now-retired Judge Ralph King Anderson, Jr., the Court of Appeals Judge Huff and now Justice Beatty. And I prevailed unanimously. And they said how was she supposed to do the investigate – and that case was also the City of Columbia providing what turned out to be a fabricated polaroid. And I think at least now-justice Beatty and now-retired judge Anderson said how was she going to investigate anything if she learned about it the first time

during the trial. So, I went to the trial not knowing that she was [71-72] going to claim mental injury. In fact, even Mr. Lupton because he served a Rule 5 and *Brady* saying give us the physical and mental examinations and they didn't give him anything. So, we went to the trial not knowing that they were going to say mental injury. Then that thing about medication and being still on it to that day, she just blurted it out and I couldn't help myself I guess so I think that I'm entitled to put her on the stand and just again you control the questioning.

[19-17] *Ms. Mangum:* Your Honor, just to be clear the t of Ms. Steele –I was trying to find the page number for the court – the testimony of Ms. Steele in terms of this simple assault charge is that Dr. Faltas physically touched her, put her hands on her. So, I think it's a misrepresentation to this court that Dr. Faltas's conviction for simple assault is based on some sort of mental assault that the victim went through. The testimony is clear. The record is clear. The assault and the subsequent conviction are based on a physical altercation between the victim and Dr. Faltas.

[18-22] Defendant Faltas: Actually, no, Your Honor. First of all, **the definition of assault is offer to cause physical injury with present means to do so.** But even without that and I'm sorry that transcript is going to travel back and forth.

[22-23] THE COURT: **It will travel back as many times we need it to find out what I need to make a decision on this. I'll tell you that.**

[24-25] Defendant Faltas: The prosecution itself said that injury here is limited to the mental.

[Page 73, line 1] THE COURT: **Is limited to what?**

[2] Defendant Faltas: Mental.

[3-4] THE COURT: Do you have a copy of the city ordinance? Is one available?

[24-25] *Ms. Mangum:* I don't have one, Your Honor. I can probably pull it up on my cell phone if you'd like.

[7] THE COURT: that would be nice.

[24-25] Defendant Faltas: That would be a time for us to take a break and if I can find a cup of water somewhere?

[10] THE COURT: You need a ten-minute break, Dr. Faltas?

[11-12] Defendant Faltas: I need a cup of water with or without a break.

[13-22] THE COURT: Okay. Can you guys help her get some water. We've got bottled water. We'll bring it to you. We'll take a ten-minute break. You can get that information. Let me say this, okay? **You got my attention. I want to know more about this; however, I want to see that statute because if it was – if it's contingent upon her suffering mental distress as part of the statute for the conviction then I'm going to let her testify.** If it's not, then it's not relevant and it certainly wasn't after-discovered. Okay? You can argue when we come back. We'll take a break. I just wanted to let you both know I'm thinking both ways.

[23] Defendant Faltas: I still love you. And (inaudible)

[24] THE COURT: I appreciate that. My mama loves me, too.

[25] Defendant Faltas: Pardon?

[Page 74, lines 1-2] THE COURT: my mother loves me, too. And she's dead but she still loves me.

[3] Defendant Faltas: Oh, don't wish that on me, Judge.

[4] THE COURT: No, 'm not wishing that on you. I'm not... [5] (recess) [6] (case resumes)

[7-9] THE COURT: **Where were we? I was going to make a decision – I think you all were looking for a copy of the city ordinance.** Is that right, counsellor?

[10-11] *Ms. Mangum:* Yes, Your Honor. I'm sorry I cannot get service for some reason.

[12] THE COURT: **Let me read it to you.**

[13] *Ms. Mangum:* Thank you, Judge.

[14 to Page 75, line 11] THE COURT: City ordinance 14-31 reads it shall be unlawful for any person to commit an assault and battery or in any manner whatever to engage in any combat or fight in a private or public place within the corporate limits of the city. And apparently in the trial and I'm reading from the order from the initial appeal that was argued by the defendant, the appellate. The standard for common law assault should be which I think you cited earlier, ma'am, when you were arguing to me about what it was. Let me read it and you tell me if that - I don't want to put words in your mouth—is wrong. Let's see. Common law, *State vs. Sanders,* 1912 case. *State vs. Jones* was actually the case which cited *Sanders* and it says defined as an attempt to offer or commit a violent injury upon the person of [74-75] another, coupled with the present ability to do so. And I believe, Dr. Faltas, that – if I misunderstood what your explanation was that was the definition you argued. Then there was some discussion in the record apparently about whether or not the 2010 law when they gave us our wonderful assault and battery, third, and other assault and battery statutes which in my opinion really confused things in some regards whether that applied and they determined that it did not because there was no retrospective, retroactive — typically speaking things that work against a defendant once a law is passed they can't go back. If it benefits them, they get the benefit of it but they don't get the worse end on it so that's the standard.

[12] Defendant Faltas: May I?

[13-15] THE COURT: Yes, ma'am. If you need to tell me something, tell me. You went out to get stuff. I forget what it was you were trying to go get but I gave you the chance to do it.

[16-17] Defendant Faltas: I went to get water but I also got among other things that actual after-discovered evidence.

[18-19] THE COURT: Okay. Present that to me, I'll be glad to look at it.

[20-23] Defendant Faltas: Yes, Your Honor. But I just wanted to read what the city prosecutor said that day (inaudible). Or is that the theory – that's the theory under which I was convicted. So whether right or wrong this is what we have.

[24] THE COURT: Is this a transcript or something?

[25 to Page 75, line 1] Defendant Faltas: Yes, yes. The transcript that I said [75:76] (inaudible) and you said –

[2] THE COURT: And that's part of the transcript?

[3-4] Defendant Faltas: Yes. Except what I'm trying to locate –

[5] THE COURT: Okay. I would assume that's their argument?

[6] Defendant Faltas: Yes. And ...

[7-8] THE COURT: I have not read that; so, I'll give you the chance to find that.

[19 to Page 76, line 2] Defendant Faltas: Just because I have it. But that's not Mr. Fernandez. Mr. Fernandez on page eighty-six, line nineteen. *"The definition of 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 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 the ABHAN definition 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 the wrist to a stabbing in the heart. The AB-HAN 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 [76:77] that I did present you."* I want to find what he says the injury here is the matter.

[3-5] THE COURT: I'll give you a chance to read it silently. I'm somewhat familiar with the law on assault and battery and the evolution of it for the last forty years. [6] (pause)

[7 to Page 78, line 2] Defendant Faltas: I intercept something about – and that's on page eighty-eight, because that's the sequencing in which it appears in the transcript but in page – and that's not the mental injury but that's – eighty-eight, line fourteen continuing and that's the city prosecutor speaking. *"So, I would say if we are 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 was on good terms with her, speaking terms."* So, he is speaking about Charlene Crouch pretending that she has no dog in the fight and is independent. And on page eighty-nine and that's still the Prosecution speaking, *"Being unwantingly touched and mental as a result of it. I think it is absolutely appropriate for a guilty verdict. Thank you, Your Honor."* So, page eighty-nine, lines nine to eleven the [77:78] Prosecution basis it on the mental injury, on the pretended mental injury.

[3-4] THE COURT: And you want to ask Ms. Steele about if she had mental issues or was she under medicine when this started?

[5] Defendant Faltas: Exactly.

[6-15] THE COURT: You are aware that sometimes – and I don't know what the thing is – sometimes there are things that don't start – for example, I have friends who like me served overseas, saw things that human beings ought not to see, suppressed them for years and one little thing causes them to break down. Our pastor of our church a few years ago, something happened in Vietnam, same time I served, it never presented itself so I don't know, but 'll allow you –I 'm going to allow her to be called and you can ask her those questions. I'm going to limit it. If it doesn't go in a direction that I think it needs to go any further I'm going to cut it off because on relevance.

[16-18] Defendant Faltas: And I do recognize that the conduct of cross examination is subject to the sound discretion of the trial judge subject –

[19-20] THE COURT: I am going to allow you to lead her a little bit, ma'am.
[21-22] Defendant Faltas: Thank you, sir. Thank you, sir. May I call --
[23-24] THE COURT: The Court calls Dinah Gail Steele. Is that correct, ma'am? If you'll please some around.
[25 to Page 79, line 1] Dinah Gail Steele, after being duly sworn by the court, [78-79] testifies as follows:
[2-7] THE COURT: If you'll come around and have a seat, please, and answer the questions that she asks you and we are going to try -- now I understand this is both sides. We are kind of vague here on where I am going to cut you off but 'll cut you off and explain at that time and get you to rephrase if I need. Counsel, if you need to object, you can object. All right, Dr. Faltas.
[8-10] Defendant Faltas: Let me preface, Your Honor, that this is my one shot so there are questions that maybe I would want to proffer the answer so that we have a complete record.
[11-12] THE COURT: I'll go step by step. I'm going to give you carte blanche, Dr. Faltas. I want to retire by 2022. We've got to move along.

[13-14] Direct examination by Defendant Faltas:

[15] Q. Ma'am, you have been sworn.
[16] A. Yes.
[17] Q. What is your name?
[18] A. Dinah Steele Mason.
[19] Q. When did you change to Dinah --
[20-22] THE COURT: All right. That's not relevant to this. You can go about answering that paper, filling out that paper, when she filled it out and the answers and that kind of stuff.
[23] Defendant Faltas: Okay
[24-25] Q. (by Defendant Faltas) Do you recall that in December, 2009, you filled out a victim sheet for the 5th circuit solicitor's office?
[Page 80, line 1] A. No, I don't remember filling it out.
[2-3] Q. Do you recall that I was arrested on December 2nd, 2009, for two counts of harassment in the first degree?
[4] A. I remember the harassment case.
[5-6] Q. Do you recall that you were at that time claiming to be a victim?
[7] A. I was a victim of harassment by you. Yes.
[8-11] THE COURT: All right. Again, go back to the issue about -- you asked her about the paper, she answered that way. I'll give you some leeway as far as the mental stress that she had testified at the trial. You can go into that area.
[12-15] Q. (by Defendant Faltas) Were you ever interviewed or in any way questioned by the solicitor's office or by the City of Columbia or by anyone associated with the prosecution of the harassment case whether you suffered mental injury?
[16-17] A. I was on medication after the assault, your assault against me, where you struck me in the chest.
[18-19] Defendant Faltas: Judge, may I say something, please? If she's going to freelance I would reserve to cross examine on that.
[20 to Page 81, line 2] THE COURT: I've already told you I would give you leeway to lead. That's cross examination. Under our rules, when you have adverse witnesses it used to be you had to get the court's permission to ask that. You don't have that any more. I would say that she would be a hostile witness to you. You have the right to cross examine. However, it's still going to be subject to the lines that are [80-81] relevant and germane to your purported motion and that and only that. Okay?
[3-4] Defendant Faltas: I'm saying if she goes to side things, I need to cross examine on that.
[5-6] THE COURT: I just said you could cross examine. Dr. Faltas, you are not hearing.
[7] Defendant Faltas: Okay.
[8-9] Q. (by Defendant Faltas) I'm sorry. Did you just say that I struck you?
[10] A. Yes.
[11] Q. Okay. All right.
[12] Defendant Faltas: With the court's permission --
[13-14] THE COURT: All right. Now I'm not going to retry the facts of the facts, okay?
[15-16] Defendant Faltas: I need to -- she volunteered right now. May I ask --
[17-20] THE COURT: Dr. Faltas, that's not after-discovered. Whether or not you allegedly assaulted her or not, you knew of the allegation in 2009. That's not after-discovered on the case; so, it's not relevant.
[21-22] Defendant Faltas: In 2009 it didn't say struck and now she's saying struck and I want to --
[23] THE COURT: Dr. Faltas, I've already ruled.
[24] Defendant Faltas: All right.

[25 to Page 82, line 2] THE COURT: You are who a stickler for rules know that [81-82] once the court has ruled you can't keep arguing that point. Now, move on.

[3] Defendant Faltas: Okay.

[4-5] Q. (by Defendant Faltas) do you recall that you testified on April 25, 2013, in the trial of that assault?

[6] A. I testified in the assault trial, yes.

[7] Q. Do you recall that on page –

[8-12] THE COURT: Now the proper way is to ask her the question and if she says something different than that, then you show I and give her a chance to refresh her memory and then you can go from there. She doesn't have that in front of her. She can't address that.

[13-14] Q. (by Defendant Faltas) do you recall that in that trial you volunteered this sentence, I'm still on medication today?

[15] A. Yes.

[16] Q. What medication were you on when you testified?

[17] A. Paxil.

[18-19] Q. Is that an over the counter – I know the answer but I want it from the witness.

[20] A. It's a prescription.

[21] Q. Who prescribed it?

[22] A. I'm not going to give her name.

[23] THE COURT: **Yeah. I'm not going to make her.**

[24] Defendant Faltas: No, Your Honor. I'm sorry.

[25] THE COURT: **I fail to see the relevance of it.**

[Page 83, line 1] Defendant Faltas: Let me put objection, please.

[2] THE COURT: **I'll note it.**

[3] Q. (by Defendant Faltas) Why were you prescribed Paxil?

[4-6] A. Because I had a nervous breakdown because of you, because you assaulted me and then continued to harass me for years. I have been harassed for years, lady.

[7] THE COURT: **All right. Take a deep breath.**

[8-9] Q. (by Defendant Faltas) Did a jury ever come back and say Dr. Marie Assa'ad-Faltas harassed Dinah Steele or Dinah Steele Mason?

[10] A. No, they did not. They had a hung jury on your harassment.

[11-12] THE COURT: **Don't go to the harassment. We are talking about the assault. Relevance.**

[13-14] Q. (by Defendant Faltas) so did you go to a doctor and say I have a nervous breakdown?

[15] A. I went to the emergency room, yes.

[16] Q. When did you go to the –

[17] A. I don't remember the exact date. It was after the assault.

[18] *Ms. Mangum:* I'm sorry, I just have to object.

[19-21] THE COURT: Yes, so do I. If you've got a point you want to make, tell me the point and then I'll let you ask or I'm going to just – - no. I mean I don't see the relevance yet.

[22-23] Q. (by Defendant Faltas) did they prescribe Paxil in the emergency room?

[24] A. Yeah, I believe they did, yeah.

[25 to Page 84, line 3] *Ms. Mangum:* Your Honor, if I might just be heard on my [83-84] objection. Your honor, this case has gone all the way up to the United States Supreme Court and back. This is a victim sitting in this court who is being victimized again by having to go through –

[4-9] THE COURT: **And I'm going to try to control what you allege as victimize but I also have the right of a defendant here who is making a motion.** It's hard to balance that sometimes. **I'm going to give her little leeway but I'm going to cut her off soon unless you make a point that's relevant to your motion for the new trial.** We are not rehashing the trial again.

[10] Defendant Faltas: None of this was asked in the trial.

[11-13] THE COURT: I don't need any argument. Ask questions and when you run out of questions you can ask that are relevant we will cut it off.

[14] Q. (by Defendant Faltas) Was the emergency room in Columbia or –

[15] THE COURT: That's not relevant.

[16] Defendant Faltas: May I take exception to your ruling?

[17-19] THE COURT: You can. I'll note for the record everything that I don't allow as relevant, you can take exception and I'll note for the record.

[20-21] Q. (by Defendant Faltas) are you aware that the emergency room cannot prescribe mind altering medication for more than three days?

[22-24] A. I don't have any idea of medical jurisdictions or anything like that. After I went to the emergency room, I went to my primary care doctor and that doctor prescribed the continued use of the Paxil.

[25] Q. From which date to which date?

[Page 85, lines 1-2] A. I can't remember the dates. It was after the assault though. I stayed on it for approximately –

[3-12] THE COURT: Couple more questions, Dr. Faltas. I still don't see where you are going as far as any of your motions. You alleged earlier that this was part of her lying. It was either or. Either she was lying that she was prescribed. Now the relevance – let me tell you where the relevance falls. On the record of the assault and I referenced earlier to the appellate court referencing the testimony, it was based on the assault to push. It was not even though the prosecutor, and I'll note, argued mental and physical, *the statute didn't say anything about mental.* It said physical. Okay. I have to confine you to that, ma'am. I'm sorry.

[13-14] Defendant Faltas: Judge, she testified from the witness stand *now* –

[15-17] THE COURT: I just told you what I'm limiting you to, ma' am. I don't need to tell you three times. I'll note your objection for the record.

[18-19] Q. (by Defendant Faltas) when did you stop taking – did you ever stop taking Paxil?

[20-21] A. I am not on Paxil right now. I'm getting ready to probably have to go back on it again because of you.

[22] Q. Do you remember when you stopped taking Paxil?

[23-24] THE COURT: All right. That's not relevant. One more question that *might* be irrelevant, I'm cutting you off.

[25] Defendant Faltas: Judge –

[Page 86, lines 1-5] THE COURT: If you want to ask her if she was taking it when she was at the trial, that's okay. That would be relevant but just open ended when you stopped, it's been ten years. I've got to confine you to what's relevant. I'll give you ten seconds or fifteen or twenty if you need it. I don't want to push you but...

[6-7] Q. (by Defendant Faltas) was it ever explained to you that Paxil is an antidepressant?

[8] A. I'm not a physician.

[9-10] Q. I'm asking was it ever explained to you that Paxil is an antidepressant.

[11-14] A. I believe the only thing the doctor explained to me was that it would help with the non-stop crying that I was experiencing during the days. I couldn't sleep at night. It was just non-stop stress that felt and that it would relieve that.

[15] Q. You had not stopped crying?

[16-18] THE COURT: All right. I told you – she answered that. I didn't find that as being relevant to your motion. I don't find that question to be relevant to your motion.

[19-20] Q. (by Defendant Faltas) and you said you could not sleep at night. Once you started taking the Paxil, did you stop crying?

[21] A. Yes, it helped immensely.

[22] Q. So why did you continue to take it?

[23-24] THE COURT: I don't see the relevance to that. Okay? Do you have any questions for her, counsellor?

[25] *Ms. Mangum:* No, Your Honor.

[Page 87, lines 1-3] THE COURT: All right. You may step down. I'm sorry. We are not here for a medical discussion about the adverse or inverse effects of Paxil. Okay? [4] (witness to the side)

[5] THE COURT: Now do you have anything else?

[4] Defendant Faltas: Yes.
[7] THE COURT: What is it?
[8-9] Defendant Faltas: I need to (inaudible) with the motion and I need to call Charlene Crouch.
[10] THE COURT: Is Charlene Crouch here?
[11] Defendant Faltas: She was outside.
[12-13] THE COURT: **Bring her in. If she's here, she's under summons. Absolutely. Ms. Crouch, come around.**

[14-15] **Charlene Crouch, after being duly sworn by the court, testifies as follows:**

[23-24] THE COURT: All right. Come around and have a seat. State your full name for the record and please answer any questions that these folks have for you. **Dr. Faltas, same I'm allowing you to cross examine her as if she's a hostile witness because I'm assuming that she would since she testified against you at trial.** Confine it to the purposes of this motion.

[23-24] Direct examination by Defendant Faltas:

[22] **A.** My name is Charlene Crouch.
[25] **Q.** Is it now Charlene Boyd?
[Page 88, line 1] **A.** No, it's not.
[2] **Q.** Do you have a FaceBook page under Charlene Boyd?
[3-4] *Ms. Mangum:* Your Honor, objection as to relevance whether or not she's –
[5-6] THE COURT: **Tell me the relevance of that. It may be. I don't know yet.**
[7] Defendant Faltas: Your Honor, if we can't even –
[8-9] THE COURT: I asked you what's the relevance. Just tell me. I might allow it. You are assuming I'm not going to allow it.
[10-11] Defendant Faltas: Your Honor, I think the credibility is a (inaudible) thing.
[12-13] THE COURT: **I understand that. What is the relevance of your asking her about a FaceBook page?**
[14] Defendant Faltas: That it has her name as Charlene Boyd.
[15] THE COURT: **I'll allow it. Ask her.**
[16-17] **Q.** (by Defendant Faltas) Do you have a FaceBook page that says Charlene Boyd?
[18] **A.** Yes, I do.
[19-20] **Q.** So, when I asked you did you ever go by the name of Charlene Boyd and you said no, you weren't telling the truth, were you?
[21] **A.** I'm married now.
Defendant Faltas: Judge, I think. You remember I asked her if she ever went by Charlene Boyd and she said no. And now she admitted that she does go by –
[25] THE COURT: **I heard the testimony. Go on.**
[Page 89, line 1] Defendant Faltas: All right. Thank you.
[2] **Q.** (by Defendant Faltas) Were you ever a tenant at 300 Byron Road?
[3] **A.** Yes, I was.
[4] **Q.** And did you leave there to go to 337 Byron Road?
[5] **A.** Yes, I did.
[6] **Q.** And is that where you live now?
[7] **A.** Yes, it is.
[8] **Q.** And that is not owned by Dinah Steele, is it?
[9] **A.** No, it's not.
[10-11] **Q.** But 300 and 304 Byron Road were and are owned by Dinah Steele, correct?
[12] **A.** Yes, it is.
[13-14] **Q.** And sometime in early 2010 you either vacated or were evicted from that apartment that you had in 300 Byron Road, is that correct?
[15] **A.** I left on my own. I wasn't evicted.
[16] **Q.** Do you recall what month?
[17] **A.** No, I don't. That was a long time ago.
[18] **Q.** Do you recall if you were current on your rent at that time?
[19] **A.** Yes, was. I paid my rent all the time.
[20-21] **Q.** You've had other eviction cases for non-payment of rent after that?
[22] *Ms. Mangum:* Your Honor, objection.
[23] THE COURT: **Sustained. I don't see the relevance of other.**
[24-25] **Q.** (by Defendant Faltas) Did you ever get money from a man called Charles Randolph White for any reason?
[Page 90, line 1] **A.** I do clean up for him. I was his neighbor for years.

[2] Q. Did you ever have sex with him?
[3] *Ms. Mangum:* Objection, Your Honor.
[4] THE COURT: What's the relevance?
[5-7] Defendant Faltas: The relevance is that she needed to overrule or bypass the trespassing order to give the prostitution services to Mr. White.
[8-10] THE COURT: Number one, I haven't seen any evidence of a trespass. And the way trespass works I can trespass you today and take it off tomorrow for any reason.
[11-12] Defendant Faltas: Well, we'll follow that. We'll follow that.
[13-14] Q. (by Defendant Faltas) So, when was the last time you got money from Mr. White?
[15-17] *Ms. Mangum:* Your Honor, I object as to relevance. I believe Ms. Crouch was purportedly brought here because she lied about her criminal record.
[18-19] Defendant Faltas: And I am trying to also put evidence that she has incentive to lie now. The —
[20-24] THE COURT: All right. Let me say this. You made an argument about that she was lying or you or your counsel at the time of the trial. Okay? That's not after-discovered. Your after-discovered was allegedly about her convictions. I'll allow you to ask her about that.
[25] Defendant Faltas: Thank you.
[Page 91, line 1] THE COURT: Okay.
[2] Q. (by Defendant Faltas) do you recall that on or about April —
[3-4] Defendant Faltas: And I think Your Honor has the incident report. If we may show the witness.
[5-9] THE COURT: Sure. Absolutely. He will come get it for you. Now the incident report is not coming into evidence. Okay. There are circumstances where it can come in. It's typically when the side is trying to introduce it to open the door, the other side moves it in, but as a rule it doesn't come in. It's not evidence because it's hearsay.
[10] Defendant Faltas: I'm objecting to that ruling.
[11-14] THE COURT: That's fine. You can object to the Supreme Court. They are the ones that set the tenet that you have to able to have the person there. That's why it's not admissible because the person who made the incident report is not here. Okay.
[15-16] Defendant Faltas: And if I may say all the rules of evidence are subject to the ends of justice.
[17] THE COURT: If I may say that I've made my ruling. Move on.
[18] Defendant Faltas: You know, I'm just putting —
[19-20] A. I wouldn't be able to see it anyway because I don't have no glasses.
[21] Q. (by Defendant Faltas) are you legally blind?
[22] A. No, but I can't see that well without some glasses.
[24] Defendant Faltas: How would the court allow me to handle that?
[25 to Page 92, line 2] Q. (by Defendant Faltas) do you have glasses with some of the [91-92] people who came with you? Do they have your glasses? Do you own glasses?
[3] A. Yes, I do. I have glasses.
[4] Q. Do you have them here?
[5] A. not with - well, outside I do.
[6-7] THE COURT: You can ask her about what's purportedly on that and then have tie court look at it. Okay.
[8-9] Q. (by Defndant Faltas) do you recall that on April 22nd, 2012, you were arrested for drunkenness.
[10] A. I see it here but yeah.
[11] Q. So, you can see it.
[12] A. Okay. What's the question?
[13] Q. Do you recall it?
[14] A. Yes.
[15-16] Q. And do you recall that in May 2012 you pled guilty to that charge?
[17] A. Yes.
[18-20] Q. And do you recall, out of your own personal knowledge, that you were given a trespass notice to not go to the 300 and 304 property, 300 and 304 Byron Road, Columbia, South Carolina, 29209, property?
[21-23] A. Dinah Steele didn't issue me no trespassing report. Charlie white did, not Dinah Steele. And then he broke it the next day. He called and cancelled it.
[24] Q. To your knowledge Dinah Steele could have issued a trespass —
[25] A. She didn't. Charles white issued it.
[Page 93, line 1] THE COURT: That's been asked and answered.

[2] Q. (by Defendant Faltas) Then my question is the landlord could —

[3-4] THE COURT: All right. What's the relevance of that as to your motion?

[5] Defendant Faltas: The same thing, Your Honor.

[6] THE COURT: You are talking about credibility?

[7] Defendant Faltas: No, 'm talking about the motive.

[8-9] THE COURT: All right. Motive was argued at the trial. This is after-discovered evidence.

[10-12] Defendant Faltas: It was not argued, sir. May I just put on the record that it was not argued at the trial because we did not have the evidence.

[13-15] THE COURT: And, ma'am, I remnd you again that if the only thing you have is that it is merely cumulative or impeaching it's not enough to meet the criteria.

[16-17] Defendant Faltas: But it's not merely cumulative or impeaching.

[18] THE COURT: Okay.

[19-21] Defendant Faltas: It goes to the heart and I think I may have my oral argument before the court of appeals. When it goes to the heart of the testimony then —

[22-23] THE COURT: Then you can make that argument at the Court of Appeals. Stick to what 've stuck it to here, please.

[24] Defendant Faltas: Okay,

[25 to Page 94, line 2] Q. (by Defendant Faltas) I'm asking you do you recall that Charlie [93-94] White, that you were banging on the windows and could have broken them?

[3] A. No, I didn't bang on his window. I banged on his door.

[4] Q. At what time of the day?

[5] A. I can't remember.

[6] THE COURT: What's the relevance of that?

[7-8] Defendant Faltas: That if she damaged Dinah Steele's property Dinah Steele could have issued her the trespass.

[9-11] THE COURT: Could have and did is two different things. You had Dinah Steele on the stand. You didn't ask her about that. That's not in evidence.

[12] Defendant Faltas: You limited me.

[13-15] THE COURT: You didn't try to ask her. You asked her and she said that Ms. Steele did not. Move on, please. Again, I'm not going to allow you to retry the case.

[16-18] Q. (by defendant Faltas) In the hypothetical if Dinah Steele were to put a trespass notice on you, you could not go to Charlie White's apartment and clean it or do whatever you do for him —

[19-25] THE COURT: All right, let me cut you off right there, okay? Let me tell you what the law is in this state as far as landlord tenant. If I lease property or sell property or allow somebody to live, they have the ability unless they sign in writing that a certain person can't come in to allow invitees in, even if the owner of the property doesn't like it. Okay. So, I don't see the relevance. I don't see where that's going and it's not even what the law is. So move on.

[Page 95, line 1] Defendant Faltas: What the law is —

[2-3] THE COURT: We are not talking hypothetical here. I need to see evidence.

[4-5] Defendant Faltas: Let me finish, Judge, please. What the law is and what her perception of the law is which may have influenced —

[7-9] THE COURT: Has nothing to do with your motion. The point you made when you told me that you had testimony, now you've got a witness that doesn't say what you want them to say.

[10] Defendant Faltas: Could I continue?

[11-13] THE COURT: Briefly. As long as it's relevant. I'm not going to just allow you to ask questions for the rest of this day, no. Not unless it's relevant. If it's relevant, you can go on.

[14-15] Q. (by Defendant Faltas) Do you recall that on April 25, 2013, you said that the drunkenness charge was still pending?

[16] A. I went to court.

[17] Q. To testify against me, is that correct? Do you recall that?

[18] A. No, I don't recall that.

[19] Q. You don't recall going to court to testify against me?
[20] A. What? On the assault and battery?
[21-22] Defendant Faltas: Judge, first it wasn't assault and battery. It was simple assault.
[23] THE COURT: All right. Either way.
[24-25] Q. (by Defendant Faltas) do you recall that you went to court on April 25, 2013, to testify against me?
[Page 96, line 1] A. Yes.
[2-3] Q. And do you recall that before that testimony I presented to the court that the drunkenness charge was still pending?
[4-6] *Ms. Mangum:* Objection, Your Honor. I believe that was done by the prosecution. I didn't see anywhere in the transcript where Ms. Crouch represented that.
[7-8] THE COURT: Does it show somewhere where Ms. Crouch represented that?
[9] Defendant Faltas: Yes, sir. She said it to the prosecutor.
[10] THE COURT: When? In the transcript?
[11] Defendant Faltas: Absolutely. We'll go back to page six.
[12] THE COURT: Let's to back to page six.
[13-15] *Ms. Mangum:* I'm sorry. I correct myself. I do see on page six where the prosecutor said she just relayed that it was dismissed. That's what it says. I don't know who she is in that case.
[16-17] THE COURT: Is there anything where Ms. Crouch under oath said that she did not have a conviction?
[18] Defendant Faltas: Page seven. Your honor
[19] THE COURT: I'll be glad to look at it if you have it.
[20] Defendant Faltas: Yes, yes.
[21-22] THE COURT: Well, then hand it to Mr. Truluck, let him bring it up to me and let me look at it. [23] (pause)
[25] THE COURT: I don't see anything on page seven that Ms. Crouch says.
[Page 97, lines 1-2] Defendant Faltas: She says it to Mr. Fernandez and Fernandez says it to the court.
[3] THE COURT: That's not under oath.
[4-5] Defendant Faltas: It doesn't matter. It's still a misrepresentation.
[6-7] THE COURT: And where does it say in the transcript that she said that to Mr. Fernandez?
[8] Defendant Faltas: Because she says it's still pending.
[9-10] THE COURT: I think he said she doesn't seem to be aware of it.
[11-13] Defendant Faltas: That's the sexual battery. But the drunkenness she says is still pending. She told him and he said to the court still pending.
[14] THE COURT: Why don't you ask her if she told him that?
[15] Defendant Faltas: Okay.
[16] THE COURT: Ask it.
[17] Defendant Faltas: Oh. I thought you were waiting for –
[18-19] Q. (by Defendant Faltas) Do you recall Mr. Fernandez asking you whether that charge was still pending?
[20] A. I can't remember, no. I just can't remember.
[21-22] Q. Okay. And do you recall that you also at that time had a charge of sexual battery on a vulnerable adult?
[23] THE COURT: Was there a conviction for that?
[24] Defendant Faltas: Yes, absolutely.
[25] THE COURT: Do you have a copy of that?
[Page 98, line 1] Defendant Faltas: Of the conviction?
[2] THE COURT: Yes.
[3-4] Defendant Faltas: Not only do I have a copy of the conviction, I have a copy of the transcript where she pled guilty.
[5-6] THE COURT: Ask her the question and then she can answer it. When was that conviction?
[7-8] Defendant Faltas: The conviction was in July of 2013 but the arrest was previous to 2013.
[9-11] THE COURT: Okay. Well, if the conviction was after your trial, she would not be allowed to answer any questions or be asked about it; so, it wouldn't be admissible.
[12-14] Defendant Faltas: Could I put on the record that she says she has no idea about it and I have evidence that she had idea about it.
[15-24] THE COURT: What do you mean have an idea about it? Let me explain something to you. Because somebody has convictions, some of them are allowed to impeach them if they are asked and some of them, even though there's

convictions, you are not allowed to impeach them. Certainly, that charge, if it occurred prior to that, would be one that may be allowed to be asked questions about as far as impeachment unless they acknowledge it on direct evidence and then you couldn't ask them. But if she had not been convicted at that time, it's irrelevant that she was convicted later because we are talking about what happened at that trial.

[25] Defendant Faltas: She said she had no idea about it.

[Page 99, line 1] THE COURT: I understand. I understand.

[2-3] Defendant Faltas: But she had an idea because she had been arrested –

[4] THE COURT: Now, how do you know what was in her mind?

[5] Defendant Faltas: I'll tell you why.

[6-7] THE COURT: Okay. Quickly and then I'm going to cut this off, too.

[8-9] Defendant Faltas: Judge, could you please notice Mr. Mason –

[10] THE COURT: I'm looking at you.

[11] Defendant Faltas: The faces he's making at me.

[12-13] THE COURT: Ma'am, do you have eyes in the back of your head?

[14] Defendant Faltas: No.

[15] THE COURT: You are looking at me, I'm looking at you.

[16] Defendant Faltas: When I turn he still has that face –

[17] THE COURT: He's got a smile and that's offensive?

[18-19] Defendant Faltas: That's a smirk and that's saying I can beat you because the courts – I'll just – never mind.

[20-24] *Ms. Mangum:* Your Honor, the record shows that she was – they asked about an assault, second, from June, 2012. Mr. Fernandez says she doesn't seem to be aware of it, Your Honor. And then the court says no reference to the assault, second. There's no mention in this transcript of a sexual battery.

[25 to Page 100, line 2] Defendant Faltas: That's the same thing. That's the same [99-100] thing. It was a sexual battery that was tried as an assault second, and we have the record. May I just –

[3-4] THE COURT: I don't see the relevance of it because it happened after the fact.

[5-6] Defendant Faltas: The relevance is during that day she presented herself as not having the criminal record that she does –

[7] THE COURT: She –

[8] Defendant Faltas: Wait a minute.

[9-13] THE COURT: I've already noted that she represented she did not – there wasn't an adjudication of the other charge and record ends up finds out there was. Okay. For the public drunkenness which you would not have been allowed to ask her anyhow so for the basis of impeachment it's not relevant.

[14-15] Defendant Faltas: (inaudible) Now I want to give you also the actual rule 29(b) motion.

[16-17] THE COURT: I've got it in front of me. I've got rule 29. I don't want to see a motion that you made in another case.

[18-20] Defendant Faltas: No, no, no, no. It's in this case. The one that was sent to the Columbia Municipal Court. You asked me if you have it and I told you that the municipal court –

[21-22] THE COURT: Give me what you want. And then move along quickly. I'm about to wrap this lady up, too.

[23-25] Defendant Faltas: Yes, sir. All of them have been previously served on the City of Columbia but if opposing counsel wants to look at them it can.

[Page 101, line 5] THE COURT: Now, you've submitted me a lot of stuff here that I'm not going to even – I don't care what happened in Lykesland magistrate unless you can point out some relevance to it and an emergency motion in front of the Supreme Court. Where is the rule 29 thing you were telling me about?

[6] Defendant Faltas: I'm sorry.

[7-9] THE COURT: Where is the rule 29(b) motion you are so proud of you want me to look at that you had submitted in the previous case?

[10-11] Defendant Faltas: It's not the previous. It's in this case, the eighteen page.

[12-13] THE COURT: Okay. All right. I see that. I don't know where the rest of it is relevant but I'll look at this. Go ahead.

[14-15] Defendant Faltas: The rest of it is the sexual battery charge that she said she had no idea about but at that time –

[16-18] THE COURT: And I've already told you that it's not relevant to this case because the conviction occurred after the trial.

[19] Defendant Faltas: May I proffer the exhibits?

[20] THE COURT: Oh, yeah.

[21] Defendant Faltas: Yes?

[22-25] THE COURT: Oh, yeah. Tell me what it is, each individual thing if you are going to make a proffer. Quickly summarize it. If you can't then I won't take it and I am not going to deny you the right to proffer something for the appellate record if you should lose.

[Page 102, line 1] Defendant Faltas: The first exhibit is a January–

[2-3] THE COURT: Now let me ask you. Since you are going on to the motions, can we let this lady sit down?

[4] Defendant Faltas: I haven't finished.

[5-7] THE COURT: Well, then I suggest you finish before you make those motions. You can do that after this. We are not going to piecemeal it.

[8-10] Defendant Faltas: Okay. The last thing we were asked about the conviction of the battery. Could I at least ask her a question for the proffer?

[11] THE COURT: Sure. I'll give you one question.

[12] Defendant Faltas: Okay.

[13-15] Q. (by Defendant Faltas) Do you recall pleading guilty to either the sexual assault or assault, second degree and battery in June or July 2013?

[16] A. Yes I did

[17-18] Q. And do you recall that before that you had been arrested for it on or around June 2012?

[19-20] A. I got convicted for assault and battery in I think (inaudible) I think.

[21] Q. I'm sorry?

[22] A. Yes.

[23-24] Q. And do you recall that you had a bench warrant for your arrest?

[25] A. No, I never had no bench warrant.

[Page 103, lines 1-2] Q. Is it fair to say that you were aware of that charge in April 2015?

[3-7] THE COURT: All right. **I'm cutting you off. I've already told you this twice. If you push this again you are going to push that potential contempt button.** Don't ask her any more about any conviction that occurred after that. You would not have been able to ask her about it at the trial and it's not relevant here.

[8] Defendant Faltas: We'll go to the testimony.

[9-10] Q. (by Defendant Faltas) Do you recall that in the testimony you said that you called the police?

[11-12] A. I think Mr. White called the police. It may have been me or Mr. White. All I know is –

[13-16] THE COURT: The question, you have to answer yes or no and then you can explain it. Do you recall? If you do, say yes; if you didn't, say no. You can explain it either way. You've got to answer the question.

[17] A. I can't recall who called.

[18-19] Q. (by defendnt Faltas) Do you recall that you testified that you called the police?

[20] A. I can't recall.

[21] Defendant Faltas: May I show her?

[22] THE COURT: Sure. Absolutely.

[23] Defendant Faltas: Thank you.

[24 to Page 104, line 1] *Ms. Mangum:* And, Your Honor, I'm not exactly clear what's happening right now, if we are getting into the potential that [103-104] she has perjured herself if that's what Dr. Faltas is asking.

[2-3] THE COURT: **I'll give her a little leeway. It's part of her motion. I am going to give her a little leeway.**

[4-5] *Ms. Mangum:* Your Honor, she has a right to know her rights as well if we are getting into some sort of –

[6-7] THE COURT: **She said she doesn't recall. That's not perfect. If you don't remember, you know.**

[8-10] *Ms. Mangum:* Yes, Your Honor, but the next question is if she said or did something that was on the record and certainly I'll leave that to your discretion but I think ...

[11-12] Defendant Faltas: Absolutely. If you want to appoint her a public defender –

[13-18] THE COURT: I'm waiting to see what the relevance is before I make any decision. **I'd like to see where it says that she said she called the police and I'd like to see what evidence that you have that decision, what your evidence might be that would show that she didn't call the police?** I assume that's where you are leading.

[19-20] Defendant Faltas: The evidence would be the discovery that they gave me and –

[21-23] THE COURT: **I'm asking you to show me that evidence that proves that she didn't call the police or that she did, whichever way it was.**

[24 to Page 105, line 2] Defendant Faltas: I'm going – I'm sorry, I'm not complaining, I'm just explaining that I'm going one thing at the time. [104-105] First, I'm finding where she said she called the police. Then I'll find where she didn't call the police and it's also in the motion.

[3-7] THE COURT: I know it's in the motion but just because it's in the motion doesn't mean it's relevant to this. Why would it matter even if she said she called and didn't, how would that go that would probably change the result if a new trial was had. That's one of the things –

[8] Defendant Faltas: Judge –

[9-12] THE COURT: This is the thing that I have to look at for everything you offer. And is it merely impeaching? Okay. You've got to meet both of those criteria and I skipped over the other three because...

[13-14] Defendant Faltas: I'm sorry. (inaudible) it's the totality of the facts.

[15-19] THE COURT: You say that and you might argue that at a later time. I'm telling you what the criteria I have to base it on now. I don't need any more lectures about totality. I'll look at things in the totality at the conclusion which I hope will be pretty soon because I'm still waiting for that little bullet.

[20] Defendant Faltas: I think I'll go faster if ... [21] (pause)

[21-23] Defendant Faltas: I think I can look at it from the motion itself,

[24-25] THE COURT: Do you want me to read that part of the motion, it's section "A."

[Page 106, line 1] Defendant Faltas: I did make another copy of it.

[2-5] THE COURT: Okay. The underlying conviction was procured by perjury, section eight, Charlene Crouch after-discovered perjury – this is your motion. Crouch lied about her conviction record and her having called the police herself.

[6] Defendant Faltas: Yes.

[7-12] THE COURT: In a sworn 17 November 2009, statement to C.P.D.'s investigator, Amanda Blanton, Crouch affied that it was Dinah who called police. No police called by Crouch was produced in discovery in any case. After the trial, it was discovered that Crouch – then you start talking things with Charles White which are not relevant to this after-discovered –

[13-15] Defendant Faltas: I want to find on the transcript to where she said I called police. I thought I had it in the motion. Ah, thank God. Page forty-three, lines seven to nine.

[16] THE COURT: Do you want to read it?

[17-20] Defendant Faltas: *"She was, you know, she pushed the papers in her chest and she was just – she was just moving, you know, pushing her back and then, you know, I went inside and I called the police."*

[21] THE COURT: Okay.

[22] Defendant Faltas: This is Charlene Crouch's testimony.

[23-24] *Ms. Mangum:* And, Your Honor, the transcript said I think I called the police.

[25 to Page 107, line 1] Q. (by Defendant Faltas) Do you recall testifying like that, Ms. [106-107] Crouch?

[2-6] THE COURT: You are going to have to show her the copy of the transcript if you are going to try to impeach her to refresh her memory and if the transcript says she thinks she called I want that noted for the record, too, read it out loud if you can read it. If you can't, I'll read it for you.

[7] A. I can't see that.

[8] THE COURT: What line is it, Dr. Faltas, do you know?

[9] Defendant Faltas: Nine through eleven.

[10-14] THE COURT: Okay. Line six, was *"She moving backwards, was she trying to get away"*? Line seven, *"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."* Okay. Note that for the record. Anything further?

[15] Q. (by Defendant Faltas) Do you recall having testified like that?

[16] A. Yes.

[17] Q. Did you call the police in fact?

[18] A. I can't – well, I don't know. I can't recall. It was me or Dinah or Charlie. It was one of the three.

[20-22] Q. Do you recall you were present at the trial when the actual tape was played where Dinah had called the police? It was not you or Charlie?

[23 to Page 108, line 1] THE COURT: all right, let me stop you right here. What's the relevance of who called? She didn't say – she didn't affirm that she did, she said she thought she did. And then now she says she's not [107-108] sure. Where is the perjury? And where is the relevance?

[2-4] Defendant Faltas: The perjury is that a little bit earlier in that transcript she says the law was called and then she says she called and then she says Dinah called.

[5-8] THE COURT: No, she said she thought she called. You keep misrepresenting the thing. All right. A few more questions and I'm going to let her sit down. You've got to the part you made on your motions.

[9-10] Q. (by Defendant Faltas) Did you ever get money from Dinah Steele or from Larry Wayne Mason for any reason whatsoever?

[11] A. No.

[12] Q. You did not sell them a car?

[13-14] THE COURT: And what's the relevance of whether she sold them a car?

[15] Defendant Faltas: I'm just impeaching her on her answer.

[16-22] THE COURT: Well, you might be reminding her of something. What's the relevance about whether getting money ever – I mean I may forget that I got money from somebody. What is the relevance of that? You could ask anybody a bunch of questions and they may not remember and then tell it and then say it one way and then something refreshes, but what's the relevance of the question to start with is what my point is.

[23-24] Defendant Faltas: Because she testified falsely because she for money from them.

[25 to Page 109, line 2] THE COURT: You asked her if she got money from them and [108-109] she said no and then you asked if she sold them a car. Selling them a car and taking money for perjury is two different things.

[3-4] Defendant Faltas: But I didn't ask her if she got money *for perjury*, I asked her if she ever got money from them –

[5] THE COURT: And she said no. And she said no.

[6] Defendant Faltas: And now I'm trying to impeach her.

[7] THE COURT: That she may have sold a car to them. Okay.

[8] Q. (by Defendant Faltas) did you ever sell a car to them?

[9] A. Yes.

[8-11] Defendant Faltas: Judge, I would just say that a bribe can be hidden.

[12-13] THE COURT: I understand. You've made your point. Anything else before I let her sit down?

[14-15] Q. (by Defendant Faltas) Do you recall how much money you received from them?

[16] A. No.

[17-18] Q. And now that I have refreshed your memory, could you please think if you got money from them for any other reason?

[19] A. No.

[20] Q. No, you are not sure or –

[21-22] A. No, never got any money. I paid her money for my rent but, no, I did sell a car one time to Larry Mason.

[23] Q. Did you ever see me hurt Dinah Steele?

[24-25] THE COURT: All right. No. It's not relevant to grounds for this motion. We are not retrying the case.

[Page 110, lines 1-2] Defendant Faltas: May I just for the record object that you need –

[3-5] THE COURT: Objection noted. You tell me the relevance then I'll reconsider but I don't see any relevance. You are trying to retry the case. Okay. I'm not allowing you to do that.

[6-7] Defendant Faltas: And in part in retrying the case *in light of the new evidence* is what a Rule 29(b) motion –

[8-11] THE COURT: Oh, I understand what it is and I keep reading you the guidelines and you say you don't like it because you don't think the Supreme Court (inaudible) ruled that way. But that's the rules I'm under and that's what I'm bound by.

[12-13] Defendant Faltas: I keep on telling you that there are cases that say *that new light* you take everything –

[14-15] THE COURT: An unpublished case which is not considered law.

[13-16] Defendant Faltas: No, no, no

[17-18] THE COURT: Okay. Anything else for this lady before I let her sit down?

[19] Defendant Faltas: No.

[20-21] THE COURT: All right. You may sit down. Do you have any questions for her?

[22] *Ms. Mangum:* No, Your Honor.

[23] THE COURT: Okay. I didn't think she did. [24] (witness to the side)

[25] THE COURT: Anything else before I make my ruling?

[Page 111, line 1] Defendant Faltas: I need to testify.

[2-6] THE COURT: Come around here. Now, I'm going to cut off your testimony if it's not relevant and if you are making assumptions. I want direct evidence testimony, not assertions that you believe that these folks lied and that money could be handed, could be multiple ways to bribe. That's not testimony, that's argument. Yes.

[7-12] *Ms. Mangum:* I'll be glad to stipulate for the purposes of the record on appeal that the arguments that Dr. Faltas made

previously would be considered testimony because she's a pro se defendant today. I don't have any problem stipulating to that so she does not have to get back up on the stand and reiterate everything that she's –

[13-14] THE COURT: I can swear you in and ask you if what you've asserted is the truth –

[15-16] Defendant Faltas: I affirm myself in but before we forget I need to enter the exhibits.

[17-18] THE COURT: All right. You tell me the exhibits. You want to bring them up. Yes, ma'am, you want to leave? [19] Female: Yes, sir.

[20-21] THE COURT: Bye. Yes, ma'am. Y'all have no reason to keep her.

[9] *Ms. Mangum:* No, Your Honor.

[23] THE COURT: She's free to go.

[24-25] Defendant Faltas: No, no. I want them entered. I really don't know how he wants that done. Do you want me to say –

[Page 112, lines 1-6] THE COURT: Hand them to me and I'll read each one. You tell me what the thing is and then we can-I'll say whether I'll allow it in. The first is a letter to you from Dana Turner asking about a transcript of a parking. What's the relevance of that? Oh, this is the drunkenness conviction. Absolutely. This goes in. Any objection, counsellor?

[7] *Ms. Mangum:* No, Your Honor.

[8-12] THE COURT: Okay. I will stipulate for the record that there is – we'll put this as plaintiff's number one, allowed in. The court will take judicial notice that the record shows that Charlene Crouch had a violation dated 4-22-2012 and the disposition of the case was guilty and original court date is 5-18-2012.

[13-14] *Ms. Mangum:* Your Honor, does that contain a disposition date?

[15-18] THE COURT: It doesn't say a disposition date. It just says original court date. There is some refernce to 5-18-2012 but I don't know whether that was –

[18-19] *Ms. Mangum:* That would have been a first court date probably, Your Honor, after the ticket was written.

[20-21] THE COURT: Well, let then let me ask you why would attorney for the City of Columbia send a disposition to Dr. Faltas that wasn't correct?

[23] *Ms. Mangum:* I don't quite understand your question.

[24-25] THE COURT: Well, I mean obviously there was a request for the disposition of Ms. Crouch's record on that charge.

[Page 113, line 1] *Ms. Mangum:* I don't know that to be true, Your Honor.

[2] Defendant Faltas: (inaudible) pled guilty.

[3-6] THE COURT: No, it doesn't. It says guilty. It doesn't say pled guilty. There's nothing about pled in there. It could have been a trial in her absence and she wasn't aware of until 2017. I don't know. All I know is that is coming in. Okay. Put that in the record.

[7] Defendant Faltas: Over her objection, right?

[8-10] THE COURT: Of course. I told you I was putting it in. But I'll note your objection for the record, same as I do Dr. Faltas's. Before the Supreme Court, the public index. What is this?

[11-14] Defendant Faltas: It shows that I had mailed by certified letter the motion for after-discovered evidence with the City of Columbia Municipal Court and they basically played dumb about receiving it and I had to go to the –

[15-16] THE COURT: Oh, that's a different thing. I'm looking at this public index. You are talking about this part right here?

[17-19] Defendant Faltas: Both of them go to prove that that was the motion that was sent to the municipal court and was available at the municipal court.

[20] THE COURT: Okay.

[21-22] Defendant Faltas: And the reason that that is important, Your Honor, is that it was made within the one year.

[23 to Page 114, line 11] THE COURT: All right. For the record, your motion for this trial was timely made. Okay. I have seen a motion you made fairly recently in which you suggested that you were denied the [113-114] right to a speedy trial because it's been "x" number of years since that time. The simple truth of the matter is it was delayed all this time because your case was under appeal and it could not be heard until it was adjudicated. You had it scheduled last year. You filed another – which is your right, I'm not faulting you for that. But that's why. Now having said that since you were the one filing these appeals and the three, I guess, whatever it was, to U.S. Supreme Court, you can't then come in and say, hey, I didn't get a fair trial because. And also, you'd have to show that you were damaged by that and there's been no evidence of that. I understand and note your motion and it was timely made which was ...

[12-13] Defendant Faltas: And nothing can be lost by entering those exhibits to show that it was timely made.

[14] THE COURT: I'll put it in.

[15] Defendant Faltas: Okay. Thank you.

[16-20] THE COURT: This will be part of the record. Okay. There is a motion received February 6, 2014. That was Supreme Court. Now I don't know if I'm going to take that motion. We are stipulating that she timely made a motion. Do y'all have any objection to that as far as a motion for a new trial or do you have some contesting of that?

[21-22] *Ms. Mangum:* I hesitate to stipulate to anything, Your Honor, based on the procedural history of this case.

[23 to Page 115, line 2] THE COURT: Well, I am going to rule that it was timely made. I wouldn't have been here this long if I didn't think her motion was timely made. I would have just told her up front. Okay. It's plain [114-115] and simple. I think it was timely made and it can't be held against her because it takes a while for appeals to take place. Okay.

[3-10] Defendant Faltas: And just for the record, I have (inaudible) that 29(b) is unconstitutional in the sense that it doesn't allow the motion for after-discovered evidence during the pendency of the appeal and that rule, Federal Rule 33, allows the court, the trial court, to tell the appellate court that it wants everything suspended so it puts it at the trial court. And then the other exhibit is where the City of Columbia did receive the eighteen page, February 2014, motion for after-discovered evidence (inaudible).

[11-14] THE COURT: Okay. Until our supreme court, court of appeals or a judge above me rules that it's unconstitutional I have to take it as being constitutional and I so do. Now incident report for an unnamed drunkenness – that's not coming in.

[15] Defendant Faltas: Proffered.

[16-24] THE COURT: I'm not – you can't proffer it because you don't have the officer who took it. Okay. You understand. Now, I can take judicial notice of certain things; but an incident report is *per se* hearsay. Judicial notice of other things. Now, this other page here has where you sent notice February 4, 2014. I guess that's your motion for the Supreme Court. Okay, that goes with that. Can you staple those together? Now we have a court of general sessions, Charlene Crouch, assault and battery, second degree. I don't see the relevance of this.

[25] Defendant Faltas: you have asked me about it.

[Page 116, Lines 1-3] THE COURT: No, you offered and I told you it wasn't relevant. Okay. I don't see the relevance of any post trial conviction as far as perjury or that's before this court.

[4-5] Defendant Faltas: I'm sorry, if I need to put that on the record again that she claimed she had no idea about it.

[6] THE COURT: And I've already ruled. Okay.

[7-8] Defendant Faltas: Can we make that for a proffer, please?

[9-12] THE COURT: For proffer. That's fine. We'll put it in the file. All these have got to be stuck together everything that she proffered. Then we have her bond. What's the purpose of the bond papers?

[13] Defendant Faltas: Is that Charlene Crouch's?

[14] THE COURT: Yes.

[15-16] Defendant Faltas: That she was aware of because it took place before my April –

[17-19] THE COURT: And again I tell you you would not have been allowed to ask her about a pending charge. So, that's not relevant and that's not coming in.

[20-21] Defendant Faltas: And may I just object for the record (inaudible).

[22] THE COURT: A different what?

[23-25] Defendant Faltas: There is a difference between the witness saying I was aware of it but it cannot come in and the witness saying factually that she's not aware.

[PAGE 117, LINES 1-4] THE COURT: I understand. I've made my ruling. Then you have the case of Carson Walker vs. Charlene Crouch. Again, they didn't think we've be here this long but we are going to be here as long as it takes.

[5] Defendant Faltas: It's after discovered as far as –

[6-12] THE COURT: But it could have been discovered reasonably had you tried. Any civil case under public index which I'm well aware you know how to search so, no, that's not relevant. Okay. That occurred in 2008 and 2010 and it's part of the court record and it had to do with something else. And again she couldn't be impeached by something she wasn't convicted of. I tried to tell you that. Okay. All right.

[13-14] Defendant Faltas: May I just say it's part of the new picture.

[15-17] THE COURT: Yeah, the part of the picture that is not the law. What you think it may be and what the law is, I have to go with the law. Okay. Anything else?

[18] Defendant Faltas: Yes. My testimony.

[19-20] THE COURT: She just stipulated to everything you said in your things –

[21-22] Defendant Faltas: There would be something else to my testimony and I think –

[23] THE COURT: What else?

[24] Defendant Faltas: That –

[25 to Page 118, line 3] THE COURT: What direct evidence do you have on this, on [117-118] any of these things? Give me a quick summation and I'll be glad to let you testify to it. If it's just your argument, legal argument and your theories I've heard it over and over again.

[4] Defendant Faltas: No, it's my medical knowledge.

[5] THE COURT: About what?

[6] Defendant Faltas: About Paxil.

[7-8] THE COURT: It has nothing to do with this motion. Nothing. It's irrelevant.
[9-10] Defendant Faltas: And may I just - I really think it would be cleaner if I testified.
[11-21] THE COURT: The way these things work, ma'am, in motions, often there is no testimony taken. It's the judge's discretion whether he allows testimony. You make a motion and if there is some question about there's evidence you take the testimony. You tell me some testimony on the points you made in your motion that you could offer and it doesn't have to do with Paxil, whether she took Paxil or not. That doesn't mean she couldn't testify at that time. Then I'll let you testify but other than that just to get up there and reassert what you've been saying the whole time which is theory and you haven't had a single witnesss that supported anything you've said other than the conviction for this lady.
[22-24] Defendant Faltas: Judge, I mean you are saying I don't have a single witness to support what I'm saying and I want to be the witness to support what I'm saying.
[25 to Page 119, line 1] THE COURT: Tell me what it is. Give me a quick summary of [118-119] what you would say and I'll be glad to let you --
[2-4] Defendant Faltas: That I saw with my own eyes that page what she said, what Dinah Steele and now from the witness stand she said she doesn't remember signing that paper.
[5] THE COURT: Okay.
[6] Defendant Faltas: But I saw it with my own eyes.
[7-8] THE COURT: Will you stipulate that she saw a paper with her own eyes?
[9-10] *Ms. Mangum:* Your Honor, it's in the transcript from this trial that she saw the paper.
[11] THE COURT: Okay. It's in the record.
[12-13] Defendant Faltas: Well, but then there was something else.
[14] THE COURT: All right. What is the something else?
[15-20] Defendant Faltas: That when I was looking at those two banker's boxes I asked for a copy of that piece of paper and the City of Columbia would not make me a copy of it. And I also -- and this is something that only I have knowledge of it but if you don't credit me I have the voice recording of when I was looking at those two banker's boxes.
[21] THE COURT: And how did you record that?
[22] Defendant Faltas: Again, it was the City of Columbia.
[23-24] THE COURT: You said you have the voice. I assume you have a recorded thing right now?
[25] Defendant Faltas: Do I have it on me?
[Page 120, lines 1-4] THE COURT: All right. Let me make my point with this, okay? Whether or not that she filled out a form that said at that time when she filled out the form she was not in need of any help and whether or not subsequent to that is irrelevant.
[5-6] Defendant Faltas: It's not irrelevant because it was in December of 2009 which is after.
[7-9] THE COURT: But if she didn't go to the doctor until after she may have signed that form, how is that relevant as far as perjury?
[10-11] Defendant Faltas: She said here on the witness stand and said she didn't sign that paper.
[12] THE COURT: She said she didn't remember signing it, yes.
[13-14] Defendant Faltas: And I want to testify that I saw it and that I was not allowed to get a copy of it.
[15-18] THE COURT: I will allow you to testify to that. Now, what else do you need? Just those two parts? Again, I'm not going to let you make all these assertions you have been making for the last three hours.
[18-23] Defendant Faltas: And I also saw with my own eyes where the City of Columbia, then-Chief Judge Turner, pulled Charlene Crouch's criminal record from SLED and then they did not give it to me and they did not allow me to copy it. So, I'm saying there is enough evidence of prosecutorial misconduct --
[24-25] THE COURT: But that's not the basis of your motion, ma'am. Again, I'm going about the relevance.
[Page 121, lines 1-4] Defendant Faltas: You rule on the motion as of the state of the record when you hear the motion, *not when the motion was made originally.* I can add things -- Rule 15. I have evidence. It can be amended --
[5-9] THE COURT: I will allow you to come up here and testify. I will cut you off if you start making legal arguments versus actual testimony. Come around. You can testify from there. Raise your right hand. It records just as good from where you are. Raise your right hand.
[10-11] Marie-Thérèse Assa'ad-Faltas, after being duly affirmed by the court, testifies as follows:
[12] THE COURT: State your full name.
[13-18] A. My name is Marie Assa'ad-Faltas (inaudible). And m a medical doctor. I graduated with honors from Ain Shams University School of Medicine in 1977. I also got a Master's in Public Health from the University of North Carolina at Chapel Hill. I'm licensed to practice Medicine and Surgery in Egypt and in Virginia and at various times I have held medical licenses in other states.

[19-20] THE COURT: Okay. Please give testimony to the points subject to your motions. Go ahead.

[21-23] A. And I am putting this on the record (inaudible) I honestly do not remember whether you are going to allow me or not. I do not think any reasonable physician would prescribe Paxil.

[24] THE COURT: Okay.

[25] A. I'm allowed to testify.

[Page 122, line 1] THE COURT: I said okay.

[2-7] A. Okay. Fine. I do not think any reasonable physician would prescribe — I also know that, when people go to the emergency room, they are not allowed to have more than three days' worth of medication in any event. Especially now with the abuse and stuff, I don't think they are allowed to even have more than one day's worth of medication.

[8] THE COURT: Okay.

[9-13] A. Additionally, I think it very implausible for her to have been constantly crying and gone to the emergency room four months after she was handed a piece of paper. I did not assault — I did not strike her. She testified from the witness stand today that I struck her; so, I have the right to say that I did not strike her.

[14] THE COURT: Have I stopped you?

[15] A. No, you haven't. I'm just saying what I'm saying.

[16] THE COURT: All right.

[17-19] A. Okay. In fact, she claimed that did she did not want any contact with me. What had happened is that they had given me a letter saying they want to come into my apartment. And I was very afraid of them.

[20-21] THE COURT: All right. I don't see the relevance of this in the after-discovered evidence. So...

[22] Defendant Faltas: Could I say —

[23-24] THE COURT: No. You can't say anything that's not relevant as to your motion for after-discovered evidence, ma'am.

[25] A. But it's relevant to rebutting her testimony that I struck her.

[Page 123, lines 1-4] THE COURT: That's already been adjudicated and affirmed. Okay. This is whether you have the grounds under our law and the limited constraints to be able to have a new trial and that's all I can allow, ma'am. Okay.

[5-10] A. The other thing is that on November17, 2019, actually before that date, I did not receive the notice of the court appearance for that assault allegation. And it turned out that I found out that Larry Mason had taken the notice from my mailbox and then later gave it to me. I wouldn't have known about the November 17™, 2009, hearing. In that hearing —

[11-13] THE COURT: And that's not what we are here for. Now do you want to say something, do you want to testify about what paper you saw concernng Ms. Crouch I guess or Ms. Steele?

[14] A. Yes.

[15-16] THE COURT: Go ahead and say that but don't go into other hearings.

[17] A. So when the matter was tried in general sessions —

[18] THE COURT: Again.

[19] A. I'm giving you the background.

[20-21] THE COURT: I don't need the background. I want the testimony about this case and your motion and nothing else.

[22-25] A. In November 2010, which is a year after 17 November, 2009; so, these are two different (inaudible) dates. I went to the City of Columbia to look at the discovery they had both for the harassment case which I remind you that she claimed she has been hurt. She still claims —

[Page 124, lines 1-6] THE COURT: All right. And your point about this is you didn't get all the discovery and that was germane and proper for your prior hearings that you've lost. It's not for after-discovered evidence unless there is a document that you say they didn't give you that you could not have found. If there is, I'll probably reopen it shortly after I find that out.

[7] A. Yes.

[8] THE COURT: Okay. What is it? What is the document?

[9-12] A. The document that said that she has no psychological effects and no need for a doctor. And it's so impossible, and I'm testifying as a physician, it is — this is what we call malingering. And I am testifying as a physician. And that's why she —

[13-15] THE COURT: Did you raise at your trial that they didn't give you everything in discovery once you saw that? You saw it clearly before the trial was over, correct?

[16-17] A. Remember I was not allowed – I tried to raise it; but Mr. Lupton cut me off.

[18-20] THE COURT: Well, then you have a proper venue for that. I understand you have a PCR filed, correct? But that would not be germane for my part here.

[21] A. Could I just finish my testimony for –

[22-23] THE COURT: Not if you are going to be talking about stuff that has nothing to do with this motion.

[24-25] A. It has to do with the fact that it's not possible for her to have suffered mental injury, especially it wouldn't have been –

[PAGE 125, LINES 1-2] THE COURT: Do you think that you could give an unbiased opinion since you were charged – accused by her?

[3] A. Absolutely. Just the same way that she –

[4-5] THE COURT: And yet you don't think this court could give you a fair trial? See the irony in that, Dr. Faltas?

[6-8] A. No, that is not – I'm sorry. If you are asking me under information that is a whole lot of difference between you are not under oath and you are in a position of power over me.

[9-10] THE COURT: And everything I say and do is reviewed for your protection and mine.

[11] Defendant Faltas: But –

[12] THE COURT: Now back to the relevance of your motion.

[13] A. The relevance is that she could not possibly –

[14-15] THE COURT: You've said that, that in your opinion, your medical opinion, she could not have experienced at a later time.

[16] A. That's not what I was about to say.

[17-18] THE COURT: All right. Then say what you were about to say.

[19-20] A. That she could not possibly have not wanted contact with me because two days later –

[21] THE COURT: Hold on just a second. You need to come up and tell me something? [18] (pause)

[24 to Page 126, line 1] THE COURT: All right, you may continue. She just wanted to let me know she's locking the office up and wanted to know if I [125*126] needed anything. Go ahead.

[2-3] A. Because two days later she came and knocked on my door and wanted to enter my apartment with me inside it. So, it's not possible –

[4-5] THE COURT: Two days later from what date for the record?

[6-7] A. Okay. Exactly three days later. From September 11, 2009. On September14, 2009.

[8] THE COURT: Okay.

[9] A. She came and knocked at my door several times.

[10] THE COURT: Okay.

[10-11] THE COURT: When was the alleged assault? What date was that?

[12-13] A. September 11, 2009. And she claims that she did not want to have any contact with me.

[14-15] THE COURT: Okay. And did you know that? Were you aware of that in September 117, 2009?

[16] A. What?

[17-19] THE COURT: Were you aware that she came to your place in 2009? Answer the question. Were you aware that she came to your place in September 2009?

[20] A. I was aware that she wanted to come, yes.

[21-22] THE COURT: Okay. How hard was it to answer that? Now the trial was in 2013. How is that after discovered?

[23 to Page 127, line 8] A. When you begin to realize that there was perjury you take–you are asking me and arguing now my testimony and I'm telling you the argument answer. When you realize that there was objective [126*127] perjury, *then you look at everything else in the light of the lack of credibility of the witnesses* in light of that perjury. And one thing that should be looked at very closely is her false testimony that she did not want contact with me. But three days after that she came to my apartment and kept knocking and wanting to enter with me in it and complained that I did not open the door for her. So, when you put that in the light of Charlene Crouch lying about her convictions or Dinah Steeling lying about her medical whatever –

[9] THE COURT: Now is this testimony or is this argument?

[10] A. It's argument in answer to Your Honor's question.

[11] THE COURT: Okay.

[12] A. When you put that in that –

[13-14] THE COURT: You can give that argument at the end. Confine yourself to testimony now, please.

[15-17] A. Okay. So, my testimony is that they came on September 14th, Dinah Steele and Larry Mason, and kept knocking at my door and I couldn't let them in because I was afraid of them. Just a second.

[18] THE COURT: Sure.

[19-21] A. I'm sorry. Judge, may I also introduce or proffer pictures of Charlene Crouch going to that place as you (inaudible) that she wasn't truthful about the trespass having being lifted?

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

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

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

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

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

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

[9-10] THE COURT: Sure. You've already made that earlier.

[10] A. I'm sorry.

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

[14] A. That's why I wanted —

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

[16] Defendant Faltas: No, thank you. [17] (witness to the side)

[18-20] THE COURT: Okay. Quick argument. I think I've heard all of your arguments but if you want to summarize it I'll be glad to hear it.

[21-22] Defendant Faltas: No, thank you since you have already heard it.

[23] THE COURT: Okay.

[24] Defendant Faltas: You want the transcript?

[25] THE COURT: Yes, I do want the transcript.

[Page 129, line 1] Defendant Faltas: Okay.

[2-4] THE COURT: Absolutely. The transcript from the City of Columbia? Yes, I think that should be in the record for whatever reason. It needs to be a part of it.

[5-6] Defendant Faltas: Let me put it in order and with your understanding that this is the version that I got from –

[7-8] *Ms. Mangum:* Your Honor, I would be glad to provide the court with a certified copy.

[9-12] THE COURT: All right. I will allow a certified copy to be presented. However, for Dr. Faltas's protection in case I get run over by a truck between now and getting a certified copy, I'll take her copy and then when you get the certified copy I will switch it out.

[13] *Ms. Mangum:* Your Honor, that's my copy.

[14] THE COURT: That's your copy. Okay.

[15-16] *Ms. Mangum:* Just so you know. I think I've got some marks and handwriting in it.

[17-21] THE COURT: Okay. Let me say this. I'm not going to ever look at that. I'm going to let you substitute a certified copy but again I want to protect the record and she has it on the record that's here today and I've got to protect that. We need to keep all this in one separate thing to preserve it. Anything else from anybody?

[22-23] Defendant Faltas: Judge, I think I also wanted to present the transcript of Charlene Crouch's conviction of sexual battery.

[24 to Page 130, line 2] THE COURT: And I've already ruled that's not relevant. And I think you already have. I think that's part of this thing up here. [129-130] Hold on a second. I may already have that. You proffered that earlier.

[3] Defendant Faltas: I don't think —

[4-6] THE COURT: Right here. Her indictment, court of general sessions. Isn't that what this is here, ma'am? You gave this to me earlier.

[7-9] Defendant Faltas: Yes, sir. I also want to present the transcript of January 7, 2010, before then-Circuit-Judge James, now-Justice James she (inaudible).

[10] THE COURT: And the purpose for that is what, relevance?

[11] Defendant Faltas: The (inaudible) mental order.

[12] THE COURT: That she alleged mental then?

[13-14] Defendant Faltas: Yes. That it was way after the fact and ...

[15] THE COURT: What says the City?

[16] *Ms. Mangum:* Your Honor, in terms of the assault, second?

[17-20] THE COURT: She proffering it. I'm not allowing it into evidence. There's a difference between what I can consider. I am not considering that because I don't think it's relevance. If she wants to proffer it, then I am going to allow it. Okay.

[21-22] Defendant Faltas: And if I may find the transcript of the conviction of Charlene Crouch?

[23] THE COURT: No.

[24] Defendant Faltas: No. Okay.

[25 to Page 131, line 1] THE COURT: I don't think it's relevant. And again this is [130-131] not into evidence, it's just for proffer.

[2] *Ms. Mangum:* What is that? I'm sorry. Is it an N.C.I.C. report?

[3-7] THE COURT: No, it's a transcript. This is a transcript of record – this is the same thing I told you I wasn't going to do. I already said I'm not going to transfer. This is proper, the transcript from the hearing I guess when the second degree. I assume. Is that correct?

[8] Defendant Faltas: It's the hearing of the harassment.

[9-10] THE COURT: It's proffered. I'm not going to consider it but she's offered it.

[11-16] Defendant Faltas: May I ask Your Honor to consider it and to consider the credibility of the witness who sat here and said that I harassed her when no jury convicted me of harassment. In addition, in addition, during that hearing she pretended that I was preventing people from going to work. I have objective evidence that those people were unemployed at that time.

[17] THE COURT: And what's the relevance to this?

[18-19] Defendant Faltas: The relevance is that it's after-discovered of my false accuser having lied.

[20] THE COURT: And this was the bond hearing for what?

[21] Defendant Faltas: For the harassment charges.

[22] THE COURT: And didn't that occur before this trial?

[23-24] Defendant Faltas: But she sat here and said that I harassed her. Today. Today. Today.

[25 to Page 132, line 1] THE COURT: Merely because the jury didn't agree with her [131-132] doesn't mean that she was lying.

[2-3] Defendant Faltas: I'm saying now she sat here and lied; and I want to impeach the lie that she gave you from here.

[14-15] THE COURT: What was the lie that you are alleging she made today?

[6] Defendant Faltas: That I harassed –

[7-8] THE COURT: Officer, there are some documents on that table that's part of the record. Go ahead. Go ahead.

[9-13] Defendant Faltas: That I harassed her and one of the history of her lies is that in my bond hearing where she also testified about this assault charge she said that I was blocking people from going to work when at that time the people she said I was blocking were unemployed.

[14-15] THE COURT: Okay. And that was a hearing that took place prior to this trial. Okay. All right. Anything further?

[16] Defendant Faltas: I'm saying that she testified –

[17-18] THE COURT: I heard what she said and 'll decide what I can believe and credibility of everything I've heard under oath.

[19-20] Defendant Faltas: But I am trying to offer you *objective stuff* so you can –

[21 to Page 133, line 1] THE COURT: And I told you that that's not relevant. We are not here whether you can impeach her for what she said here today. You are here about whether you have after-discovered evidence that proves that she lied in the trial for which we are here for the motion for a new trial. Okay. We are done as far as every-[132-133] body?

[2] *Ms. Mangum:* Nothing from the City, Your Honor.

[3 to page 133, line 8] THE COURT: All right. I've got to tell you I've gone back and forth about whether I should reopen this. I'm concerned that perhaps, I have no full evidence, that not everything that was discoverable was given but I don't have any proof of that, *i.e.*, this alleged document. It may or may not exist. But the burden is on the moving party to do that. I have denied the motion to recuse. I have denied the motion to transfer to circuit court. I don't think I have the authority to transfer it if I wanted to. As to Mr. Lupton – there was a forum – certainly if he didn't get records, and this goes to what you are saying now still, that he could have made that motion at that time. There's a different forum. I understand there's a PCR filed. That can be heard at that time. Ms. Steele, the allegations about her being on medicine, I do believe that you could be objective as a medical professional even though you were a party to that. Okay. That was not my point that you could not be objective. My point is professionals often, even though when they are facing adversarial situations, can be objective and make their rulings based on in your instance your medical profession, and you may be absolutely right that some doctor may not have ought to have given her that medicine. That's for a different day and a different time. It doesn't go to this case *per se* as far as discover that she lied because some doctor may have committed malpractice, I can't say

he did or not. Okay. And I don't want any more words out of you. I've got to — you [133-134] said the 2010 case maybe she was lying. Again, that could have been discovered. Charlene Crouch, I do note that she had a drunkenness conviction. There seems to be a question, and we have this in the record, where it says the original court date is 5-18-2012. It doesn't appear there is a conviction date, but even assuming that it was on that 2012 date, you would not have been allowed to ask her about that conviction anyhow because it's not one of those that you are allowed to impeach; so, I don't see any relevance about that. The conviction for the second degree was after. You would not have been able to ask her because the law presumes everyone to be innocent until proven guilty beyond a reasonable doubt. So, I don't see that's relevant. [11] [Page 134, lines 13-18] I can't consider anything that Charles White said to you. I will take into consideration that you said he wrote a letter, had a letter saying that these people— he was lying to help these people out but that was 2009. Clearly that's not after discovered from your trial of 2013. Teresa Ingram, free rent to lie is what you allege, but she didn't testify in this trial so that's not relevant.

[19] Defendant Faltas: Can I preserve that —

[20 to page 136, line 5] THE COURT: [20 to page 135, line 21] I've already said I don't need to hear any more from you. You have preserved what you've preserved. Note any objection for the record. Any objection you have I will note for the record. At any rate, the standard I have is what I told you from before. I know you think that the courts don't give you a fair shake; but I got to tell you this. I've probably spent as much time on this [134-135] today as I have on twenty-five prior motions to reopen combined. This is a little bit more complex in part because you are incredibly intelligent and have a penchant for details. There's nothing wrong, you shouldn't be ashamed about that. Shouldn't be ashamed for being intelligent or having a penchant for details. I'm not sure and I'm not making a ruling about whether they should have convicted you. That's not for me to rule at this date. Unfortunately, in our system if there's after-discovered evidence that's all I'm looking for. I don't see anything that's after discovered that would meet the criteria that would probably change the result of a new trial if it were had because anything you're alleging would be merely impeaching instead of a direct on the fact lie. Now you testified under oath, I assume, at that trial you did not assault her, she testified under oath you did. The trier of fact made that decision. That's not for me. I may have believed you had it been tried in front of me. I don't know. But I don't have that luxury of saying, you know, she wouldn't have fought this hard for so long if she didn't have some—and there's part of me that gave you leeway today that I might not normally give because you've fought long and hard for this. I do believe you believe in your heart and soul what you are saying. However, I'm tied by what the law is. [22 to page 136, line 5] Now do I always agree with the law? No. You and I agree with that. There are things that statutes I wonder how could they pass that statute and mess it up. Rulings I see from whether it's circuit judges, court of appeals but you know what? Most of those [135-136] people are a lot smarter than me and just because I disagree with them doesn't mean that they are not right and I'm wrong and it also doesn't mean that they are right – I might could be right and they may be wrong. But my hands are tied as far as the basis under which and for that I have no choice unfortunately but to deny your motion.

[6] Defendant Faltas: Will there be a written order?

[7] THE COURT: Ma'am?

[8] Defendant Faltas: Will there be a written order, please.

[9-10] THE COURT: A form order, yes. I'm sure there will be a form order, yes.

[11] Defendant Faltas: No –

[12] THE COURT: No, ma'am. That's my discretion.

[13-14] Defendant Faltas: I just want to say that now there is PCR's they want (inaudible)–

[15-25] THE COURT: I just want to say it's my discretion as to how I do the order. I deny your motion. In most of the cases that I've observed as a lawyer, and I practiced law for twenty something years before I did this and did a lot of criminal stuff including death penalty cases, trials, pleas. Sometimes (inaudible). I've never seen this much time taken on a motion for a new trial. I'm not saying that it shouldn't. That's why we stayed here. If we had needed to stay here longer if you had something you could have said that was relevant I would have stayed here longer. That's what they pay me for. They pay me to protect you and to protect the City of Columbia or whoever is in front of me. If I made a mistake, I hope they overturn it.

[page 137, lines 1-2] Defendant Faltas: and what I'm saying, Your Honor, is that they might remand it for a more detailed order.

[3-9] THE COURT: And should they do that I will be glad to give them more detailed. But I gave detailed ruling verbally to you on the record. I didn't have to do that. I could just have said you didn't meet the criteria. I gave my reasons for that and that's as much to protect you because if I made the wrong assumption of what the law was, if I was wrong in what I wouldn't let in, then that would go to your benefit and they would have a record.

[10-11] Defendant Faltas: We'll see if they remand it for a more detailed order or (inaudible).
[12] THE COURT: This case is over. Have a nice day. [14] (adjourned)

[Page 138] STATE OF SOUTH CAROLINA IN THE MAGISTRATE COURT FOR
COUNTY OF RICHLAND THE COUNTY OF RICHLAND
City of Columbia,
vs. Certificate
Marie-Thérèse Assa'ad-Faltas, Defendant.

This is to certify that the within motion to reopen, consisting of one hundred thirty-seven (137) pages, is a true and correct transcript of record for the hearing on February 4, 2019, said transcript being prepared to the best of my ability from a recorded disc provided to me without the benefit of my being present at the proceeding. I further certify that I am not related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of the same.

In witness whereof I have hereunto set my hand and seal on the 17th day of December 2020.

[s/] Nancy S. Ahrens
Notary public for South Carolina
My commission expires: 03-22-29

[cover page] [seal/City of Columbia, SC JUSTITIA VIRTUTUM REGINA] Office of the City Attorney
Post Office Box 667 * Columbia, SC 29202 * (803) 737-4242 * Fax (803) 737-4250
January 4, 2021

Dan Addison, Esquire
Hall Booth Smith, PC
111 Coleman Blvd., Suite 301, Mt. Pleasant, SC 29464
Re: City of Columbia vs. Marie Therese Assa D-FaltasC.A. No.: 2019-CP-40-01374

Dear Mr. Addison:
Enclosed for your review and file please find the Transcript of the Hearing held before Judge Newsom on February 4, 2019 in the above referenced matter.
Should you have any questions regarding the transcript, please do not hesitate to contact our office.

Sincerely, [s/] Della S. Sisson Paralegal, City Attorney's Office

/dss Enclosure(s) as stated

STATEMENT OF TRANSCRIPT EXTRACTOR

The 4-page *errata* are applied to this extracted and reformatted transcript; and the punctuation has been corrected. The all-upper case transcript provided by the court reporter who transcribed it from audio without benefit of presence in the courtroom is tedious to read and not word searchable. The omitted part of the opening of the hearing has been transcribed by the extractor and added at the beginning in dark purple. Otherwise, the content is identical to that provided by Ms. Nancy S. Ahrens.

[s/] Marie Assa'ad-Faltas, MD, MPH, Defendant *pro se*
And extractor of the foregoing transcript and cover letter transmitting it.

Female Clerk: [beginning of proceeding unrecorded] ty-nine.

Magistrate Newsom: Thanks; you may be seated. [brief pause] All right; we're here for a, let's see. Good morning Dr. Faltas. How are you doing today?

Marie Assa'ad-Faltas, MD, MPH: *I'm not well, Your Honor; I'm very out of breath.*

Magistrate Newsom: Okay. We'll let you sit.

Marie Assa'ad-Faltas, MD, MPH: *Thank you; my breath won't let me project my, my voice.*

Magistrate Newsom: There is a microphone there; it will amplify your voice; and everybody'll hear you.

Marie Assa'ad-Faltas, MD, MPH: *Thank you.*

Magistrate Newsom: Okay. I have a motion for a new trial; and this is from the City of Columbia, a simple assault case that has been confirmed by the supreme court against Maria [sic] Faltas. All right, Dr. Faltas, let me tell you some ground rules; okay? You are, for the time being, you're representing yourself.

Marie Assa'ad-Faltas, MD, MPH: *Yes, Your Honor.*

Magistrate Newsom: Okay; but the supreme court has issued restrictions on that. If I find that you cannot abide by the procedures of the court, you don't have respect for them, or your outbursts are such that it interferes with the role and operations of this Court, I'm gonna, as I'm allowed to do, as I understand by the rules of the supreme court, switch you with your attorney and he will do the proceedings there. And I'm gonna put on the record a couple of things, in spite of the order of the circuit court last month that prohibited you from contacting the court or the court personnel or making motions, pre-trial motions, you contacted my office on more than one occasion. You attempted to file subpoenas, which, according to the previous order, you had to file through your lawyer; and, for the record, lawyers are allowed to sign subpoenas; judges do not have to sign them; and then, after we refused to sign them, you filed a motion for me to recuse myself on the basis, a frivolous motion I might add, on the basis that you claim that I ordered you to disrobe naked in the courtroom in 2011. You and I both know, Ms. Faltas, there is no truth to that whatsoever. There was an occasion around maybe 2011 in which you were searched because it was determined that you were attempting to secrete a device into the courthouse which security and the chief magistrate at that time deemed to be potentially dangerous to the citizens in the courthouse; and, as such, a deputy, a female deputy, I might add, and a female officer, a female person for the court, had you searched; and they found the device ---

Marie Assa'ad-Faltas, MD, MPH: *(audible gasp)*

Magistrate Newsom: --- a recording device that you attempted to put in there. Okay? So, you were not ordered to be stripped naked by this court; you and I both know that. If that were true, we both know, as litigious as you are, you would have filed numerous actions from that day to today. So ....

Marie Assa'ad-Faltas, MD, MPH: *Am I allowed to respond?*

Magistrate Newsom: Within the parameters of the court. I've already issued a rule on that. Okay? I just informed you about what your, I not gonna allow you to try to turn this into a thing, anything but the motion to reconsider. I will only consider it, those things that I deem to be pertinent to your motions.

Marie Assa'ad-Faltas, MD, MPH: *Am I allowed to respond?*

Magistrate Newsom: Yes, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *First of all* ---

Magistrate Newsom: (interposing) Yes, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *The state supreme court order is clear that in criminal matters where I am a defendant, and in civil matters where I am a defendant, I may file anything related to the case. That's one thing. So, I don't know where Your Honor got from that I am not allowed to file.*

Magistrate Newsom: (To the clerk) Okay. (To Marie Assa'ad-Faltas, MD, MPH) Yes, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *Second of all, the fact that there was a device found is totally false.*

Magistrate Newsom: Okay; we're not going to debate that. I'm just saying. It's also false if you say that, that I ordered you stripped nude in the courtroom.

Marie Assa'ad-Faltas, MD, MPH: *I didn't say in the courtroom.*

Magistrate Newsom: Yes, you did, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *No. Where? Where? The motion is in writing ---*

Magistrate Newsom: (interposing) Okay.

Marie Assa'ad-Faltas, MD, MPH: *--- and it does not say that.*

Magistrate Newsom: (interposing) All right.

Marie Assa'ad-Faltas, MD, MPH: *--- It wasn't in the courtroom, and ---*

Magistrate Newsom: (interposing) All right. Let's skip ---

Marie Assa'ad-Faltas, MD, MPH: *--- and also, just let me finish, and ---*

Magistrate Newsom: (interposing) No!

Marie Assa'ad-Faltas, MD, MPH: *Okay.*

Magistrate Newsom: We'll go straight on point. You have a motion to recuse, make it. I'll be glad to hear it.

Marie Assa'ad-Faltas, MD, MPH: *Yes. In addition to the grounds that I have set forth in that motion, the fact that Your Honor now is falsely accusing me of having tried to secrete a dangerous device?*

Magistrate Newsom: No, a recording device, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *No recording ---*

Magistrate Newsom: (interposing) Ma'am, there were concerns that it was a dangerous device. They didn't know if it was a bomb or what. It was hidden underneath your clothes; that's why it was required that a female deputy and another female individual witness; and there was a recording device.

Marie Assa'ad-Faltas, MD, MPH: *No sir; there wasn't ---*

Magistrate Newsom: (interposing) I'm not going to debate that. I'm not going to debate that.

Marie Assa'ad-Faltas, MD, MPH: *I'm sorry, that's right there is ---*

Magistrate Newsom: (interposing) I'm not going to debate that. What is your ground for your motion for recusal?

Marie Assa'ad-Faltas, MD, MPH: *First of all, that you're falsely accusing of trying to ---*

Magistrate Newsom: (interposing) Okay; denied.

Marie Assa'ad-Faltas, MD, MPH: *All right, may I, may I just say that, at this point, I don't think I can have a fair hearing if the judge is accusing me of dangerous things or ---*

Magistrate Newsom: (interposing) I didn't accuse you of dangerous things. I've already ruled. I deny that.

Marie Assa'ad-Faltas, MD, MPH: *I'm sorry, Your Honor, is, is this being recorded?*

Magistrate Newsom: Everything is, ma'am, yes.

Marie Assa'ad-Faltas, MD, MPH: *I think you said "dangerous device" at the beginning.*

Magistrate Newsom: I, I exactly said that they were, first, they did not know whether it was a dangerous device; and you were ordered to be searched, so they can make sure the public was not injured. They did not know whether it was a bomb or what. As it turned out, it was a recording device.

Marie Assa'ad-Faltas, MD, MPH: *Sir, there was no recording device.*

Magistrate Newsom: (interposing) All right, ma'am. You've argued that point.

Marie Assa'ad-Faltas, MD, MPH: *There is another thing I want to say.*

Magistrate Newsom: Okay.

Marie Assa'ad-Faltas, MD, MPH: *Even though they were females, first of all, we know that ---*

Magistrate Newsom: (interposing) We're not going to that again. I need your motions, or I'll remove you from representing yourself and allow your counsel to.

Marie Assa'ad-Faltas, MD, MPH: *My motion is based on after-discovered evidence, evidence ---*

Magistrate Newsom: (interposing) No. We're still on your own motion for recusal. I've already denied that portion. If you have some other grounds, raise it.

Marie Assa'ad-Faltas, MD, MPH: *Okay. Also, when you heard a landlady's case against me, back in 2007, into 2008 ---*

Magistrate Newsom: (interposing) I don't know the years; but I recall hearing the a, an eviction hearing against you. Yes, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *You, I was told that you ordered the sheriff to physically set me out out of turn, even though, to the court's hand, my rent --- am I allowed to read the motion?*

Magistrate Newsom: Briefly. I'm not going to hear any frivolous things. I didn't order any sheriff. I don't interact with the sheriff's department on evictions.

Marie Assa'ad-Faltas, MD, MPH: *Well, the sheriff told me that ---*

Magistrate Newsom: (interposing) You have the sheriff here?

Marie Assa'ad-Faltas, MD, MPH: *Well, I think they, they are next door and if want to bring ---*

Magistrate Newsom: (interposing) No, I don't. No. This is your motion; this is your responsibility. If you had somebody on a pertinent ground, you had your lawyer file the motions, or the subpoenas, you could have subpoenaed them then.

Marie Assa'ad-Faltas, MD, MPH: *First, first of all, Your Honor, Mr. Truluck would tell you that he has disagreement about whether the lawyer can sign the subpoenas. Second, the signing of the subpoenas is a ministerial act having nothing to do – the fact that you ordered ---*

Magistrate Newsom: (interposing) You're switching topics Ms. [sic] Faltas. I want to hear your motion to recuse.

Marie Assa'ad-Faltas, MD, MPH: *I'm saying your orders so far have been grounding, groundlessly unfair to me including ordering your staff to ---*

Magistrate Newsom: (interposing) Let me read the order which I am basing this rule on it, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *Okay.*

Magistrate Newsom: Signed by Judge Robert Hood, February 23, 2018: "the appointee," being Chris Truluck, "has been ordered to handle all pre-trial hearing and post-trial hearing matters to include communications with the court staff or filing of any documents.

Marie Assa'ad-Faltas, MD, MPH: *That has to do with the PCR case ---*

Magistrate Newsom: (interposing) No, ma'am. This is, this is from this coming to me ---

Marie Assa'ad-Faltas, MD, MPH: *(interposing) Hold on ---*

Magistrate Newsom: --- This is why this case to me because they didn't want to handle. The circuit court, on your motion, they felt it'd be better heard at the municipal court level. They recused themselves. I was appointed by court administration to handle this case.

Marie Assa'ad-Faltas, MD, MPH: *No, no, no. Circuit court did not recuse itself.*

Magistrate Newsom: All right. I'm not going to debate that. Get to your motions on the recusal; then we'll go on to your; I'll let you summarize what your grounds for, are for the new trial, after-discovered evidence.

Marie Assa'ad-Faltas, MD, MPH: *Yes, sir. Your Honor, I'll let Mr. Truluck say something to the court ---*

Magistrate Newsom: (interposing) No! Would, the supreme court also said that they do not like the hybrid defense. If Mr. Truluck takes over, he takes over; and you're no longer permitted to do it.

Marie Assa'ad-Faltas, MD, MPH: *All right, he wants to talk to me. Can, can we ---*

Magistrate Newsom: (interposing) Sure, oh, absolutely. I have no problem with him talking to you.

Marie Assa'ad-Faltas, MD, MPH: *May we step outside?*

Magistrate Newsom: NO!

Columbia Assistant City Attorney ("CACA") Jessica Mangum: And, Your Honor, at the proper time, I do have a motion to dismiss or, in the alternative, a motion for continuance that I request that you hear before the merits on the motion before you today. I'm Jess Mangum for the City of Columbia.

Magistrate Newsom: Why would you possibly want this to be continued?

CACA Mangum: I'd like, Your Honor, right now, if you want; or I can wait ---

Magistrate Newsom: (interposing) Just let me hear the motion on recusal.

Marie Assa'ad-Faltas, MD, MPH: *May I consult* ---

Magistrate Newsom: (interposing) Sure. Okay.

Marie Assa'ad-Faltas, MD, MPH: *I need to put on the record* ---

Magistrate Newsom: (interposing) Sure.

Marie Assa'ad-Faltas, MD, MPH: *--- that you may be looking at the wrong order. There was an amended order that said that this, the appointment for the PCR; and that was a history of, of a prior appointment. But the appointment as stand-by counsel appointment for the City just says stand-by counsel. Not for the City, or the case with the City says stand-by counsel.*

Magistrate Newsom: Okay. Are there two orders?

Marie Assa'ad-Faltas, MD, MPH: *Yes. The last paragraph of the amended order, signed February 23rd; and may I read it into the record?*

Magistrate Newsom: Sure.

Marie Assa'ad-Faltas, MD, MPH: *(reading) "It is therefore ordered that with the consent of the applicant, and where there exist no known conflicts preventing Appointee* ---

Magistrate Newsom: (interposing) That is Judge Hood's order. Okay. I stand corrected on that part. Okay?

Marie Assa'ad-Faltas, MD, MPH: *So, so, I was allowed to, to file* pro se ---

Magistrate Newsom: (interposing) Only if they were not; you also, ma'am, it is my rule that you not be allowed; and I tell you why. You have a history, not only in my office, but in other offices and in other courts, of harassing, making threatening, have you accused one of my staff ---

Marie Assa'ad-Faltas, MD, MPH: *(interposing) Oh, no, no, no* ---

Magistrate Newsom: (interposing) Ma'am, stop. I've got the floor here. Okay? And I'll give it to you; and if I've done something wrong; and I feel certain you'll appeal, they can correct me if I'm wrong. And I'll stand corrected and it won't hurt my feelings. Okay? But I'd like to tell you this, as a last time, here in my court, I control the courtroom, you do not. I will not allow outbursts and tirades. Other people may; I will not. Okay? I will allow you, I will protect you under the law, just the same as I would anybody else; and, if there is merit to your arguments, I will reopen the case in a heartbeat. It would not bother me whatsoever. I'm here to, but 'm not going to let you make this a circus and go into things that have already been ruled on.

Marie Assa'ad-Faltas, MD, MPH: *Did Your Honor make the word, use the word "threat"? Did you just use the word "threat"?*

Magistrate Newsom: Ma'am, I don't have to answer your questions. You're fine to tell me your motion.

Marie Assa'ad-Faltas, MD, MPH: *Okay,* ---

Magistrate Newsom: (interposing) On recusal.

Marie Assa'ad-Faltas, MD, MPH: *Okay. First of all, first of all* ---

Magistrate Newsom: (interposing) Yes, ma'am.

Marie Assa'ad-Faltas, MD, MPH: *No court ever found that I filed anything threatening. No court ever deemed that* ---

Magistrate Newsom: (interposing) I want your motion for recusal, ma'am. If you can't, if you're not prepared to make it, I'm gonna remove you and let him take over this hearing because I'm not wasting this Court's time.

Marie Assa'ad-Faltas, MD, MPH: *I've made it. I am making part of the recusal is that your unfairness goes to the point of falsely accusing me of making threatening filings. The other thing, I may be ---*

Magistrate Newsom: (interposing) Frivolous filings.

Marie Assa'ad-Faltas, MD, MPH: *Your Honor used the word "threatening." And, speaking of frivolous, I may be the only person in South Carolina who argued a Rule 29(b) motion ---*

Magistrate Newsom: (interposing) I don't want to hear that.

Marie Assa'ad-Faltas, MD, MPH: *--- and won.*

Magistrate Newsom: I'll give you 30 secs to begin with your motion for the recusal. If you do not begin it, I'm gonna remove you from representing yourself and allow your counsel to replace you.

Marie Assa'ad-Faltas, MD, MPH: *I finished the motion.*

Magistrate Newsom: You've finished? Okay. So, we're not. So, now, we have a motion from the City. So, the motion to recuse myself is denied. I'll give you a fair trial under the rules and under the law, not the rules or the laws you think they are, but how they are. (to CACA Mangum) Yes, ma'am.

CACA Mangum: Your Honor, may it please the Court, as I said before, I'm Jessica Mangum for the City of Columbia. Your Honor, we are here today on a, I believe, on a motion for a new trial based on after-discovered evidence. Your Honor, if you look at the Rules of Criminal Procedure, Rule 29(b). The second part of that motion talks about, I'm sorry, the second part of that rule talks about the motion for a new trial based on after-discovered evidence cannot be made while the case is on appeal. And, Your Honor, this morning, I received from Dr. Faltas a very lengthy petition for a writ of *cert* on this case to the United States Supreme Court. So, I do not believe that this case is through the appeal process; and, therefore, I do not believe the motion is properly before you today.

Marie Assa'ad-Faltas, MD, MPH: *It is true that there is, I had filed a petition for a writ of* certiorari *to the United States Supreme Court, a timely petition. The Chief Justice extended my time, which is normally 90 days from either the state, the last, the court, the state court of last resort's opinion or the denial of rehearing, which happened on August 17, 2017. The Honorable Chief Justice of the United State, States extended my time 60 days. I filed an initial petition; and the other rules of the United States Supreme Court provided that, if there are technical problems with the petition, the Clerk may return it. The Clerk returned it the first time erroneously; and they said they cannot review it until I send it back. I sent it back. Every time, the City, as the opposing party, was served; and they sent it back a second time. So, this is the third time that, that I sent it. Now, I don't have an opinion one way or another whether the pendency of a petition for* certiorari *to the U.S. Supreme Court constitutes the extension or an appeal or not. And I leave that determination to Your Honor.*

Magistrate Newsom: Well, let's, I'll do this in an abundance of caution to protect your rights.

Marie Assa'ad-Faltas, MD, MPH: *I'm sorry?*

Magistrate Newsom: Out of an abundance of caution and to protect your rights, I'm gonna assume that this is your appeal. So, this means this motion cannot be heard at this time. It doesn't mean you forfeit the right to have this motion after the completion. It just means it's not timely at this time, or prohibited, as I understand that rule. Okay?

Marie Assa'ad-Faltas, MD, MPH: *So, so, you consider just formally, is it possible to formally have a ruling that you had, that the pendency of a petition for a writ of* certiorari *before ---*

Magistrate Newsom: I'll issue the orders I issue; and it will protect your ability, or to preserve as it was, before you came in here today, before I was made aware that there was such writ before the U.S. Supreme Court, once that is resolved ---

Marie Assa'ad-Faltas, MD, MPH: *(interposing) All right ---*

Magistrate Newsom: ---then this will be scheduled. And if court administration deems that I should be the judge to hear it at that time, then I'll hear it. If they deem that somebody else is supposed to hear it, then they'll hear it.

Marie Assa'ad-Faltas, MD, MPH: *And may I also enter an appeal from your refusal to recuse?*

Magistrate Newsom: Ma'am, ---

Marie Assa'ad-Faltas, MD, MPH: (interposing) Because that was ---

Magistrate Newsom: (interposing) --- it is my understanding of your history, whether you have permission to do something or not, you're gonna do what you want to do. (brief pause) ***I think you like the chase as much as the capture.***

Marie Assa'ad-Faltas, MD, MPH: And I would say that all these statements, these statements are more grounds for recusal.

Magistrate Newsom: I understand. I understand.

Marie Assa'ad-Faltas, MD, MPH: Okay.

Magistrate Newsom: But it, the bottom line they are reviewing to whether I was fair and accurate in my ruling. And if I'm deemed to be when you appeal, if I end up being the judge, I'm deemed to be accurate and given fair consideration to the evidence, then they'll uphold it. If they think I made a mistake, then they'll overturn it. I do not take those things personally. I can only do what I think is the appropriate thing to do.

Marie Assa'ad-Faltas, MD, MPH: So, your ruling now is to suspend the motion ---

Magistrate Newsom: (interposing) My ruling is I have no jurisdiction to hear this. I cannot hear this if there is a pending appeal. If you withdraw your appeal, then we can hear it, plain and simple.

Marie Assa'ad-Faltas, MD, MPH: No, I ---

Magistrate Newsom: (interposing) But you're not withdrawing your appeal, I can't hear this at this time.

Marie Assa'ad-Faltas, MD, MPH: I'm saying what is pending is not the appeal but a petition to the U.S. Supreme Court.

Magistrate Newsom: Which is an extension of the appeal. Okay?

Marie Assa'ad-Faltas, MD, MPH: Well, that's your decision. Some other court ---

Magistrate Newsom: (interposing) Well, it is; it is. I've already told you; and I don't need to discuss it.

Marie Assa'ad-Faltas, MD, MPH: Yeah. Some other court ---

Magistrate Newsom: (interposing) This hearing is over.

Marie Assa'ad-Faltas, MD, MPH: Thank you.

Mr. Truluck: Thank you.

Magistrate Newsom: You're welcome.

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-4003522

City of Columbia
PLAINTIFF(S)

Marie Therese Assa'ad Faltas
DEFENDANT(S)

Submitted by: Judge Jocelyn Newman	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

This order ☑ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Jocelyn Newman
Circuit Court Judge

2757
Judge Code

January 4, 2018
Date

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND City of Columbia, v. Marie Therese Assa'ad Faltas, Appellant.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No. 2013-CP-40-03522 **ORDER**

2018 JAN -4 PM 2:51

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

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

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

IT IS FURTHER ORDERED that the Richland County Clerk of Court issue a Remittitur in this action and that the case be REMANDED to Columbia Municipal Court in accordance with its procedures[1] and Rule 221(b) of the South Carolina Appellate Court Rules.

AND IT IS SO ORDERED.

Jocelyn Newman
Presiding Judge

January 4, 2018
Columbia, South Carolina.

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

Jeanette W. McBride
Clerk of Court

Anne G. Kelly
Chief Deputy Clerk of Court

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

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

RICHLAND COUNTY JUDICIAL CENTER
1701 Main Street
Columbia, S.C. 29201

June 5, 2014

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

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

Dear Dr. Faltas:

You have filed the following motions with this office:

(1) Motion to Suspend This Appeal For Initial 30 Days to Allow Dr. Assa'ad-Faltas to Submit Her After Discovered Evidence to The Trial Judge in Columbia's Municipal Court ("CMC") , dated December 23, 2013

(2) Motion to Appoint Counsel as Tristan Shaffer Claims to Have Been Relieved as Counsel, dated March 11, 2014

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

Sincerely,

Jeanette W. McBride

Jeanette W. McBride/pjg

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

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	**IN COLUMBIA'S MUNICIPAL COURT ("CMC")** **CSW L-066971** (Appeal No. 2013-CP-40-03522 suspended or withdrawn)
City of Columbia, South Carolina, ***v.*** ***Marie Assa'ad-Faltas, MD, MPH***	***Timely* Rule 29(b) MOTION for a New Trial** **Based on Dr. Assa'ad-Faltas' After-Discovered Evidence** **Of *MATERIAL* Fraud Upon the Court and Upon Defendant.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proverbs 1:10-14 opens:

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

Proverbs 6:16-19 emphasizes

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

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

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

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

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

D. Integration of All Commandments

James 2:10-11 is clear:

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

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

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

> "The Capitall Lawes of New-England," dating from 1636, were drawn by the Massachusetts Bay Colony and are the first written expression of capital offenses known to exist in this country. These laws make the following crimes **capital offenses**: idolatry, witchcraft, blasphemy, murder, assault in sudden anger, sodomy, buggery, adultery, statutory rape, rape, manstealing, **perjury in a capital trial**, and rebellion. Each crime is accompanied by a reference to the Old Testament to indicate its source. It is not known with any certainty exactly when, or even if, these laws were enacted as drafted; and, if so, just how vigorously these laws were enforced. We do know that the other Colonies had a variety of laws that spanned the spectrum of severity.
>
> [fn 6] Indeed, the first federal criminal statute, enacted by the First Congress, prescribed 39 lashes for larceny and for receiving stolen goods, and one hour in the pillory for perjury. Act of Apr. 30, 1790, §§ 16-18, 1 Stat. 116.
>
> [fn17, 13] The ... incident giving rise to the provision was the perjury trial of Titus Oates in 1685. Oates was a minister of the Church of England who proclaimed the existence of a plot to assassinate King Charles II. He was tried for perjury, convicted, and sentenced to a fine of 2,000 marks, life imprisonment, whippings, pillorying four times a year, and defrocking.

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

III. The Underlying Conviction was Procured with Perjury[1]

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

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

A. Charlene Crouch's After-Discovered Perjury

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

B. Dinah Steele's After-Discovered Perjury

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

On Friday, 11 September 2009:

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

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

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

---

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

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

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

[13] Dr. Faltas: Objection.

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

[15] The Court: Excuse me.

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

[18] The Court: Cannot say what?

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

[22] The Court: Objection overruled.

[23] Dr. Faltas: Exception.

[24] The Court: So noted. *****

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

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

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

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

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

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

[7] Q. Yes.

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

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

[14] A. No, I have not.

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

[17] A. I have no idea.

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

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

[22] Q. Why is that ridiculous?

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

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

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

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

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

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

[page 113, line 1] A. Mm.

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

[5] A. No.

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

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

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

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

[13] Dr. Faltas: Judge –
[14] **The Court:** Specific questions and answers.
[15] Dr. Faltas: Judge, I am –
[16] **The Court:** This is not a fishing expedition.
[17-20] Dr. Faltas: This, this is a very legitimate question because that's to prove that they are going after my mother even though my mother didn't even do anything to them.
[21-22] **The Court:** All right, any further questions –
[23] **Dr. Faltas:** Yes. *****
[22-25] Q. I'm sorry. I'll, I'll make the question clear. I'm sorry. I'm sorry. So you testified that I -- did I ever enter your shop?
[page 116, line 1] A. No, you did not.
[2-3] Q. Okay. Isn't it true that at one time, you invited me to come to your --
[4] A. No, I did not.
[5-7] Q. All right. I was waiting for this. Could you please write the words "Dinah Steele" in capital and write your telephone number on a piece of paper.
[8] A. Yeah.
[9] Q. Thank you.
[10-11] **The Court:** Why would you like for her to write her name and telephone number?
[12-14] Dr. Faltas: Because I want the – you, the Court, to compare it. Judge, can you let me, give me latitude, please? Can you give me latitude?
[15-18] **The Court:** No, ma'am. I will not give you latitude. If you have a document to ask her to take a look at it and see, "Is this your handwriting?" that's fine. That's all you have to do.
[19] Dr. Faltas: But can I get it back?
[20] **The Court:** Get what?
[21-22] Dr. Faltas: Get that, that piece of paper back.
[23] **The Court:** Sure.
[24-25] Dr. Faltas: Thank you. May I show it to the Court first?
[page 117, lines 1-2] **The Court:** No, just ask her if she recognizes this.
[3-4] Dr. Faltas: Well, may I just explain to the Court that I (indistinct) --
[5] **The Court:** Let her explain.
[6-7] Dr. Faltas: No, I am, I am trying to explain to the Court --
[8-9] **The Court:** Well, if you're going to introduce it as evidence, I don't need to see it.
[10-13] Dr. Faltas: I'm just saying could, could we please do it like this because I don't want her to see that other (inaudible). That other part is in my handwriting.
[14] **The Court:** Oh.
[15-16] Dr. Faltas: I wrote someone else's number on it. I just want her to concern herself --
[17] The Court: Do you recognize that?
[18-19] Ms. Steele: Yeah, that's my name and my, the shop telephone number.
[20] The Court: Okay. Did you write that?
[21] Ms. Steele: It looks like my handwriting.
[22] The Court: Okay.
[23] Ms. Steele: That's the shop number.
[24] The Court: See how easy that is?
[25 – page 118, line 3] Ms. Steele: She had asked me several times to cut her hair, and I refused 1 to do it at the -- **she wanted me to do it at, on the balcony, and I would refuse to do it.**
[4 -6] By Dr. Faltas: Q. Did you instead write your name and number, your name and shop telephone number and tell me to call --
[7-12] A. I did. I did. I told you, "I will not cut your hair on the balcony," that you, if you wanted -- yeah, I did. If you wanted to come to the shop, you were welcome to come to the shop. That was the shop of the number -- the number to the shop. But I was not going to cut your hair out there on the balcony.
[13-15] Q. Ma'am, the question passed before I did this, I asked you, "Did you invite me to come to your shop?" and you said no. And now, I impeached you.
[16] A. That's a huge impeachment.
[17] Q. It is.
[18] **The Court:** Next question? *****

[24 – page 123, line 1] A. No, you didn't -- look, you don't understand. You're pulling into the driveway, and then you're pulling back out. **You're not turning your car around, lady.**
[2-3] The Court: Now calm now. And your next question?
[4-6] By Dr. Faltas: Q. And you said that happened only once, or a hundred times, or what?
[7] A. I've seen you that time.
[8-10] Q. Do you have any idea whether it ever happened any other time? Do you have personal knowledge whether it happened another time?
[11] A. No.
[12] Q. Did you see me inside the car?
[13] A. No.
[14-15] Q. Okay. So you just see a car with an Obama bumper sticker, and you think it's --
[16] A. I saw your vehicle.
[17] Q. You said you don't know its --
[18-19] A. I saw your vehicle. I don't know what your license tag number is, but I recognize your vehicle.
[20-21] Q. Is there anything different about my vehicle other than – *****
[page 130, line 1] The Court: So noted.
[2-5] By Dr. Faltas: Q. And then, you admitted that I was trying to give you a letter, but you weren't wanting to accept that letter. Isn't that --
[6-7] A. Now, which, which, what – you're going to have to clarify this.
[8-9] Q. In September 2009, you were trying to come to my apartment and photograph it. *Isn't that correct?*
[10-23] A. We were doing inspections on all the apartments, and you denied us entry. **You were given a written letter by certified mail and one by your doorway** that we would be doing a yearly inspection which would have included the inspection of the smoke alarms and the fire extinguishers, and we were going to be changing all of the furnace vents -- the filters, which we did, everybody's but yours because there was a huge sign on your door saying, "Do not enter. Criminal prosecution," a sign this big all the way down the door. We knocked on the door. You refused to answer. **We called the fire department to let them know that we had no way of checking on your fire extinguisher to make sure that it was up to date. They took note to it.**
[24] Q. Uh-huh.
[25 – page 131, line 1] A. They said we would not be held accountable for your --
[2-3] Q. You couldn't, you couldn't just have left a new fire extinguisher outside my door.
[4-5] A. And we were also checking for leaks and stuff up underneath the sinks. It's preventative.
[6] Q. Mm-hmm.
[7] A. And you would not allow us in there.
[8-9] Q. Isn't it true that you came in December 2008 and changed the toilet tank in my apartment?
[10-16] A. We did. We had a – I don't know about that date, no. **I have idea about the date.** But we had a water problem with that building, and we checked -- we sent letters out to everyone in that building saying that we would do an inspection, and at that time, there were toilets, and yours was one of them, which we made a repair to.
[17] Q. Did I give you any problems coming in?
[18] A. You did not.
[19-20] Q. And isn't it true that there were other things that were wrong in the apartment?
[21] A. Uh, you may want to refresh my memory.
[22-25] Q. For example, isn't it true that the sink that you had caulked had completely -- the caulk was gone, and the sink was completely lopsided? Did you work on the sink?
[page 132, lines 1-4] A. I remember working on the sink. I don't, I don't necessarily remember that specific time. I remember working on it before you entered the apartment, before you leased the apartment.
[5-6] Q. But when I was in the apartment, I gave you no problem when you came in to repair the --
[7] A. You gave us lots of problems.
[8-9] Q. I'm talking about this particular time. I gave you no problem --
[10-11] A. You mean to enter your apartment? Is that what you're referring to?
[12] Q. Didn't you testify that I gave you no --
[13-14] A. I'm, I'm -- you're trying -- I need you to clarify the question.
[15-16] Q. To enter it and to help you fix it, fix what needed to be fixed.

[17-19] A. That one time that we had that water problem, we did not have a problem. You did not give us any problem entering the apartment that one time.
[20] Q. And that was December 2008.
[21] A. I don't remember the date.
[22-23] Q. Okay. If were to testify that it was December 2008, you'd --
[24] A. I can't, I can't, I can't say.
[25] Q. Okay. But you have -- all right, fine.
[page 133, Line 1] The Court: Next question. You have --
[2] Dr. Faltas: I am, I am, I am.
[3-4] The Court: You've asked that question five times.
[5-6] Dr. Faltas: All right, Judge, I'm, I'm, I'm - - okay.
[7-9] By Dr. Faltas: Q. Did I tell you when I rented from you that I do not use the air conditioning?
[10] A. No, you did not.
[11-12] Q. Did I not request you to turn it off as soon as I changed the power to my --
[13] A. I don't recall.
[14-15] Q. Well, there is a difference between I did not and you don't recall.
[16] A. I don't recall that.
[17-19] Q. Okay. And so did, would, did there come another time when I told you that the screen door on the balcony was loose?
[20] A. Yes.
[21] Q. And did you come and fix it?
[22] A. We did.
[23] Q. And did I give you any problems?
[24] A. No.
[25] Q. Okay. And after that, it went loose again.
[page 134, line 1] A. Yes.
[2] Q. But you didn't fix it.
[3-4] A. No, we didn't. You were already -- should have been out of the apartment by then.
[5-6] Q. Have you continued to demand and receive $550 rent from me?
[7] A. The court is requiring you.
[8] Q. Did you receive that money?
[9-10] A. I have received it every, every month. It is court mandated.
[11] Q. After --
[12] A. I would prefer that you leave.
[13-14] Q. But even though you were getting my money, you weren't fixing things.
[15-19] A. You, you had complained about the screen. We did not want to have any contact with you. We told you we would not fix the screen, that it was not considered an emergency, that you had been evicted, and you needed to leave.
[20-22] Q. And with the screen door loose and the sliding door loose, bugs can get in, mosquitoes, in summer. Yes or no?
[23-25] A. You had not made a complaint about the sliding glass door. You made a complaint about the screen. We told you it was not an emergency.
[page 135, lines 1-2] Q. So you don't fix things unless they were an emergency.
[3] A. We fix everything.
[4-5] Q. But for me, you don't fix it unless it's an emergency.
[6-7] A. We don't want to have any contact with you, Marie.
[8-9] Q. Could you have sent somebody? Could you have --
[10] A. We're not going to, Marie.
[11] Q. Okay.
[12] A. We're not going to fix your screen door.
[13-15] Q. And yet, and yet, even though you claim you did not want a contact with me, you insisted that you wanted to come into my apartment --
[16-17] A. That was for the yearly inspection that is basically required by the fire department, Marie.
[18-19] Q. Did you do an inspection the year before that day?

[20-22] A. Not on that day, no, but we do. Once a year, we check the fire extinguishers. We go through and we make inspections.
[23] Q. No, you hadn't done -- did you write --
[24] The Court: You cannot argue with her answers.
[25] Dr. Faltas: Okay, sorry, sorry.
[page 136, lines 1-3] By Dr. Faltas: Q. Did you write to the tenants notices about a yearly inspection before?
[4] A. I don't recall.
[5-7] Q. Okay. And isn't it true that you were trying to come on Labor Day, and I was trying to tell you, "No, you cannot come in on Labor Day?"
[8] A. Yeah, and we rescheduled it.
[9-12] Q. And isn't it true that I was just trying to give you the letter that -- isn't it true that my lease says that you can only come in my presence unless it's an emergency where you cannot contact me?
[13-14] A. Yes. And you were there, and you still wouldn't let us in, Marie.
[15] Q. My question is --
[16] A. It does say that. And again, you were there.
[17] Q. My --
[18-19] A. We knocked on your door, and you would not allow us in.
[20-21] Q. And my question is didn't I, wasn't I trying to give you a letter telling you --
[22] A. On the day that you assaulted me.
[23] Q. I didn't assault you.
[24] Dr. Faltas: Judge --
[25] The Court: Uh.
[page 137, lines 1-2] Dr. Faltas: Well, okay, sorry. But she cannot --
[3] The Court: Do not --
[4] Dr. Faltas: Okay.
[5-7] The Court: She can explain her answers, and I'm going to give you about nine more minutes, and it'll be 12:00 noon.
[8-9] Dr. Faltas: She cannot make legal conclusions. She cannot --
[10-12] The Court: She can explain her answers. You can ask her a question, she can answer it yes or no, and she can explain her answers.
[13] Dr. Faltas: But -- well, exception to --
[14] The Court: So noted.
[15-18] By Dr. Faltas: Q. Isn't it true that your lawyer doesn't represent you in any matter except what the insurance company hired --
[19] The Court: That is immaterial to this case.
[20-21] Dr. Faltas: Okay, she said that, she said that the letter needed to go to her lawyer.
[22-23] The Court: That is immaterial to this case. I don't even care anything about that.
[24] Dr. Faltas: Judge, she test --
[25] The Court: Next question.
[page 138, lines 1-2] By Dr. Faltas: Q. You basically didn't want to take the letter.
[3] A. All you had to do was drop the letter, Marie.
[4-7] Q. And then you were going to claim that you didn't get it. Isn't it true that the letter said I cannot be available on the 14th, but I will work with you --
[8] A. It did.
[9] Q. -- on the 21st?
[10-14] A. And you were still there. You were there the day we did the inspection. You were out there taking photographs of us through your window. You had photographs of us, what, taking the fire extinguishers out of the truck?
[15-17] Q. And my question to you is what would have been so impossible about your leaving a new fire extinguisher outside --
[18-19] A. Again, as I have already testified to, we were also checking for leaks underneath sinks.
[20] Q. Okay. Hadn't you done that in December 2008?
[21] A. We had.
[22-23] Q. Did you have any reason to think there would be leaks inside -- in the sink?
[24-25] A. Again, Marie, we were just doing inspections. We did them to all of them, Marie --
[page 139, line 1] Q. And yet --
[2] A. -- all of the --
[3] Q. -- had there been --
[4] A. -- all of them.
[5-6] Q. -- had there been a leak, would you have fixed it?
[7] A. Yes, we would have.
[8-10] Q. And why wouldn't you fix the screen door when I was telling you that the screen door is loose? Why would you --

[11] A. Because it wasn't an emergency, Marie.
[12] Q. And why --
[13-15] A. It doesn't deal with the water issues. **It doesn't, it doesn't, it's not going to rot out the cabinets.**
[16-17] Q. So you care only about your cabinets, but you don't care about my comfort. In fact, you testif --
[18] A. I don't care about your comfort.
[19-20] Q. And you claim I am the one denying other tenants the peaceful enjoyment.
[21] A. Definitely.
[22] Q. Okay.
[23] A. I don't claim it. I know it.
[24-25] Q. Have you ever, have you ever seen me enter Building 300?
[page 140, lines 1-5] A. Not enter the building, but I have seen you on the property. I have told you, looked you straight in the eye, "You are trespassing onto the property of the 300. You need to go back over to your apartment and stop harassing us."
[6] Q. We --
[7] A. I was an eyewitness --
[8] The Court: Calm down.
[9-10] By Dr. Faltas: Q. And we agreed that there is no marking.
[11] A. There is no marking.
[12-13] Q. And we agreed that the mailboxes are opposite the 300 building.
[14] A. They are. *****

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

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

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

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

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

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

[minute C 04:46] B.J. Burns: (interposing) [] Is that still pending?
[minute C 04:47] Dinah Gail Steele: Yes, ma'am.
[minute C 04:48] B.J. Burns: What's that still pending?
[minute C 04:55] Dinah Gail Steele: Simple assaulting.
[minute C 04:56] B.J. Burns: And that happened in September?
[minute C 04:55] Dinah Gail Steele: September 11th.
[minute C 04:56] B.J. Burns: I'm assuming that means there's been
http://sdrv.ms/10KMX41 **[minute D 00:00] B.J. Burns:** she's requested a jury trial. Correct?
[minute D 00:04] B.J. Burns: And what is your bond on that?
[minute D 00:06] Dr. Assa'ad-Faltas: There was no bond
[minute D 00:08] B.J. Burns: It was summoned back to court?
[minute D 00:10] Dr. Assa'ad-Faltas: I'm sorry, ---
[minute D 00:10] B.J. Burns: (interposing) Do you know, Mr. Briggs, if she was summoned back to court?
[minute D 00:11] Orin G. Briggs: I was not involved in that aspect but if she says that she didn't; if she said it was a PR bond, it would be, Your Honor. She wouldn't fib about that.
[minute D 00:22] Dr. Assa'ad-Faltas: May I say something, Your Honor?
[minute D 00:24] B.J. Burns: I just want to know that one thing, what was, what is your bond?
[minute D 00:27] **Dr. Assa'ad-Faltas:** On a courtesy summons there is none because a courtesy summons ---
[minute D 00:30] **B.J. Burns:** (interposing) All right. That's all I need to know.
[minute D 00:32] **Dr. Assa'ad-Faltas:** There was no bond
[minute D 00:33] **B.J. Burns:** All right. Got it.
[minute D 00:35] **Dinah Gail Steele:** We now have a total of four restraining orders against her, Your Honor: myself, my husband, and Teresa Ingram's, and Charlene Crouch. [minute D 00:46] Hmm, if we can at least, these things have escalated to assaults and, hmm, you know, I mean, it's, it's just like continuously getting worse. [minute D 00:56] And we, we are fearful.
[minute D 00:58] **B.J. Burns:** All right.
[minute D 00:59] **Dinah Gail Steele:** We're very fearful. **What will be the next step?**
[minute D 01:02] B.J. Burns: All right. Have you been informed of when, hmm, have you gotten a letter yet about the jury trial on the simple assault?
[minute D 01:09] Dinah Gail Steele: No, Your Honor.
[minute D 01:10] B.J. Burns: When it's coming up, were you at the bond setting for that?
[minute D 01:12] Dinah Gail Steele: Hmm. There was none. They didn't set up a bond for her on that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1:47:58 to 1:52:10: Sounds
1:52:10 to 1:52:12: Marie: What happened? It stopped.
1:52:12 to 1:52:33: Sounds
1:52:33 to 1:52:37: April: the secretary and she said she didn't know.
1:52:37 to 1:52:52: Marie: Uh. Each. And then I don't know what happened to the recording; but, first I need to get some answer as to whether I can stay after you leave.
1:52:52 to 1:52:57: Officer: You can't. Not this time

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

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

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

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

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

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

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

[17] The Court: With who?

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

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

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

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

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

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

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

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

[24] The Court: Thank you.

[25] Dr. Faltas: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[7] The Court: What does she do?

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

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

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

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

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

[21] Ms. Ingram: With her car.

[22] The Court: Okay.

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

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

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

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

[18] Ms. Reynolds: No, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[25] A. Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[7] Mr. Lupton: Still pending?

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

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

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

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

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

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

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

[22] Mr. Lupton: All right.

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

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

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

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

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

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

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

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

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

INDICTMENT

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

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

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

[s/] DAN JOHNSON, SOLICITOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proverbs 1:10-14 opens:

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

Proverbs 6:16-19 emphasizes

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

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

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

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

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

D. Integration of All Commandments

James 2:10-11 is clear:

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

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

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

> "The Capitall Lawes of New-England," dating from 1636, were drawn by the Massachusetts Bay Colony and are the first written expression of capital offenses known to exist in this country. These laws make the following crimes **capital offenses**: idolatry, witchcraft, blasphemy, murder, assault in sudden anger, sodomy, buggery, adultery, statutory rape, rape, manstealing, **perjury in a capital trial**, and rebellion. Each crime is accompanied by a reference to the Old Testament to indicate its source. It is not known with any certainty exactly when, or even if, these laws were enacted as drafted; and, if so, just how vigorously these laws were enforced. We do know that the other Colonies had a variety of laws that spanned the spectrum of severity.
>
> [fn 6] Indeed, the first federal criminal statute, enacted by the First Congress, prescribed 39 lashes for larceny and for receiving stolen goods, and one hour in the pillory for perjury. Act of Apr. 30, 1790, §§ 16-18, 1 Stat. 116.
>
> [fn17, 13] The ... incident giving rise to the provision was the perjury trial of Titus Oates in 1685. Oates was a minister of the Church of England who proclaimed the existence of a plot to assassinate King Charles II. He was tried for perjury, convicted, and sentenced to a fine of 2,000 marks, life imprisonment, whippings, pillorying four times a year, and defrocking.

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

III. The Underlying Conviction was Procured with Perjury

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

A. Charlene Crouch's After-Discovered Perjury

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

B. Dinah Steele's After-Discovered Perjury

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

On Friday, 11 September 2009:

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

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

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

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

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

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

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

[13] Dr. Faltas: Objection.

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

[15] The Court: Excuse me.

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

[18] The Court: Cannot say what?

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

[22] The Court: Objection overruled.

[23] Dr. Faltas: Exception.

[24] The Court: So noted. *****

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

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

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

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

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

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

[7] Q. Yes.

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

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

[14] A. No, I have not.

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

[17] A. I have no idea.

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

[20-21] A. Yeah, you came up with something ridiculous, something like $5,000.
[22] Q. Why is that ridiculous?
[23] A. I'm not going to accept that.
[24-25] Q. Okay. So you think you have the right to keep your sewer lines on my land when I don't want them there.
[page 104, line 1] A. Yes, I do.
[2-3] Dr. Faltas: If that's not motive, Judge, I don't know what is?
[4-5] **The Court:** Now's not the time for you to make a closing argument. *****
[24-25] Q. Didn't you testify that you asked them about whether my mother is really a citizen?
[page 113, line 1] A. Mm.
[2-4] Q. You testified to that. There is a record. That's why it's being recorded. ***Did my mother harass you?***
[5] A. No.
[6] **The Court:** You're getting --
[7-8] Dr. Faltas: Q. Did you ever --
[9] **A.** I don't know the --
[10-12] **The Court:** -- excited again. I will cite you for contempt if you raise your voice again. We're not getting into argument with witnesses.
[13] Dr. Faltas: Judge --
[14] **The Court:** Specific questions and answers.
[15] Dr. Faltas: Judge, I am --
[16] **The Court:** This is not a fishing expedition.
[17-20] Dr. Faltas: This, this is a very legitimate question because that's to prove that they are going after my mother even though my mother didn't even do anything to them.
[21-22] **The Court:** All right, any further questions --
[23] **Dr. Faltas:** Yes. *****
[22-25] Q. I'm sorry. I'll, I'll make the question clear, I'm sorry. I'm sorry. So you testified that I -- ***did I ever enter your shop?***
[page 116, line 1] A. No, you did not.
[2-3] Q. Okay. Isn't it true that at one time, you invited me to come to your --
[4] A. No, I did not.
[5-7] Q. All right. I was waiting for this. Could you please write the words "Dinah Steele" in capital and write your telephone number on a piece of paper.
[8] **A.** Yeah.
[9] Q. Thank you.
[10-11] **The Court:** Why would you like for her to write her name and telephone number?
[12-14] Dr. Faltas: Because I want the -- you, the Court, to compare it. Judge, can you let me, give me latitude, please? Can you give me latitude?
[15-18] **The Court:** No, ma'am. I will not give you latitude. If you have a document to ask her to take a look at it and see, "Is this your handwriting?" that's fine. That's all you have to do.
[19] Dr. Faltas: But can I get it back?
[20] **The Court:** Get what?
[21-22] Dr. Faltas: Get that, that piece of paper back.
[23] **The Court:** Sure.
[24-25] Dr. Faltas: Thank you. May I show it to the Court first?
[page 117, lines 1-2] **The Court:** No, just ask her if she recognizes this.
[3-4] Dr. Faltas: Well, may I just explain to the Court that I (indistinct) --
[5] **The Court:** Let her explain.
[6-7] Dr. Faltas: No, I am, I am trying to explain to the Court --
[8-9] **The Court:** Well, if you're going to introduce it as evidence, I don't need to see it.
[10-13] Dr. Faltas: I'm just saying could, could we please do it like this because I don't want her to see that other (inaudible). That other part is in my handwriting.
[14] **The Court:** Oh.
[15-16] Dr. Faltas: I wrote someone else's number on it. I just want her to concern herself --
[17] The Court: Do you recognize that?
[18-19] Ms. Steele: Yeah, that's my name and my, the shop telephone number.
[20] The Court: Okay. Did you write that?
[21] Ms. Steele: It looks like my handwriting.

[22] The Court: Okay.
[23] Ms. Steele: That's the shop number.
[24] The Court: See how easy that is?
[25 – page 118, line 3] Ms. Steele: She had asked me several times to cut her hair, and I refused 1 to do it at the -- she wanted me to do it at, on the balcony, and I would refuse to do it.
[4 -6] By Dr. Faltas: Q. Did you instead write your name and number, your name and shop telephone number and tell me to call --
[7-12] A. I did. I did. I told you, "I will not cut your hair on the balcony," that you, if you wanted -- yeah, I did. If you wanted to come to the shop, you were welcome to come to the shop. That was the shop of the number -- the number to the shop. But I was not going to cut your hair out there on the balcony.
[13-15] Q. Ma'am, the question passed before I did this, I asked you, "Did you invite me to come to your shop?" and you said no. And now, I impeached you.
[16] A. That's a huge impeachment.
[17] Q. It is.
[18] The Court: Next question? *****
[24 – page 123, line 1] A. No, you didn't -- look, you don't understand. You're pulling into the driveway, and then you're pulling back out. You're not turning your car around, lady.
[2-3] The Court: Now calm now. And your next question?
[4-6] By Dr. Faltas: Q. And you said that happened only once, or a hundred times, or what?
[7] A. I've seen you that time.
[8-10] Q. Do you have any idea whether it ever happened any other time? Do you have personal knowledge whether it happened another time?
[11] A. No.
[12] Q. Did you see me inside the car?
[13] A. No.
[14-15] Q. Okay. So you just see a car with an Obama bumper sticker, and you think it's --
[16] A. I saw your vehicle.
[17] Q. You said you don't know its --
[18-19] A. I saw your vehicle. I don't know what your license tag number is, but I recognize your vehicle.
[20-21] Q. Is there anything different about my vehicle other than – *****
[page 130, line 1] The Court: So noted.
[2-5] By Dr. Faltas: Q. And then, you admitted that I was trying to give you a letter, but you weren't wanting to accept that letter. Isn't that --
[6-7] A. Now, which, which, what -- you're going to have to clarify this.
[8-9] Q. In September 2009, you were trying to come to my apartment and photograph it. Isn't that correct?
[10-23] A. We were doing inspections on all the apartments, and you denied us entry. You were given a written letter by certified mail and one by your doorway that we would be doing a yearly inspection which would have included the inspection of the smoke alarms and the fire extinguishers, and we were going to be changing all of the furnace vents -- the filters, which we did, everybody's but yours because there was a huge sign on your door saying, "Do not enter. Criminal prosecution," a sign this big all the way down the door. We knocked on the door. You refused to answer. We called the fire department to let them know that we had no way of checking on your fire extinguisher to make sure that it was up to date. They took note to it.
[24] Q. Uh-huh.
[25 – page 131, line 1] A. They said we would not be held accountable for your --
[2-3] Q. You couldn't, you couldn't just have left a new fire extinguisher outside my door.
[4-5] A. And we were also checking for leaks and stuff up underneath the sinks. It's preventative.
[6] Q. Mm-hmm.

[7] A. And you would not allow us in there.
[8-9] Q. Isn't it true that you came in December 2008 and changed the toilet tank in my apartment?
[10-16] A. We did. We had a -- I don't know about that date, no. **I have idea about the date.** But we had a water problem with that building, and we checked -- we sent letters out to everyone in that building saying that we would do an inspection, and at that time, there were toilets, and yours was one of them, which we made a repair to.
[17] Q. Did I give you any problems coming in?
[18] A. You did not.
[19-20] Q. And isn't it true that there were other things that were wrong in the apartment?
[21] A. Uh, you may want to refresh my memory.
[22-25] Q. For example, isn't it true that the sink that you had caulked had completely -- the caulk was gone, and the sink was completely lopsided? Did you work on the sink?
[page 132, lines 1-4] A. I remember working on the sink. I don't, I don't necessarily remember that specific time. I remember working on it before you entered the apartment, before you leased the apartment.
[5-6] Q. But when I was in the apartment, I gave you no problem when you came in to repair the --
[7] A. You gave us lots of problems.
[8-9] Q. I'm talking about this particular time. I gave you no problem --
[10-11] A. You mean to enter your apartment? Is that what you're referring to?
[12] Q. Didn't you testify that I gave you no --
[13-14] A. I'm, I'm -- you're trying -- I need you to clarify the question.
[15-16] Q. To enter it and to help you fix it, fix what needed to be fixed.
[17-19] A. That one time that we had that water problem, we did not have a problem. You did not give us any problem entering the apartment that one time.
[20] Q. And that was December 2008.
[21] A. I don't remember the date.
[22-23] Q. Okay. If were to testify that it was December 2008, you'd --
[24] A. I can't, I can't, I can't say.
[25] Q. Okay. But you have -- all right, fine.
[page 133, Line 1] **The Court:** Next question. You have --
[2] Dr. Faltas: I am, I am, I am.
[3-4] **The Court:** You've asked that question five times.
[5-6] Dr. Faltas: All right, Judge, I'm, I'm, I'm - - okay.
[7-9] By Dr. Faltas: Q. Did I tell you when I rented from you that I do not use the air conditioning?
[10] A. No, you did not.
[11-12] Q. Did I not request you to turn it off as soon as I changed the power to my --
[13] A. I don't recall.
[14-15] Q. Well, there is a difference between I did not and you don't recall.
[16] A. I don't recall that.
[17-19] Q. Okay. And so did, would, did there come another time when I told you that the screen door on the balcony was loose?
[20] A. Yes.
[21] Q. And did you come and fix it?
[22] A. We did.
[23] Q. And did I give you any problems?
[24] A. No.
[25] Q. Okay. And after that, it went loose again.
[page 134, line 1] A. Yes.
[2] Q. But you didn't fix it.
[3-4] A. No, we didn't. You were already -- should have been out of the apartment by then.
[5-6] Q. Have you continued to demand and receive $550 rent from me?
[7] A. The court is requiring you.
[8] Q. Did you receive that money?
[9-10] A. I have received it every, every month. It is court mandated.
[11] Q. After --
[12] A. I would prefer that you leave.
[13-14] Q. But even though you were getting my money, you weren't fixing things.

[15-19] A. You, you had complained about the screen. We did not want to have any contact with you. We told you we would not fix the screen, that it was not considered an emergency, that you had been evicted, and you needed to leave.
[20-22] Q. And with the screen door loose and the sliding door loose, bugs can get in, mosquitoes, in summer. Yes or no?
[23-25] A. You had not made a complaint about the sliding glass door. You made a complaint about the screen. We told you it was not an emergency.
[page 135, lines 1-2] Q. So you don't fix things unless they were an emergency.
[3] A. We fix everything.
[4-5] Q. But for me, you don't fix it unless it's an emergency.
[6-7] A. We don't want to have any contact with you, Marie.
[8-9] Q. Could you have sent somebody? Could you have --
[10] A. We're not going to, Marie.
[11] Q. Okay.
[12] A. We're not going to fix your screen door.
[13-15] Q. And yet, and yet, even though you claim you did not want a contact with me, you insisted that you wanted to come into my apartment --
[16-17] A. That was for the yearly inspection that is basically required by the fire department, Marie.
[18-19] Q. Did you do an inspection the year before that day?
[20-22] A. Not on that day, no, but we do. Once a year, we check the fire extinguishers. We go through and we make inspections.
[23] Q. No, you hadn't done -- did you write --
[24] **The Court:** You cannot argue with her answers.
[25] Dr. Faltas: Okay, sorry, sorry.
[page 136, lines 1-3] By Dr. Faltas: Q. Did you write to the tenants notices about a yearly inspection before?
[4] A. I don't recall.
[5-7] Q. Okay. And isn't it true that you were trying to come on Labor Day, and I was trying to tell you, "No, you cannot come in on Labor Day?"
[8] A. Yeah, and we rescheduled it.
[9-12] Q. And isn't it true that I was just trying to give you the letter that -- isn't it true that my lease says that you can only come in my presence unless it's an emergency where you cannot contact me?
[13-14] A. Yes. And you were there, and you still wouldn't let us in, Marie.
[15] Q. My question is --
[16] A. It does say that. And again, you were there.
[17] Q. My --
[18-19] A. We knocked on your door, and you would not allow us in.
[20-21] Q. And my question is didn't I, wasn't I trying to give you a letter telling you --
[22] A. On the day that you assaulted me.
[23] Q. I didn't assault you.
[24] **Dr. Faltas:** Judge --
[25] **The Court:** Uh.
[page 137, lines 1-2] **Dr. Faltas:** Well, okay, sorry. But she cannot --
[3] **The Court:** Do not --
[4] **Dr. Faltas:** Okay.
[5-7] **The Court:** She can explain her answers, and I'm going to give you about nine more minutes, and it'll be 12:00 noon.
[8-9] **Dr. Faltas:** She cannot make legal conclusions. She cannot --
[10-12] **The Court:** She can explain her answers. You can ask her a question, she can answer it yes or no, and she can explain her answers.
[13] **Dr. Faltas:** But -- well, exception to --
[14] **The Court:** So noted.
[15-18] By Dr. Faltas: Q. Isn't it true that your lawyer doesn't represent you in any matter except what the insurance company hired --
[19] **The Court:** That is immaterial to this case.

[20-21] Dr. Faltas: Okay, she said that, she said that the letter needed to go to her lawyer.
[22-23] **The Court:** That is immaterial to this case. I don't even care anything about that.
[24] **Dr. Faltas:** Judge, she test –
[25] **The Court:** Next question.
[page 138, lines 1-2] By Dr. Faltas: Q. You basically didn't want to take the letter.
[3] A. All you had to do was drop the letter, Marie.
[4-7] Q. And then you were going to claim that you didn't get it. Isn't it true that the letter said I cannot be available on the 14th, but I will work with you --
[8] A. It did.
[9] Q. -- on the 21st?
[10-14] **A.** And you were still there. You were there the day we did the inspection. You were out there taking photographs of us through your window. You had photographs of us, what, taking the fire extinguishers out of the truck?
[15-17] Q. And my question to you is what would have been so impossible about your leaving a new fire extinguisher outside --
[18-19] A. Again, as I have already testified to, we were also checking for leaks underneath sinks.
[20] Q. Okay. Hadn't you done that in December 2008?
[21] A. We had.
[22-23] Q. Did you have any reason to think there would be leaks inside -- in the sink?
[24-25] **A.** Again, Marie, we were just doing inspections. **We did them to all of them, Marie --**
[page 139, line 1] **Q.** And yet --
[2] **A.** -- all of the --
[3] **Q.** -- had there been --
[4] **A.** -- all of them.
[5-6] Q. -- had there been a leak, would you have fixed it?
[7] A. Yes, we would have.
[8-10] Q. And why wouldn't you fix the screen door when I was telling you that the screen door is loose? Why would you --
[11] A. Because it wasn't an emergency, Marie.
[12] **Q.** And why --
[13-15] **A.** It doesn't deal with the water issues. **It doesn't, it doesn't, it's not going to rot out the cabinets.**
[16-17] Q. So you care only about your cabinets, but you don't care about my comfort. In fact, you testif --
[18] A. I don't care about your comfort.
[19-20] **Q.** And you claim I am the one denying other tenants the peaceful enjoyment.
[21] **A.** Definitely.
[22] **Q.** Okay.
[23] **A.** I don't claim it. I know it.
[24-25] Q. Have you ever, have you ever seen me enter Building 300?
[page 140, lines 1-5] A. Not enter the building, but I have seen you on the property. I have told you, looked you straight in the eye, "You are trespassing onto the property of the 300. You need to go back over to your apartment and stop harassing us."
[6] **Q.** We --
[7] **A.** I was an eyewitness --
[8] **The Court:** Calm down.
[9-10] By Dr. Faltas: Q. And we agreed that there is no marking.
[11] A. There is no marking.
[12-13] Q. And we agreed that the mailboxes are opposite the 300 building.
[14] A. They are. *****

On 2 December 2009, after Dr. Assa'ad-Faltas' false arrest for "harassing" Steele, Steele opposed Dr. Assa'ad-Faltas' bond by pretending to then CMC "Judge" Burns:
[minute C 01:37] **B.J. Burns:** And this is nowhere near this building?

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

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

[minute C 03:20] **Dinah Gail Steele:** Yes, she knows them. [minute C 03:22] Everybody's lived there for years, you know. [minute C 03:26] Hmm, and any, anyway, you can imagine how it would escalate when, you know, they sit there and wait and they look in the rear-view mirror and, you know, she doesn't move; and then they finally get out of the car. [minute C 03:37] And you can see where this would escalate; and she's still not moving. [minute C 03:40] So, and this happened repeatedly. [minute C 03:44] Hmm, I was assaulted on the property on September 11 late in the evening about seven o'clock. [minute C 03:51] I was working on the 300 Building. [minute C 03:52] She trespassed on to that property in order to get to me; and she was trying to serve me with a paper saying that I could not, we were doing inspections of the apartments, like for, inspections for the fire, hmm, extinguishers, filters, leaks under the sinks, those kinds of yearly inspections. [minute C 04:08] And she was trying to give me a paper saying that I wasn't allowed in her apartment. [minute C 04:13] And, you know, like I said, she's already had a lot of problems. [minute C 04:18] I didn't want any contact with her. [minute C 04:20] You know, I put my hands up and I said: You know, Marie, you need to send any paper that you got to the attorney and I started backing up because the buildings are so close together you can't get around each other. [minute C 04:33] It's too narrow. [minute C 04:36] I started backing up so I didn't have any contact with her. [minute C 04:35] But she slammed me three times in the chest with that paper in her hand. [minute C 04:38] I've got witnesses to that. [minute C 04:39] Hmm, then we called the police and they, they made a complaint. [minute C 04:42] But the harassment and the stalking didn't ---

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

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

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

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

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

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

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

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

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

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

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

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

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

[minute D 00:11] **Orin G. Briggs:** I was not involved in that aspect but if she says that she didn't; if

she said it was a PR bond, it would be, Your Honor. She wouldn't fib about that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*[23 - page 48, line 25] **Ms. Steele:** [23 - page 48, line 5] She filed an appeal. So that's why she's been allowed to stay here. But during this time she just picked up the harassment. I mean, she is unlawfully detaining these renters. Where these people are leaving early in the morning, she's getting -- they're getting into their cars. She's pulling her vehicle directly behind their vehicle which they cannot leave. She will not move her vehicle. [6-11] So you can see they're looking in their rear-view mirror. As they're finally getting out of their car, she's still not moving. She's taking photographs of their vehicles, their tag numbers, anybody else that's in the car. Those -- the people that are getting out of the car - you can see how quickly this would escalate. [12-16] We've got four restraining orders right now against this woman. Two are from tenants: myself and my husband. I mean, the harassment has just been horrendous. Every time we go over*

there, she calls the police on us, whether or not we're cutting the grass or doing any kind of maintenance. [17-25] *The maintenance people that we have hired to go over there have been harassed by this -- the last person was an electrician about this particular cord that she's referring to. She made the complaint. We hired the electrician to fix it. She harassed this man while we stood out there from 10 in the morning until 1:30 in the afternoon until he completed it, and I know she took at least 50 to a hundred photographs of this man, you know, doing his work, just nonstop harassment.*

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

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

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

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

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

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

[21] The Court: Okay.

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

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

1:44:56 to 1:47:58, Marie: There is a file called "Dinah Steele Mason Statement and Report." There is a fax dated 10 slash 08 slash 2009 at 15:18. It has page 6-8 to Gwedolynn Bouie from Dinah Steele. I do not have that. I need a copy of it. Another titled from Dinah Steele to Lynn Matthews. I need that. There is a "South Carolina Victim Impact Statement" that is filled by Dinah Steele and claims that Larry Mason is her representative and husband; and her e-mail address is NobleBlond@BellSouth.net. She lists four telephone numbers: 800, 803-600-5953, 803-787-4454; and again 803-600-5953 and 803-331-1000. It is signed apparently before Francis Reynolds on the front and back. It says: "Did you suffer any physical injury?" And the answer is "NO." Then "Have you noticed any change in you life style since this happened? This may include personal habits, close relationships, the amount of tension and nervousness or you ability to work. Please describe." It says "weight loss" comma "mental and emotional strain" and it's signed on 12/21/2009. I do need a copy of that. "Did you receive any mental health counseling as a result of this crime?" The answer is "NO." And it continues: "If not, are you interested in receiving counseling?" It is left blank. **I definitely need a copy of this front and back.**

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

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

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

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

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

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

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

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

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

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

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

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

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

[17] The Court: With who?

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

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

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

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

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

*****

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

[13-23] Dr. Faltas: No, because there is a retraining order in place from the Magistrate. That's one thing, the other thing is, **she says that Ms. Steele had to be treated yesterday for some kind of stress. Well I've been away for forty days now.** So

if she's having stress, it's because of something else. So my putting, their putting me away didn't help whatever claim Ms. Steele has of stress. If she suddenly, after my being forty days away from my apartment, she's suddenly being yesterday treated for stress, then she has other reasons of stress and ...

[24] The Court: Thank you.

[25] Dr. Faltas: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[7] The Court: What does she do?

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

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

[10-19] Ms. Ingram: Prostitute, everybody in Columbia, from the Sheriff's Department to the Commissioner of HUD, the Fire Department, everyone in Columbia has been dispatched to that particular address, comes with the intentions of meeting a prostitute. She said that in court several times, to the point where I had to personally ask the Judge or Ms. Steele personally asked the Judge to not allow her to continuously say that. She blocks my entrance and exits from leaving the apartment.

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

[21] Ms. Ingram: With her car.

[22] The Court: Okay.

[23 - page 26, line 13] Ms. Ingram: With her car. She takes pictures of myself and my guests, kids, sometimes I have my girlfriends little girl. She comes out with a camera and scares the kids.

They're crying and trying to run from her. My parents that comes, and I know that she knows that these are my parents, my uncle, well my father and two uncles came and she's outside like blocking them, snapping pictures, telling me that my father and my uncle are my clients. So and since she has been gone, it has been peaceful and I would not like to have her back. She has stalk me, she has physically assaulted me and she ... a restraining order has been issued and as a matter of fact, this morning when she noticed that I came to court, she flipped me the bird. So the harassment never stops.

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

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

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

[18] Ms. Reynolds: No, sir.

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

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

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

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

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

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

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

Clearly, Steele must have perjured herself several times because her own testimony is self-contradictory. Further, if Steele's "stress" were in any way related to Dr. Assa'ad-Faltas, Prosecutor Weiss in 2010, and after her CACA Fernandez in 2010-2013 had a duty to produce Steele's medical reports in discovery.

Wherefore, this motion must be granted because, if courts become game parlors for perjury, they are no courts at all.

Respectfully submitted on Monday, 23 December 2013 with a file-stamped copy served by postage-prepaid first-class U.S. mail to Columbia Assistant City Attorney ("CACA") David Fernandez, another hand-delivered to CMC for transmittal to Karl L. Solomon, and still a third hand-delivered to SC's Attorney General's, all God so willing.

Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant *pro se*
As permitted by the Honorable Judge Lee's 13 December 2013 open-court ORDER
P.O. Box 9115, Columbia, SC 29290
Cell Phone: (330) 232 – 4164
e-mail: Marie_Faltas@hotmail.com and MarieAssaadFaltas@GMail.com

STATE OF SOUTH CAROLINA)	**IN THE MUNICIPAL COURT**
)	**OF THE CITY OF COLUMBIA**
COUNTY OF RICHLAND)	

In the Matter of Dr. Marie Assa'ad-Faltas

FINAL STATUS UPDATE

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, I previously provide status updates on April 7, 2013, May 14, 2013, June 17, 2013 and July 22, 2013. As of July 25, 2013 all cases pending involving Dr. Faltas have been concluded. The following is a status update on the final matter:

Defendant/Charge/Courtesy Summons No.:	Status/Disposition	Date
1. Therese Ingram Disorderly Conduct L08175	Jury Trial/Guilty $470.00 or 30 Days	7/25/13

Carl L. Solomon

Columbia, South Carolina

July 25, 2013

Cc: The Honorable James Barber
The Honorable Dana Turner
Dr. Maria Assa'ad Faltas

STATE OF SOUTH CAROLINA)
) IN THE MUNICIPAL COURT
) OF THE CITY OF COLUMBIA
COUNTY OF RICHLAND)

RECEIVED
MAY 14 2013
S.C. SUPREME COURT

In The Matter of Dr. Marie Assa'ad-Faltas

SECOND STATUS UPDATE

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, I provided a status of all pending cases in the Municipal Court from March 7, 2013 and a schedule to resolve said matters on April 7, 2013. A copy of which is attached as Exhibit A hereto. The following is a status update of all pending cases since April 7, 2013:

City of Columbia v. Dr. Faltas

Charge/Hearing	Status/Disposition	Date
1. Unlawful Acts 1st Offence Ticket No.: 201310	Jury Trial/Guilty	4/11/13
2. Trespassing Ticket No.: L066954	Dismissed	4/24/13
3. Disorderly Conduct Ticket No.: 38803FK	Jury Trial Waived/Bench Trial	4/24/13
4. Simple Assault Courtesy Summons No.: L066971	Jury Trial Waived/Bench Trial	4/25/13
5. Sentencing Hearing	Unlawful Acts 1st Offence (30 Days) Notice of Appeal Filed Appeal Bond Granted	4/25/13
	Simple Assault (20 Days) Notice of Appeal Filed Appeal Bond Granted	4/25/13
	Contempt Finding/Vacated	

Other Matters

The cases in which Dr. Faltas is an alleged victim will be set for trial in early June of 2013 if the appointed prosecutor is available. These cases are listed on attachment A.

Carl L. Solomon

Columbia, South Carolina
May 14, 2013

Cc: The Honorable James Barber
The Honorable Dana D. Turner
Dr. Marie Assa'ad Faltas

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE MUNICIPAL COURT
	)	OF THE CITY OF COLUMBIA
COUNTY OF RICHLAND	)	

In the Matter of Dr. Marie Assa'ad-Faltas

STATUS UPDATE

Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina, the following is a status update of all cases pending in the City of Columbia Municipal Court from March 7, 2013 to date and the schedule to resolve said matters:

City of Columbia v. Dr. Faltas

	Charge/Hearing	Status/Disposition	Date
1.	Status Conference on all charges.	Held. Cases for charges against Dr. Faltas set for trial. City Attorney ordered to refer cases where Dr. Faltas is a listed victim to another prosecuting agency.	3/12/13
2.	Trespassing Ticket No.: L066954	Jury Trial/Not Guilty	3/21/13
3.	Unlawful Acts 1st Offense Ticket No.: 20131	Jury Trial Scheduled	4/11/13
4.	Trespassing Ticket No.: 37025FK Disorderly Conduct Ticket No.: 38803FK	Jury Trial Scheduled	4/24/13
5.	Simple Assault Courtesy Summons No.: L066971	Jury Trial Scheduled	4/25/13

Other Matters

The following cases have Dr. Faltas listed as an alleged victim. These matters will be prosecuted by Lexington County Assistant Solicitor Ricardo Bunge in the City of Columbia Municipal Court. These matters will be set for trial after May 6, 2013.

	Warrant/Summons	Charge	Defendant
1.	Courtesy Summons No.: L066971	Simple Assault	Larry Mason
2.	Courtesy Summons No.: 2012C4021600269	Disorderly Conduct	Anthony Presley
3.	Courtesy Summons No.: 2012C4021600270	Harassment 2rd Degree	Anthony Presley
4.	Courtesy Summons No.: 2012C4021600271	Trespassing	Anthony Presley

Carl L. Solomon
Municipal Judge – City of Columbia

Columbia, South Carolina
April 9, 2013

Cc: The Honorable James Barber
The Honorable Dana D. Turner
Dr. Marie Assa'ad-Faltas

[24 – page 113, line 6] Defendant Faltas: It's related to the new trial motion that that pretext that things that hold water cannot be, here is a permanent structure that's two feet deep that has no drainage and that holds two feet of water. There is no water in any of those pictures. What there is is grass that was freshly cut yesterday which shows that I'm maintaining it according to the rules established.
[6] Mr. Briggs: Go ahead and finish, Marie.
[7-9] Defendant Faltas: And on the other side there is also if you see the other property it's got a lot of containers that are – all right. I've said the new trial motion and -- I'm sorry.
[10-11] Mr. Briggs: Have you got some more down here or do you just need to make your summary?
[12-13] Defendant Faltas: That's -- I finished, Your Honor. I'm sorry, I didn't mean to take longer.
[14-16] The Court: [14] Not a problem. Thank you for your time. [15-16] Officer Hampe, can I get you to stand up, sir. Would you raise your right hand.
[17-18] T. R. Hampe, after being duly sworn by the Court, testifies as folows:
[19] Questions by The Court:
[20-24] Q. Officer Hampe, one issue that has been raised and one thing that has asked of me to do previously was to question you as to what you said to Judge Bogan when he selected his jury -- when jury selection was going on. Can you please tell me what you said to Judge Bogan?
[25 – page 114, line 6] A. Yes, sir. I told him, informed him that, if he was unaware, that a couple of years ago that Ms. Faltas came in and that she kept the jury panel list with all the jurors names and addresses on it *and I said I believe she was in contempt of court* and I believe she was incarcerated for that. I didn't say she was, I said I believe she was, Your Honor.
[6] Q. Thank you very much. Did you say anything else?
[7] A. No, sir.
[8] The Court: Thank you very much.
[9-10] Defendant Faltas: Your Honor, may I ask that the Court ask him one question?
[11-12] The Court: You may ask that I ask him, I'm not sure that I will.
[13-14] Defendant Faltas: Okay. May I ask if he came on his own accord or if someone told him to.
[15] Q. (by the Court) Did anybody tell you to do that?
[16] A. No, sir.
[17] The Court: Thank you very much.
[18-19] Defendant Faltas: Well, Your Honor, obviously that information was false because I provided Your Honor –
[20 – page 115, line 22] The Court: We've been through it. I wanted to make sure I made a full record. I have heard the motion for a new trial. It is denied. Now we are down to the point of sentencing. Mr. Fernandez, I think I commended you the last time you made a suspended sentence motion and that you were trying to come up with a conclusion to resolve the case or resolve the issue at the property as opposed to I think you even at that time said I'm not trying to put her in jail. Mr. Briggs, I commend you because you have sent e-mails and solicited people to come up with a solution on correcting the problem and getting a shed and getting the stuff in there. I'm not here to sentence Mr. Fernandez or Mr. Briggs. I'm here about Dr. Faltas. And all that I hear from Dr. Faltas is *we don't have the authority to be here, it's unconstitutional, the stuff is not what they say it is to be and if you are going to tell me to do something then I need even greater specificity on what that means. Saying grass and dirt is not enough, I need to know exactly what they want me to do.* For the

reasons of my concern about my ability to properly draft a suspended sentence that would be clear enough so that we wouldn't have misunderstandings and alleged ambiguities, the Court is not going to do a suspended sentence. The Court is going to do the following. I am going to impose a sentence of thirty days. I am going to give the defendant the opportunity at the conclusion of what else takes place here to file a notice of appeal and I will immediately have a hearing on an appellate bond so that all that can be addressed before we leave today and assume bond posted Dr. Faltas does not have to start any of her sentence until the appeal is concluded. And if she's right on one or more of the issues that she's raised then that will take care of itself at that time.

[23] Defendant Faltas: Thank you.

[24-25] The Court: Second issue is that of the contempt. Have y'all even gotten the CD yet?

[page 116, lines 1-4] Mr. Briggs: Your Honor, I was called yesterday afternoon and told that it was here by Ms. Hawkins and she said she would leave it downstairs where you pay fines. I just didn't have a chance to go by there.

[5-15] The Court: [5-7] For the sake of not coming back solely, I am going to relieve the contempt finding and just end that issue. I am not going to get into whether you should have had the CD by now. [8-9] We are just going to pull it and that will keep us from having to get you the CD and then come back and argue it. [10-13] Now let's move to -- to the extent necessary because it was a motion made previously at some other point in these proceedings, I don't find anything to be ethically a violation that requires any reporting by the Court. [14-15] Now let's move to the simple assault. Mr. Fernandez, Mr. Lupton, whoever needs to go first.

[16-19] Mr. Fernandez: Yes, Your Honor, I think it's appropriate for the Court to hear from the victim. I'll let her address the Court and, as I said before, I am perfectly happy with the Court's best discretion for sentencing.

[20] The Court: Yes, ma'am, Ms. Steele.

[21 – page 117, line 12] Ms. Steele: *[21 – page 117, line 7]* As I've testified **I've been harassed,** assaulted and this has been going on for basically years because the trial kept being delayed. I need it to stop and when I came here today knowing that this was the 24th -- 25th that this was going to be the end of it. However it played out, this was going to be the end, I didn't have to deal with this anymore. I don't feel like that. I don't feel like this is ever going to stop now. What she's been saying in court and I'm not an attorney, I'm not a judge, **but what I heard her say was if I file a lawsuit against the city or the state then they can't charge me with anything,** that I'm above the law. That's what I heard. **And we are a nation of laws** and the laws do apply to her but she somehow does not feel that way. I just want to be left alone. [8-10] And just as she said, when I was in court yesterday where I was supposed to be and she was not here and after court I went to mow my grass and she brings that up like something happened over there. [11-12] All I have to do is show up on my property and there's some wild conspiracy going on. It needs to stop. I want some relief. Thank you.

[13] The Court: Thank you, ma'am. Mr. Lupton.

[14-15] Defendant Faltas: Your Honor, may I speak for myself on that?

[16] Mr. Briggs: You wait.

[17-19] The Court: I'm going to let you speak for yourself. You have got to decide whether that's in your best interest or not but I'll let you do it. Mr. Lupton.

[20-25] Mr. Lupton: Your Honor, first of all, I don't think it was explicitly stated but just for the sake of preserving the record **we'll ask that the - *her legal arguments* concerning jurisdiction of the Court and all that be preserved as part of the record in this case.**

[25 – page 118, line 1] The Court: So preserved for the simple assault case as well and so denied. Consistent with the last ruling.

[2 – page 119, line 2] Mr. Lupton: Thank you, Your Honor. With regards to sentencing, Your Honor, in listening to the trial, listening to everything that has occurred in this case and the various other cases, including Ms. Steele's comments to the Court, what I see is the unwanted touching in this situation that led to the conviction produced no physical injury. I understand her anxiety, the breakdown she described to

the Court that occurred later, her frustration, all of that stuff, but I would note for the Court that even what she said today relates not to the specific instance of the assault but to her frustration over everything. The injury for the touching produced no physical injury. The emotional scars that she's described are from charges that have been to court, she's been not convicted for various reasons. It's matters outside this specific case and I'd ask the Court not to impose a thirty-day active jail sentence based upon circumstances that were not directly related to the assault or the severity of the assault. The assault was the serving a paper. Having said that, I am also sympathetic with her desire to have no further contact. I would ask the Court to consider that whatever sentence the Court imposes that the Court suspend that sentence upon no contact, direct or indirect, with the victim or her husband, including going upon the property, either 300 or 304 Byron Street here in Columbia. I believe that that is – the Court can give not coming within a hundred feet of them, however the Court deems appropriate, but I think that that would give the opportunity for some - what she's asked for, the not being bothered. Putting Dr. Faltas ---

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

[4] Mr. Briggs: Wait a minute. He's going to give you chance.

[5-6] Defendant Faltas: **Mr. Lupton, this is not serving my interests at all. Okay?**

[7] The Court: Thank you, Mr. Lupton.

[8] Defendant Faltas: All right.

[9] The Court: Do you have any further argument.

[10-18] Mr. Lupton: [10-11] Your Honor, I would say that putting her in jail is going to give at most twenty-one days of relief if it works. [12-13] Having that sentence suspended will give her a greater period of relief and if it doesn't work then the sentence can be imposed.

[14] The Court: Thank you, Mr. Lupton.

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

[16] The Court: Yes, ma'am.

[17-18] Defendant Faltas: Your Honor, I'm sorry. Mr. Lupton had specifically told me that because he's former friends of the solicitor's office prosecuted me and, first of all, just -

[20] Mr. Briggs: Do what you need to.

[21] Defendant Faltas: Don't touch me.

[22-23] Mr. Briggs: Do what you need to. Do what you need to and don't go off the subject.

[24 – page 122, line 13] Defendant Faltas: *[24 – page 120, line 14]* Don't touch me, okay? When he says not within a hundred feet from her, that's my land. My land which they want me to move things from which I was yesterday there cutting the grass, its two feet from her property. Hundred feet would get somebody else's land. **There has never been any allegation of any other assault in the four years. There have been two trespass charges of which I was acquitted. There has been one disorderly conduct of which I was acquitted.** What's most important all these harassment lies I was arrested on December 2nd, 2009. There was a five day jury trial before the Honorable Clifton Newman. All these lies were said. I was not given discovery. In fact, she sat here and said she's still taking medication. When I wanted to -- and I testified to that. What Your Honor needs to know is that all this harassment has been brought. I was arrested. I served three days. I was made to be mentally examined. There was a trial where the entire might of the state had all the time to give its evidence. [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 15] 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 6] 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 henious thing I've ever seen in forty-three years of law practice. Eventually they were dismissed.

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

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

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

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

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

[4-6] 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 prospectives and then Dr. Faltas says everybody is lying they went around to the back of the house. That's enough.** [22-page 128, line 14] The answer is based on all that I have heard and based on all that has been argued in terms of the sentencing I am inclined not to follow the recommendation of Mr. Lupton. I am not going to put a hundred foot restriction on you, I'm not going to put any restrictions on you. I've said it several times. I am not convinced that if I did any suspended sentences that I would do anything other than create more issues than we solved. Accordingly there will be no suspended sentence. The sentence of the Court will be twenty days consecutive to the thirty days previously ordered. Now we've got issues regarding appeal. I previously advised you that I will allow you to apply for an appeal bond. I will allow both of you to argue appeal bond and I will rule on it. If you have a notice of appeal, we'll get it filed. If you do not, I will give you until five o'clock tomorrow to get it filed. I think, Mr. Briggs, you already had yours. Mr. Lupton began on one but because his trial was today he needs to put the basis in it and if you've got it to print out fine, but if you need time we'll let you go until five. Mr. Briggs, I'm happy to hear from you on appellate bond.

[15-17] Mr. Briggs: Your Honor, I'm going to give you another copy. I can't seem to find the one that was signed in blue ink but I signed this one a second time.

[18] The Court: Yes, sir.

The Supreme Court of South Carolina

In the Matter of Dr. Marie Assa'ad-Faltas.

ORDER

Under my authority as the administrative head of the South Carolina Unified Judicial System, I have issued previous orders regarding the handling of cases involving Marie Assa'ad Faltas by the courts of this state. It has come to my attention that Dr. Faltas has several matters pending in the Columbia Municipal Court and that the Honorable Carl L. Solomon is the only judge on that court who is not recused in matters in which Dr. Faltas is involved. Judge Solomon is hereby directed to schedule all pending matters involving Dr. Faltas for an immediate hearing, with no extensions of time to be granted except as reasonably necessary for Dr. Faltas' counsel to complete preparations or upon a showing of extraordinary circumstances. Judge Solomon shall see that these matters are brought to an expedient and final conclusion. To this end, Judge Solomon shall provide status reports to this office every thirty days from the date of this order until all pending litigation involving Dr. Faltas has been resolved.

JEAN HOEFER TOAL
CHIEF JUSTICE

Columbia, South Carolina
March 7, 2013

cc: The Honorable James R. Barber, III
The Honorable Carl L. Solomon
The Honorable Dana D. Turner
Dr. Marie Assa'ad-Faltas

STATE OF SOUTH CAROLINA	)	IN THE COLUMBIA MUNICIPAL COURT
	)	FIFTH JUDICIAL CIRCUIT
CITY OF COLUMBIA	)	Warrant No. 388303FK, 37025FK, L066971,
	)	L066954, and 201310
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	Certificate of Service by Mail
	)	
MARIE FALTAS,	)	
Defendant.	)	

RECEIVED
FEB 21 2013

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

LUPTON LAW FIRM

Theodore N. Lupton
Michelle Q. Lupton

140 Gibson Road
Lexington, SC 29072

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

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

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

Courtesy Summons

L - 066971 CSW

0926586

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

COLUMBIA

THE STATE

against

MARIE FALTAS

Address: 304 BYRON ROAD, 3

COLUMBIA, SC 29209

Phone: _____ SSN: _____

Sex: F Race: W Height: 5 06 Weight: 170

DL State: _____ DL #: _____

DOB: 04/04/1953

Offense: SIMPLE ASSAULT

Offense Code: ASS

Code/Ordinance Sec: 16-31

Courtesy Summons

RETURN

A copy of this Summons was delivered to

defendant _____

on _____

_____

Signature of Constable/Law Enforcement Officer

RETURN SUMMONS TO:

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of)

COLUMBIA)

AUDIT COPY

Form Approved by S.C. Attorney General December 22, 2005 SCCA 519

AFFIDAVIT

Personally appeared before me the affiant DINAH G STEELE who being duly sworn deposes and says that defendant MARIE FALTAS did within this county and state on or about (date of incident) 09/11/2009 at (location of incident) 300 BYRON ROAD, COLUMBIA, SC violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of COLUMBIA) in the following particulars:

DESCRIPTION OF OFFENSE SIMPLE ASSAULT 16-31

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

AFFIANT STATES THAT THE DEFENDANT WHILE AT 300 BYRON ROAD, COLUMBIA, SC APPROACHED HER AND PHYSICALLY ASSAULTED HER. THE DEFENDANT BECAME VERY HOSTILE AND VIOLENTLY PUSHED HER IN THE UPPER CHEST AREA WITH AN OPEN HAND THREE TIMES AGAINST THE CHEST, WHILE IN THE REAR OF THE RESIDENCE. AFFIANT STATES SHE WAS TRYING TO LEAVE THE LOCATION BUT THE DEF KEPT YELLING AT HER AND FOLLOWING HER. DEF IS KNOWN BY NAME AND SIGHT.

Signature of Affiant Dinah G Steele

STATE OF SOUTH CAROLINA)

☐ County/ ☒ Municipality of)

COLUMBIA)

Affiant's Address 1403 HAIGS CREEK DRIVE

ELGIN, SC 29045

Affiant's Telephone 803-600-5253

Courtesy Summons

YOU ARE SUMMONED TO APPEAR BEFORE THE COURT:

at [Place] CITY OF COLUMBIA MUNICIPAL COURT 811 WASHINGTON ST COLUMBIA, SC

on [Date] _____

at [Time] _____

IF YOU FAIL TO APPEAR YOU MAY BE TRIED IN YOUR ABSENCE OR A BENCH WARRANT MAY BE ISSUED FOR YOUR ARREST

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to serve the defendant and require that the defendant appear at the date, time, and place provided above to be dealt with according to law. A copy of this courtesy summons shall be delivered to the defendant at the time of its execution.

Sworn to and subscribed before me on 09/14/2009

(L.S.)

Signature of Issuing Judge

Judge's Address CITY OF COLUMBIA, SC MUNICIPAL COURT, P.O. BOX 644 29202

Judge's Telephone _____

Judge Code: 403003

Issuing Court: ☐ Magistrate ☒ Municipal

09/28/2009 02:47 8035453193 JURY TRIAL SCHEDULIN PAGE 02

AUDIT COPY AUDIT COPY AUDIT COPY AUDIT COPY AUDIT COPY AUDIT COPY AUDIT COPY

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: Marie **Faltas**

Race: W Sex: F DOB: [redacted]

Warrant/Ticket Number: G-170523

Violation Date: 05/07/1999

Charge: Disorderly Conduct

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 10/15/1999

Session: 0008

Page: 13

Line: 07

Honorable Judge **Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmail/Staff Assistant

Date OCT 18 2010

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Marie Faltas

Race: W Sex: F DOB: [redacted]3

Warrant/Ticket Number: G-170523

Violation Date: 05/07/1999

Charge: Disorderly Conduct

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 10/15/1999

Session: 0008

Page: 13

Line: 07

Honorable **Judge Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbje J. Ishmal/Staff Assistant

Date JAN 18 2011

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Maria T. Assaad-Faltas

Race: O Sex: F DOB: [redacted]

Warrant/Ticket Number: H-086350

Violation Date: 11/06/2001

Charge: Malicious Injury to Personal Property

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 04/01/2002

Session: 0008

Page: 03

Line: 04

Honorable **Judge Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmal/Staff Assistant

Date JAN 4 8 2011

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Marie Assaad-Faltas

Race: W Sex: F DOB: [redacted]

Warrant/Ticket Number: H-086349

Violation Date: 11/06/2001

Charge: Shoplifting U/$1,000.00

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 04/01/2002

Session: 0008

Page: 03

Line: 03

Honorable Judge **Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishman/Staff Assistant

Date OCT 18 2010

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Maria Faltas

Race: O Sex: F DOB: [redacted]

Warrant/Ticket Number: H-086349

Violation Date: 11/06/2001

Charge: Shoplifting U/1,000.00

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 02/29/2008

Session: 0001

Page: 05

Line: 13

Honorable **Judge Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmal/Staff Assistant

Date JAN 18 2011

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Maria Assaad-Faltas

Race: W Sex: F DOB: [redacted]

Warrant/Ticket Number: 018766CL; 018767CL

Violation Date: 08/27/2003

Charge: Disregarding a Traffic Signal, Failure to Change Address on DL

Disposition of Case: Not Guilty, Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 03/05/2004

Session: 0800

Page: 17

Line: 01 and 02

Honorable **Judge Dennis** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmal/Staff Assistant

Date JAN 18 2011

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Maria Theresa Assa AD

Race: Sex: DOB: [redacted]

Warrant/Ticket Number: 6029

Violation Date: 09/13/2007

Charge: Materials to be removed by Occupant

Disposition of Case: Dismissed

Sentence: N/A

Condition(s): N/A

Court Date: 09/24/2007

Session: 0001

Page: 01

Line: 08

Honorable **Judge Burns** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmal/Staff Assistant

Date FEB 18 2011

CITY OF COLUMBIA, S.C. JUSTITIA VIRTUTUM REGINA

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

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: Marie **Assaad- Faltas**

Race: W Sex: F DOB: [redacted]

Warrant/Ticket Number: K-613866

Violation Date: 12/12/2009

Charge: Unlawful Use of Telephone

Disposition of Case: Nolle Prosequi

Sentence: N/A

Condition(s): N/A

Court Date: 10/06/2010

Session: 0800

Page: 09

Line: 11

Honorable Judge **Hanna** presiding at the hearing

CERTIFIED TRUE COPY

Kirbie J. Ishmal/Staff Assistant

Date OCT 18 2010

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

CITY OF COLUMBIA
SOUTH CAROLINA
MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

February 15, 2011

Mr. David A. Fernandez, Esq.
Assistant City Attorney
Legal Department
P. O. Box 667
Columbia, SC 29202

Dr. Marie Assa'ad Faltas, Phd.
P. O. Box 9115
Columbia, South Carolina 29209

Re: Urgent Request for Completion of (a) City's Return on Appeals to Circuit Court and (b) Disposition Letters Requested and (2) Complete and Accurate Copy of the Audio Recording of the Proceedings before Columbia Municipal Court Judge Bogan on Friday, February 4, 2011

Dear Mr. Fernandez and Dr. Faltas:

In response to Dr. Faltas' statements contained in the above referenced document, please be advised as follows:

Pending motions filed by either party will be scheduled when possible and a notice advising both parties of the date and time of any motion hearing will be sent by regular mail.

A dvd of the hearing held before the Honorable J. Steedley Bogan on February 4, 2011 has been made available for Dr. Faltas to pick up. Judge Bogan has determined that a formal order denying the City's motion to hold Dr. Faltas in contempt of court is not necessary in this situation. Therefore, a formal order will not be provided. There is no "minute entry" by a clerk. This matter did not appear as an entry on the criminal court docket or any other docket for February 4, 2011, therefore a copy of the docket cannot be provided. Dr. Faltas can request a copy of the transcript of this hearing by depositing $125.00 with the court.

Dr. Faltas will be advised if a disposition letter concerning dismissal of an ordinance summons against Dr. Faltas in September 2007 can be issued. Staff is aware of this request and is researching the case.

With regard to the return provided to the Circuit Court in response to Dr. Faltas' appeal from her conviction for front yard parking, please be advised that the exhibits in that case are in the Municipal Court's file and will be provided to the Circuit Court upon request.

With regard to the alleged missing conversation between Mr. Fernandez and Dr. Faltas and also with regard to an alleged colloquy concerning assignment of a jury foreperson, a member of the court's staff reviewed the tape of the trial and believes that everything that should have been transcribed has been transcribed. Perhaps these alleged conversations took place prior to the case being called for trial and therefore, would not be part of the trial itself. The qualification of the "venire" panel on Monday, December 6, 2010 was not transcribed. This court does not include the qualification of the jury venire as part of returns filed by this court. Without an issue specifically arising with regard to the qualification of the panel, there is no reason to include the qualification. The subpoena hearing before Judge J. Steedley Bogan on December 7, 2010 was not transcribed as part of the return. This court will provide that transcript if the Circuit Court determines it to be essential to the appeal and sends an order requesting same or if requested by either party after a proper written request and a proper deposit with the court.

I cannot address Dr. Faltas' request to consolidate the appeal in the front yard parking case with the alleged previous appeal as the procedure referenced is controlled by the Circuit Court, not the Municipal Court and by Dr. Faltas' own statement this request is addressed to the Honorable Judge Lee.

Sincerely,

Dana D. Turner

Dana D. Turner
Chief Administrative Judge

THE STATE OF SOUTH CAROLINA	)	IN THE CITY OF COLUMBIA MUNICIPAL COURT
COUNTY OF RICHLAND	)	
CITY OF COLUMBIA,	)	WARRANT NO.: H086349
Plaintiff,	)	ORDER
v.	)	
MARIE ASSAAD-FALTAS,	)	
Defendant.	)	

'05 JUL 28 P 10:01

I. PROCEDURAL BACKGROUND

This matter came before me on the 23rd day of May, 2005, pursuant to several written motions made by the Defendant on her on behalf. She made these motions at various times, and the contents of the motions also vary, but, everyone has agreed that the Court will consider this as a motion to reopen her shoplifting conviction based upon after discovered evidence and that the motion was timely made.

This case arises out of an incident alleged to have occurred on November 6, 2001, at the Wal Mart store located on Garner's Ferry Road, Richland County, Columbia, South Carolina. The case was called for a bench trial on April 1, 2004, before Judge Steven D. Dennis of the Columbia Municipal Court. At that time, the case was tried and the judge found the Defendant guilty of shoplifting.

Thereafter, the Defendant, on a *pro se* basis, made several motions, including motions which are now being considered as a motion to reopen based upon after discovered evidence. These motions were scheduled before this Court at various times, but the Court has always declined to hear them because of lack of jurisdiction. The Court of Appeals has issued its final ruling and the time limit has run for any reconsideration or any other motion or additional consideration by any appeals court in this state and the remittitur has been returned to this Court so this Court now has jurisdiction to hear these motions.

Exhibit A (6 pages)

II. CURRENT MOTION

Before reviewing the evidence and making findings, it is necessary for the Court to put into perspective the law as it relates to this motion. In order to prevail in this new trial motion, the Defendant must show that the after discovered evidence: "(1) is such that it would probably change the result if a new trial was granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to the trial; (4) is material; and (5) is not merely cumulative or impeaching." State vs. Spann, 513 S.E.2d 98.

The Defendant represented herself at the hearing and Ms. Dana Thye appeared on behalf of the City of Columbia. The Defendant called several witnesses including several employees of Wal Mart, whom she had subpoenaed, and her former attorney, Mr. Orin Briggs.

The Defendant also introduced into evidence several exhibits including an enlarged copy of a photograph which was originally introduced into evidence by the prosecution at the bench trial. At the original trial, the only two witnesses for the prosecution were two security officers who worked for Wal Mart. Both of them testified that the photograph introduced into evidence was taken on the date of the arrest which was also the purported date of the offense. Their testimony was clear and unequivocal on this point.

As the finder of fact in this hearing, I find that the Defendant has raised very serious and disturbing questions concerning the veracity of the testimony presented against her by the two Wal Mart employees about the photograph. I further find that through the photographic evidence, and the physical evidence introduced at this hearing, the Defendant has shown that the photograph entered into evidence against her at her trial, which was purportedly taken on the date of her arrest and the alleged incident, that is, November 6, 2001, could not in all likelihood have been made at that time, and therefore the entire testimony of the security officers is called into question.

The Defendant made several telling points concerning the photograph, the cash register receipt, and other physical evidence which she introduced at the hearing on this motion. There were two points

that I found particularly helpful in reaching my decision. First of all, an enlarged version of the original photograph showed small cardboard stickers attached to the shelves on the aisle where the photograph was taken. The Defendant introduced an identical original cardboard sticker at this hearing. In addition, she introduced another cardboard sticker that did not match the ones on the shelf. The first sticker introduced, which appeared to be identical to the ones in the photograph, had been copyrighted in the year 2004 by Wal Mart. The other sticker was copyrighted in another year, which indicated to the Defendant, and to this Court, that the stickers change frequently and are copyrighted, apparently, on the date of their first appearance. Since the original incident allegedly occurred on November 6, 2001, it is difficult, if not impossible, to believe that this particular cardboard piece could have been attached to the shelves in Wal-Mart on November 6, 2001.

Second, in comparing the UPC numbers on the cash register receipt to the UPC numbers of the type of report folders that were shown in the original photograph, it appears that there is a gross inconsistency in that it appears obvious that the UPC numbers found on the cash register receipt could not have come from the folders in the photograph as testified to by the witnesses for Wal-Mart.

The security guards had testified that the stickers taken from the small report folders were used to reduce the price of the binders by placing them on the binders so that when they were scanned the price would read ninety-seven cents instead of several dollars. It was shown at this motion hearing that each and every item in Wal Mart has a unique and specific UPC code number. Even the same item in a different color will have a different and unique UPC code number. The photograph introduced by the prosecution into evidence shows all different colored report folders thereby implying that each of them would have a unique UPC code number. The cash register receipt shows that two identical UPC code numbers were scanned at checkout which means they could not come from two different color or type folders even though the officers testified that these were the very folders from which the stickers were taken. This appears to be an impossibility.

These two pieces of physical evidence, together with other points that the Defendant made, have lead me to have serious questions about the veracity of the two witnesses produced by the prosecution. However, there is no indication that the prosecuting attorney had any knowledge, either at the time of the original trial or at the time of this hearing, that the evidence being introduced lacked credibility, was questionable, or in any other way was not proper, appropriate and credible. The fact that the evidence is now questionable does not reflect negatively in any way upon the prior decisions and actions of the prosecuting attorney in this matter. There is no evidence that the prosecuting attorney, nor any agent or employee of the City of Columbia, knew about these problems with the evidence or could have known about them before this motion hearing.

III. LEGAL ANALYSIS

A. WOULD THESE FACTS PROBABLY CHANGE THE RESULT IN A NEW TRIAL?

When the case was originally heard, the determining factor was the credibility of the witnesses. The Court found that the prosecution witnesses, that is, the two employees of Wal Mart, were credible. Without a doubt, the new factors introduced at the Motion to Reopen Based on After Discovered Evidence would call into serious question those employees credibility. It is not likely that guilt beyond a reasonable doubt could be established based upon their testimony alone, give the number of instances in which their testimony is now being called into question, if not outright disproven. Therefore, I find that the result would likely be changed.

B. HAS THE EVIDENCE BEEN DISCOVERED SINCE THE TRIAL?

Yes, the evidence has been discovered since the trial through the efforts of the Defendant in having the original photograph converted to digital format and then enlarged in such a way so that details can now be seen that were hidden or not recognizable originally. As the original trier of fact, and as the hearing judge at this hearing, I have reviewed the original photograph on several occasions and had an opportunity to examine it very closely. The detail now shown to the Court on that photograph which has led to these findings is not readily discernable on the original photograph. It might be argued that

the Defendant had seen the photograph prior to the trial and therefore had in her possession the very thing which has now provided the evidence of lack of credibility, but the fact that the photograph did not clearly show the tag on the shelf and other details that have now become readily apparent only through the enlarged copy of the photograph means to me that, in affect, this evidence had not been discovered at or prior to trial and I deem it to have been discovered since the trial.

C. COULD THE EVIDENCE HAVE BEEN DISCOVERED PRIOR TO THE TRIAL BY DUE DILIGENCE?

According to the testimony of attorney Orin Briggs, and based upon the transcript of the original trial, neither Mr. Briggs nor his client had an opportunity to view the photograph which has now become so important, until the day of the trial on April 1, 2002. Furthermore, a Motion to Continue by Mr. Briggs, while not based upon any desire to further explore the photograph itself, was denied. However, Mr. Briggs had sought to view the evidence on several prior occasions and through the actions of Wal Mart and/or its employees or agents, Mr. Briggs nor his client had been afforded that opportunity prior to trial. I find the Mr. Briggs exercised due diligence in his effort to review the photograph and the other evidence prior to the trial and that he was denied through the actions of Wal Mart and/or its employees and therefore the photograph could not, with due diligence, have been discovered before the trial.

D. IS THE NEW EVIDENCE MATERIAL?

Yes, the new evidence is entirely material to the issues at hand and sheds a considerable amount of new light upon the evidence adduced at the original trial. Considering that the credibility of the witnesses was of paramount importance in this case, the fact that the photograph could not in all likelihood have been taken at the date and time the only two witnesses for the prosecution testify that it was taken is of utmost materiality in the determination of guilt or innocence in this case.

E. IS THE EVIDENCE MERELY CUMULATIVE OR IMPEACHING?

While it could be said that the new evidence is "merely impeaching," in a case where the entire determination is based upon the credibility of the witnesses, and where it is shown that both witnesses for the prosecution are now found to be thoroughly untrustworthy, it would defy all common sense, logic, reason, and justice to determine that because this evidence is impeaching, it is not of the most important character that could have been introduced on behalf of the Defendant. The witnesses for the prosecution did not see fit to retain the original physical evidence to be used at trial. That is their right, and photographic evidence of the original items is admissible and may be just as credible and can rise to the level of proof beyond a reasonable doubt. However, when they choose not to retain the original evidence, and when they do not make available to the defense the photographic evidence until the time of the trial, despite efforts of the defense to view that evidence, and where it is later shown that the photograph itself could not be what it has been purported by the prosecution to be, it may be said that the prosecution's case is not merely impeached, but thoroughly destroyed by the after discovered evidence. The after discovered evidence is more than impeaching, it guts and emasculates the prosecution's entire case so that in the interest of justice, the judgment cannot stand. The after discovered evidence in this matter does not merely question the State's case, it disproves it. Under those circumstances, the conviction cannot be allowed to stand.

THEREFORE, it is hereby ordered, adjudged, and decreed that the above-referenced case is hereby reopened, the previous conviction is set aside, and the Defendant shall be entitled to a new trial.

AND IT IS SO ORDERED.

The Honorable Steven D. Dennis
City of Columbia Municipal Judge

26 day of July, 2005

Richland County
Fifth Judicial Circuit
Public Index



Switch View

Dinah Steele vs Renard Walker

Case Number:	2006CV401063073	Court Agency:	Lykesland Magistrate	Filed Date:	11/17/2006
Case Type:	Civil	Case Sub Type:	Rule to Vacate PS	File Type:	
Status:	Disposed	Assigned Judge:	Davis, Michael Ronald		
Disposition:	Settled	Disposition Date:	03/09/2007	Disposition Judge:	Davis, Michael Ronald
Original Source Doc:		Original Case #:			
Judgment Number:	2006CV401063073	Court Roster:			

Case Parties

Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Faltas, Marie					Other Party to Case		11/06/2009
Steele, Dinah	1403 Haigs Creek Elgin SC 29045				Plaintiff		11/06/2009
Walker, Renard	304 Byron Road - Apt. 3 Columbia SC 29206				Defendant		03/09/2007

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Steele, Dinah	Served Renard Walker	Filing		11/20/2006-17:00	03/09/2007-12:04	
Steele, Dinah	Civil Filing Fee for SCJDO	Filing		11/17/2006-11:20	03/09/2007-11:20	
Steele, Dinah	RTV - Process Server	Action		11/17/2006-11:20	03/09/2007-11:20	

Financials

Summary

Fine/Costs:	$30.50	Total Paid for fine/costs:	$30.50	Balance Due:	$0.00

Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Civil Filing Fee County 44%/100%	CVFFCN	$20.00		$20.00
SCJD Filing Fee Other Summary $10	SCJDFF	$10.00		$10.00
Copy Fees 100%	CPYFEE	$0.50		$0.50

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
11/06/2009	62992	C40ABRAZEL	CV	$0.50
11/17/2006	51515	C40ABRAZEL	CV	$30.00

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[minute 00:00] **The courtroom officer:** Be upstanding before the Court!

[minute 00:08] **The Honorable Judge Anderson:** Thank you. Please be seated. Ms. Clerk, you're recognized.

[minute 00:15] **The Clerk:** Case Number 14567, *City of Columbia versus Maria-Teresa* [sic] *Assa'ad-Faltas.*

[minute 00:20] **The Honorable Judge Anderson:** Ms. Faltas, you're recognized.

[minute 00:27] **Appellant pro *se:*** Good afternoon, Your Honors. And may it please the Court, I am Dr. Marie-Therese Assa'ad-Faltas, the very grateful appellant *pro se* before this Court.

Initially, I was the defendant and later the movant before the City of Columbia Municipal Court, which sat in the person of the Honorable Steven Dennis both for the bench trial on April 1st, 2002, and the after-discovered evidence hearing on May 23, 2005.

Judge Dennis issued his ruling on July 26. It was filed July 28, 2005, setting my conviction aside based on after-discovered evidence ---

[minute 01:20] **The Honorable Judge Beatty:** Actually he gave you a new trial; he didn't set the conviction aside. Did he?

[minute 01:25] **Appellant *pro se:*** Actually yes, Your Honor, he did set the conviction ---

[minute 01:27] **The Honorable Judge Beatty:** Are you suggesting that you were acquitted then?

[minute 01:29] **Appellant *pro se:*** *I think it is functionally,* ***in this case,*** *constitutionally equivalent to an acquittal.* And I ---

[minute 01:38] **The Honorable Judge Beatty:** What's your authority for that?

[minute 01:40] **Appellant *pro se:*** Two, two very clear statements from the U.S. Supreme Court.

It said it's not the form of the judge's action, and that's from *United States versus Martin Linen Company,* but the court looks to whether the judge made a factual finding, correct or not, as to the elements of guilt, or one or more of the elements of guilt or innocence of, of the defendant. And in this case, the judge specifically found, at least in two or three areas in his order, that it is physically impossible, he used the word "impossible," for that for which I was tried to have been true, based on the after-discovered evidence. So, that is a factual finding.

And the Double Jeopardy Clause is not premised on infallibility of the fact finder.

Once a fact is found favorable to the defendant, then it is functionally, constitutionally equivalent to an acquittal. The other ---

[minute 03:05] **The Honorable Judge Anderson:** There may be some disputation as to whether that was a factual finding by the judge because he didn't have the right to make factual findings in terms of a motion for a new trial based on after-discovered evidence. He needed to identify evidence, not make factual findings, in terms of his particular role at that time.

What I would like to ask you in terms of his function at that time: He was looking at the after-discovered evidence, because that was the gist and gravamen of your motion: after-discovered evidence. "I need a new trial based on after-discovered evidence."

In the photograph, when you first had the photograph at the first trial, there is a proposition of law known as "due diligence." Did you exercise due diligence at that time by pointing out to the judge "well, I need more time to deal with this photograph" or was, was the point in regard to the photograph not obvious at that time so that you really could not even determine the need to ask for more time?

[minute 04:31] **Appellant *pro se*:** Actually, Your Honor asked me several questions.

[minute 04:34] **The Honorable Judge Anderson:** I did.

[minute 04:35] **Appellant *pro se*:** And if I may answer all of them, not in the order of importance, but in the order Your Honor posed them.

Yes, I think the new-trial-motion judge is required to make issues related to guilt or innocence because one of the elements he is supposed to look at is whether the new evidence will make a different outcome likely. Put in other words, is that, if in the first trial the defendant was convicted, does the new evidence make it likely that in a new trial the defendant will be acquitted?

So, not only did he have the right to make that finding; that was his duty. The second ---

[minute 05:23] **The Honorable Judge Anderson:** Well, let's, let's go back to that point again now. The two cases. Let's just stick with *State versus Caskey,* which is a State Supreme Court case. It gives these five elements; and in it, the defendant must show that the evidence: (1) would likely change the result if a new trial was granted.

That does not mean the judge is then making factual findings.

The judge is identifying evidence that is being presented within the ambit and aegis of the motion for new trial based on after-discovered evidence. Identifying that evidence, I think, is more correct in terms of saying the judge is finding facts at the time.

[minute 06:05] **Appellant *pro se*:** Respectfully, Your Honor, as a threshold matter, the judge needs to make a factual ruling whether the after-discovered evidence is true or not. And if he does find it is true, then he goes on to find whether it will make a different outcome likely.

So, he is required to find as a threshold matter whether the after-discovered evidence is true. And that is a factual finding, because, if the after-discovered evidence is not true, which happens in a lot of recantation cases that the judge finds as a threshold matter the recantation affidavit is not credible, he doesn't need to go any further than that.

So, yes, once again, not only did he have a right to make the factual finding, but he had a duty to make it because that is the threshold element.

[minute 07:11] **The Honorable Judge Beatty:** Ms. Faltas?

[minute 07:13] **Appellant *pro se*:** Yes, Your Honor.

[minute 07:15] **The Honorable Judge Beatty:** Let me ask you. I am going to ask maybe a series of questions; and they are not difficult to answer. And hopefully they will not be confusing.

In fact, I'll just make a statement. No. Now, you do understand that your trial was held, right? And you were convicted at the trial itself. Is that correct?

[minute 07:29] **Appellant *pro se*:** Well, yes, Your Honor.

[minute 07:31] **The Honorable Judge Beatty:** All right now. The trial was concluded. You had been convicted. That was over and done with. Right? Then you filed the motion for a new trial based on after-discovered evidence.

Do you, are you following me now? That is procedurally what happened. Is that correct?

[minute 07:48] **Appellant *pro se*:** But I also had in the meanwhile filed a lot of motions---

[minute 07:54] **The Honorable Judge Beatty:** Well, but let's talk about the one we're dealing with here. We're dealing with the granting of a new trial based on the after-discovered evidence; and that's what's being appealed here. Now, when that motion is granted, that is not a new trial; that's saying "you can have a new trial."

So, the judge could not have found you not guilty at that hearing. Do you understand that?

[minute 08:04] **Appellant pro *se:*** And here is, this relates to something that I have preserved below and I have tried to preserve before this Court and before the State Supreme Court, which is: it is unconstitutional. Rule 29(b) is unconstitutional in two respects. Number 1: It violates the Sixth Amendment in that it prohibits the hearing of new evidence during pendency of a direct appeal.

Number 2: It does not empower the trial judge, if the after-discovered evidence makes the like, makes guilt impossible, it does not empower the trial judge to enter an acquittal. And that is unconstitutional also on Sixth Amendment grounds and on due process grounds because somebody should not be held to answer to a charge with, without oath or affirmation.

Now, the purpose of the oath or affirmation isn't just that it be utter, uttered; but the person taking it without mental reservation tell and it's three prongs. And they aren't alternate. It's tell the truth, the whole truth, and nothing but the truth.

So, and, and I know that Your Honor asked me. Well, that is all the power that he had; and that's why it was styled "motion for a new trial."

But in the federal system, the equivalent Rule 33 of the Rules of Criminal Procedure provides that if a judge had held a bench trial, and then hears a motion for after-discovered evidence

and decides to grant the new trial, he may go on and take further evidence and decide the issue of guilt or innocence then, because---

[minute 10:28] **The Honorable Judge Beatty:** Well, in effect, he has actually conducted the new trial that he's granted you if he does that.

[minute 10:34] **Appellant *pro se*:** Your Honor, sometime. Yes, I would say that, in effect, yes; but we don't need---

[minute 10:40] **The Honorable Judge Beatty:** But that's not what happened in this case.

[minute 10:42] **Appellant *pro se*:** Well, yes, Your Honor, he, because his. It's very simple. I wasn't being tried before the Consultus of the Vatican for sainthood and it trying to decide whether I ever committed any offense in any part of the world---

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

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

Not only did I not have it before trial, I did not even have it during trial. I did not even have it after trial until a judge [sic] by the Honorable Judge Huff allowed me to make a photocopy of it. *And, and this is not only a red herring by the Prosecution, it is straight falsification of the record.*

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

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

[minute 12:53] **Appellant *pro se:*** Page 39 Your Honor; and this is very important and it was attempted. The, the exchanges are on page 39 and 40. And that's from, from the trial record. And then also, during the after-discovered evidence hearing, Mr. Briggs came and testified.

(Advocate chokes and coughs.) Excuse me.

And I specifically asked him to test, asked him: "Short of breaking into Ms. Thye's office to get that photograph before the trial, was there anything else you could have done?" And he said "I was relying on the discovery process."

Besides, prior to that, there were 10 specific requests for production [sic]. Additionally,---

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

[minute 13:51] **Appellant *pro se:*** Thank you, Your Honor.

[minute 13:52] **The Honorable Judge Anderson:** All right.

[minute 13:53] **Appellant *pro se*:** May I, may I, however, pick up that thought when---

[minute 14:00] **The Honorable Judge Anderson:** Yes, ma'am.

[minute 14:01] **Appellant *pro se*:** Thank you very much.

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

[minute 14:04] **Counsel for the City**: Thank you, Your Honor. Good afternoon. May I please the Court.

My name is Dana Thye and I represent the City of Columbia in this matter.

This case was decided correctly, first at the trial and on direct appeal, where a panel of this Court affirmed the conviction, and most recently by the Circuit Court in reversing the grant of a new trial. There was simply no manifest injustice done here despite Dr. Faltas' contentions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[minute 15:47] **The Honorable Judge Huff:** Are you saying she should have made a motion for continuance based upon the just-recently received photograph and you would have had no objection?

[minute 15:52] **Counsel for the City:** I would have had no objection; it was never made. The motion was never made. I invited them to make any number of motions.

All of the items of production that she indicated, certainly, weren't in our custody or able to get. We needed to have taken those up if necessary. If she had made the motion and the court would have entertained it, she could have had any amount of time she needed to make this photographic manipulation or magnification of the Polaroid.

[minute 16:11] **The Honorable Judge Anderson:** Counsel, I have some concernment about the findings by the municipal judge at the motion for a new trial based on after-discovered evidence.

There is some very serious allegations in regard to the ruling by the municipal judge concerning the New Item stickers; whether the UPC Codes Code in place during this year, 2002, or what the differences between the folders were based on the angled or rounded edges, the clasp.

Whether this photograph is in fact a fabrication is of major concerment to me.

Now, if there is some difficulty in regard to that photograph, I for one would vote for a new trial because I am not going to sit here and let some kind of activity occur in regard to evidence that is presented at trial. Now, can you explain to me this difficulty between the 2002-copy-righted New-Item stickers as juxtaposed to the ones that were in place at the time this event occurred so as to eliminate the idea notion that there was some activity within that photograph that is rising to the level of the kind of exhibit that simply cannot be accepted by the Court.

[minute 18:00] **Counsel for the City:** Certainly, I'll certainly try. It's my understanding from Dr. Faltas' argument that the Polaroid photograph, when magnified to such a degree, you can discern the "New Item!" tag in, in some of the pixilated images of this, this photograph, the Polaroid. She

then analogizes that to a new tag item [sic] that she brought in the day of the after-discovered evidence. It had a 2002 copyright date on it.

She argued and contended that, because the one in the picture looked like the one that was a 2002 copyright, that it must have been taken in 2002. But that doesn't answer whether or not the new tag item [sic] sticker from 2001 looks similar to that. These photographic manipulations are suspect at best. You're taking, you're talking about a Polaroid that doesn't contain a negative, blowing it up several times and taking a pixilated image, trying to clean that up to discern distinctions or similarities between that item and something else.

[minute 19:01] **The Honorable Judge Beatty:** But you would agree that they look very similar. Don't you?

[minute 19:02] **Counsel for the City:** *Oh, they look similar. I don't know that they wouldn't look similar to the 2001.*

[minute 19:04] **The Honorable Judge Beatty:** Now, what about her argument about the UPC Codes? Each item in the store has an individual distinct code. And the codes that she checked out with her receipt indicated, I believe, clear folders. The folders in the picture, and that's the only evidence that you all have because you got rid of the picture, of the folders themselves, were colored, folders. Now, doesn't that strike you as being odd?

[minute 19:28] **Counsel for the City:** Well, it strikes me as being odd; but I don't know that it couldn't be explained by the Wal-Mart folks. And that's one of the issues here that we have with this after-discovered evidence trial [sic].

[minute 19:33] **The Honorable Judge Beatty:** If she went to the register with, and was, and purchased, clear folders, and the UPC Codes indicated they're clear folders; yet, you put forth the photograph saying that she was trying to steal colored folders.

[minute 19:53] **Counsel for the City:** That she was attempting to remove labels from color folders and attach them to something else. Now there's, there is no argument that she walked out of the store [sic] with two items yet removed, that there are five folders in the picture removing several labels trying to get one that peeled off correctly at the time.

And that's the problem with this after-discovered evidence being considered a new trial and an acquittal: is that some three years after the case, the procedures---

[minute 20:10] **The Honorable Judge Beatty:** But how do you try and explain the UPC Codes? I mean that's the problem I'm having. If each item has a specific code, whether it's color wise or otherwise. Even different color items had a different code. She checks out with a UPC Code for two clear folders. Yet, the ones you're saying she tried to take the stickers off of are colored folders. And yet, if she had taken those stickers off of the colored folders and used those to purchase the clear folders, wouldn't her receipt show she bought colored folders?

[minute 20:40] **Counsel for the City:** I see where you're coming from, Your Honor. And I don't know---

[minute 20:44] **The Honorable Judge Beatty:** But her receipt shows she bought clear folders.

[minute 20:48] **Counsel for the City:** *The receipt has two of the same items, of clear folders.* And that's the problem again with this after-discovered evidence hearing being considered an acquittal and all of that.

We still have to get past all of this, the *Caskey* criteria: discovered since the trial; could not have been discovered prior to the trial; and is it merely cumulative or impeachment evidence?

Again, the purpose behind this Polaroid photo and the magnifications; this isn't a Polaroid photograph of her actually taking the items. It's of the items themselves, which is cumulative in nature to the eye-witness testimony of the folks. The sole purpose for introducing---

[minute 21:22] **The Honorable Judge Anderson:** Well, this eyewitness testimony of these folks was directed toward the photograph. They were contending that the photograph was in essence backing them up and buttressing their testimony. Didn't they contend that at trial?

[minute 21:38] **Counsel for the City:** They contended that it contained all of the photos, or all of the folders that they saw her peel the labels off of and the folders that they took, that they saw her take out of the store [sic].

[minute 21:46] **The Honorable Judge Anderson:** So, what's cumulative about a photograph that is almost the quiddity of the trial? All this evidence is being directed to the photograph: "We can show you. This is exactly what happened."

[minute 21:57] **Counsel for the City:** Well, all the evidence wasn't directed to the photograph. Both of the folks testified at trial about what they saw, about following her around the store, the fact that she removed labels from folders, there's no dispute about that.

Dr. Faltas' testimony indicated she was removing labels. She asked the court to believe it was because there was an error. She knew that they weren't valued right; and so, she was helping Wal-Mart out by making the correction.

They testified to all of this and they merely used the photograph to illustrate the types of folders and the folders. And they said "These are the folders that she was, that we picked up off the stationery shelves that she was removing the labels from. And these are the folders that we saw her walk out of the store [sic] with." So, it was, was cumulative to their eyewitness testimony and also cumulative to a police officer who arrived to transport her that said "I saw everything there. I saw the folders, and binders and the photograph."

So there was a photograph in existence on the day that she was, that she was arrested.

So, it is cumulative; and the sole purpose is to impeach the veracity of these witnesses, to say that it didn't happen the way they said it happened and it didn't happen the time of date.

That was some of, a point that she brought out at trial herself. I would point out to the Court that she had the receipt in evidence, on page 320 of the Record on Appeal, she entered that receipt into evidence. She had that on the day of the trial. She brought it with her as a matter of fact. She testified the binders in the fold, in the photo were not the ones she took.

She had that before the trial court. She made that point before the trial court. That this is---

[minute 23:19] **The Honorable Judge Beatty:** *What about the, the manual, Wal-Mart's manual about their products with, that contained the explanation about the UPC Codes?* She did not have those. Did she?

[minute 23:29] **Counsel for the City:** No, she didn't.

[minute 23:29] **The Honorable Judge Beatty:** *They were not even available to her at that point in time.* In fact, she was told it didn't even exist at that point in time, wasn't she? The manual did not exist?

[minute 23:29] **Counsel for the City:** The manual? Or is the Court referring to the manifest? On direct appeal, there was an issue about a manifest; and it was determined that there was no error.

[minute 23:42] **The Honorable Judge Beatty:** No. That was an evidence manifest, I do believe, that---

[minute 23:49] **Counsel for the City:** That was an evidence manifest.

[minute 23:50] **The Honorable Judge Beatty:** --that supposedly did not exist; and then it showed up. No. I'm talking about the Loss Prevention Manual that talked about all these things and that supposedly did not exist at the time of the trial but was available when, at the motion.

[minute 24:02] **Counsel for the City:** I'm not sure that it didn't exist at the time of the trial. I think Dr. Faltas perhaps didn't request it or, I mean it was, it's a Loss Prevention Manual. It wasn't encompassed in, in that. I don't, I don't read the record as saying it was not in existence at that time.

[minute 24:10] **The Honorable Judge Beatty:** Oh, it was in existence. It was not available to her.

[minute 24:12] **Counsel for the City:** To her; and her counsel certainly could have brought it up in any motion pretrial. Again, this is, it's impeachment evidence. It could have been discovered prior to the trial. It was certainly, some of it was certainly discovered at the trial. And so, this does not rise to a level indicated in the *Caskey* criteria or any of that.

[minute 24:39] **The Honorable Judge Anderson:** All right, Counsel. Your time is up. I am going to give you two minutes to sum up since she had run a little over her time.

[minute 24:49] **Counsel for the City:** Thank you. I appreciate that, Your Honor.

She argued three issues in her brief, all of which should be resolved in the City's favor. That there is, her first issue: there is no authority for us to appeal this. I think the Court has correctly

honed in on that: that there is very much a distinction between an argument related to the insufficiency of evidence, finding that the, the government's case should not have proceeded to trial versus a weight of the evidence type of analysis.

This is clearly a weight of the evidence type of analysis; and therefore appealable.

And in anyway, what the Court [sic] seeks to gain here is a reinstatement of the conviction, not a retrial. So, the Double Jeopardy Clause doesn't bar this particular Appeal.

The procedural handling of the Circuit Court was completely within their purview. There is a Code section that determines the municipal court appealability. It's completely within the Circuit Court's purview to, to handle it as such and do it on the briefs.

And furthermore, the Sixth Amendment of the United States Constitution guarantees a fair trial, not a perfect one, but a fair one. She had every opportunity to, below to present this evidence and in fact did present several of, of items of this piece of evidence.

Because she now simply says "I have more ways to illustrate my point" doesn't rise to the level that, that we submit is necessary to gain a trial on after-discovered evidence.

So, we would ask the Court to affirm the Circuit Court. Thank you.

[minute 25:58] **The Honorable Judge Anderson:** Ms. Faltas, reply.

[minute 26:02] **Appellant *pro se*:** *Thank you, Your Honors, and I do very much appreciate the questions you asked.*

But this illustrates why this shouldn't be appealable: Your Honors are trying to compress within 25 minutes what's Judge Dennis took five hours to look at, in addition to his, to his having been the one who tried the case to begin with. So that's.

The second thing is the issue of appealability is very alive and very important. Only yesterday, a, a colleague panel of this Court said: "While there are lingering questions regarding its appealability, the issue ...." And that is on the case of *The State versus Franklin Arthur, Arthur Franklin Smith,* which is a published opinion issued yesterday.

Now, if Your Honors go back, on the record pages 32, I believe, there was, there were 10 specific Requests for Disclosure. And they, they specifically asked for all their procedures and how do they handle evidence and all of that. So, yes, it was asked. She chose not to give anything.

And yes, there was a pretrial motion. But we were entitled to the full measure of relief: not a continuance but dismissal. And the motion for dismissal encompassed everything include, which was specifically the State's, the Prosecution's failure to give the evidence which was specifically, I mean there was; it's in writing; it's specific; it's 10 items; it was timely, way ahead of trial.

The, the second thing is that, again, there is falsification of the record. There were three motions for continuances made; and they were all denied. And I refer them to, in my brief.

The most important thing is that the Polaroid didn't mean anything until a witness took the stand and testified this is what the Polaroid is. And if Your Honors look back at the Record, on page 17, that was initially what Judge, Circuit Judge Barber affirmed, saying it's, "it's okay that they destroyed the folders and binders since the Polaroid says that these are the exact ones."

So, the Polaroid wasn't illustrative; it was the *corpus delicti* according to the Prosecution. And upon magnification, there is no *delicti* in the *corpus.*

So, it is impossible for me to have been convicted.

Additionally, the State, the Prosecution keeps saying "evidence this and evidence that; testimony this and testimony that." Perjury is not testimony. The difference between testimony and a report is that it be given under oath or affirmation, not just uttered, but something without mental reservation. And the three prongs of, of the oath is "the truth, the whole truth, and nothing but the truth." If somebody, a potential witness were to say: "I swear or affirm to give you a little bit of the truth, to suppress that part of the truth which doesn't help my story, and to fabricate things that will fill in the rest of what I suppressed," this person would not have been put on the stand at all, if he refuses to take the oath which is the three items.

Now, it's not the uttering. Since we know, or at least the trial judge found that that picture was fabricated, then those people came with a predetermined mental reservation to take the oath,

to utter it while intending to violate it. So, they did not take the oath. Whatever they said is on the record is not testimony because it was not under---

And I'm sorry this may sound a bit convoluted; but it really isn't. The purpose of the oath is to ensure that anyone allowed to testify would respect the three prongs of the oath and --

[minute 30:50]**The Honorable Judge Anderson:** The word "oath" came from the Roman law. The Latin word is "*ius iurandum.*"And the oath came from that origin; and we have used it historically. I don't think we need any kind of instruction on the oath. We understand that.

[minute 31:05]**Appellant *pro se:*** No, I'm sorry. I don't mean that. *I meant, I meant the, what the witness promised to do and the trial judge found did not do that.* So, my contention is that that's not a witness at all.

The other very important part of, really, falsification of the record and I'm really disappointed and I think this Court should take this seriously that an off, which I am not an officer of the court even though---

The Prosecution tried to do this three times. First, before Judge Dennis, and at that time I objected. She claimed that the police officers testified that they saw the picture.

That is simply not true. They did not see the picture, they did not identify the picture. One recollected vaguely seeing "pictures" in the plural. But he never identified it, never took custody of it, never anything. And in fact, I, part of my.

And my after-discovered evidence isn't limited to those two points.

Neither is Judge Dennis' order limited to the two points about the date and the UPC Code. He, in three place, he said "along with other evidence" "together with other evidence." These were the two he found most helpful. In fact, I could dispense with one of those two and still win because there were several, seven other proofs within the photograph.

Now, the jeopardy attaches as soon as witness is sworn in a bench trial. And once the, the witness was sworn and identified the photograph under oath, a continuance was tantamount to a motion for dismissal, which is, we had asked for a motion of, for dismissal before the trial began. So, that motion was made.

It was not possible to take the photograph and magnify it before any witness said what that is, because it, we didn't know what they were going to say about it: whether they were going to say "these are the actual items" "these are something else that we were taking while passing the time." There was no identification of it. But once a witness---

[minute 33:32] **The Honorable Judge Anderson:** Ms. Faltas, your time Is up. I'm going to give you two minutes to sum up.

[minute 33:42] **Appellant *pro se:*** Yes, Your Honors. Additionally, the, the City is now taking a different position before what, different from what it put in judge, Circuit Judge Cooper's mouth because Your Honors need to remember that, first of all, judge Cooper had no right to re-examine the facts, not only under the Sixth Amendment, but also under---

The idea isn't if somebody can sit and fantasize possible explanations. The issue is whether there was enough evidence for Judge, Municipal Judge Dennis to make the ruling that he did, even if---

And in fact, in a Freudian slip they said: "it is possible, equally likely that something else." Well, if it is equally likely, if there are two possible inferences, then once the fact-finder chooses one of them, no appellate body has the right just because it is higher in, in the hierarchy to say "No, I, I would have chosen a different inference and you're wrong."

And Your Honors, here, are not - it's very important, Circuit Judge Cooper was not the trial judge. Your Honors are sitting basically in the same position that the U.S. Supreme court sat in when it examined the Fourth Circuit U.S. Court of Appeals' reversal of trial judge McMillan in *Anderson versus City of Bessemer City.*

In that case, the trial judge had found there was discrimination and found for the plaintiff. The Fourth Circuit reversed because it would have drawn a different inference from the facts; and the U.S. Supreme Court unanimously said NO. An appellate body doesn't have that right, so long as there were, there is evidence in the record from which the trial judge could have drawn the inferences, even though the appellate body might have drawn a different inference had it sat in the place of the trial judge. It doesn't work like that. It's the fact-finder.

And, and, and specifically, not only that. The very short letter which is the only, only one of two letter in Judge Cooper's own words, he says: "The evidence in my opinion" "the new trial evidence doesn't merit reversal of the conviction." Well, that's a way he's weighing it and saying "that's not important enough." But that wasn't even for him to do. The weight of the evidence, what to attach, is for the fact finder; and there was only one fact-finder in this case, both at the bench trial and at the after-discovered evidence hearing; and that is Municipal Judge Dennis.

Your Honors, the question of appealability; and I'm sorry that we had to focus on the facts because the, this happened in 2001. This is 2007. Six years.

If the average life expectancy is now about 72 years, I have spent about one twelfth of my life under the shadow of a conviction for something I did not do. And Justice O'Connor had written, and recently the U.S. Supreme Court quoted her, "it is constitutionally impermissible."

That was a death penalty case; but really life is made of time lived.

And the, the Constitution, the Sixth Amendment prevents that someone would live under the shadow of an accusation of something they didn't do. That's why we need speedy trials. Now, it *a fortiori* prevents someone from living under a conviction that was found to have been procured by fraud. If the Constitution doesn't protect the innocent from being convicted based on fraud, then it doesn't do anything at all.

And the other thing I wanted to say, if it pleases the Court, is that the, Judge Cooper's handling of the matter was very bizarre. He didn't hold. Not only did he not hold a merits hearing, he requested both parties to file by the same date blindly briefs; and did not even let me even reply to the City's brief. Well, "Respondent" is someone who responds. Before Judge Cooper, I was the respondent. He didn't let me respond. It's as if in a trial some---

And he did re-examine the facts, which the U.S. Supreme Court in *Kepner* said that the examination of the facts even by an appellate body, is like a second trial and therefore barred by the Double Jeopardy Clause.

But the bizarre way in which Judge Cooper handled the matter itself would, would warrant reversal of Judge Cooper. He said "On October 10th, both the City and Dr. Faltas will file their briefs."

So, it's as if in a trial the, there was kept two juries in two separate rooms; and the Prosecution was told to present its case in one room and the defendant was told to prevent, to present her defense in a separate room without even seeing what the Prosecution was doing.

The ---

[minute 39:32] **The Honorable Judge Anderson:** Thank you, Ms. Faltas. Thank you very much.

[minute 39:52] **Appellant *pro se:*** Thank you very much, Your Honors, for the opportunity to be heard.

[minute 40:02] **The courtroom officer:** Be upstanding before the Court!

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

City of Columbia, Respondent,

v.

Marie-Thérèse Assa'ad-Faltas, Appellant.

Appeal from Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2007-UP-193
Heard February 6, 2007 – Filed April 26, 2007

REVERSED

Marie T. Assa'ad-Faltas, of Columbia, Pro Se.

Dana M. Thye, of Columbia, for Respondent.

PER CURIAM: Marie-Thérèse Assa'ad-Faltas, M.D., M.P.H., appeals the circuit court's decision to reverse the municipal court's order granting her a new criminal trial. We reverse.

FACTS

On November 6, 2001, Faltas was arrested and charged with shoplifting after two Wal-Mart employees alleged they witnessed her remove several labels from multi-colored folders priced at $0.97 each. The employees stated that Faltas replaced two labels on more expensive binders priced at either $4.97 or $3.97 each[1] with two of the $0.97 labels, and then she attempted to purchase the binders with the less expensive price labels on them. A Polaroid photograph was purportedly taken of several multi-colored folders and the clear binders on the date of the incident. Faltas's receipt showed that she purchased two "report covers" for $0.97 each with UPC numbers 007878799671.

A few weeks prior to trial, Faltas's attorney was made aware of the existence of the photograph. He immediately sent a somewhat insulting letter to the City requesting that he have immediate access to the photograph. The City responded in a short letter indicating that the case would be called for trial in two weeks and that Faltas's attorney could make any pre-trial motions. No motions were made concerning the photograph, and neither Faltas nor her attorney gained access to the photograph prior to trial.

On the date of the trial, Faltas's attorney moved to dismiss the shoplifting charge because: the City did not have the original folders and binders from which Faltas was alleged to have switched labels; and the photograph of the purported items with switched labels mistakenly included the wrong binder, bringing into question whether Wal-Mart preserved the correct evidence. The municipal court denied the motion to dismiss the charge and also denied Faltas's attorney's motion to continue the case so he could appeal the denial of the motion to dismiss.[2] The trial continued, with the City presenting the testimony of the two Wal-Mart employees who witnessed Faltas removing labels, the testimony of the arresting officer, and the introduction of the photograph. According to a Wal-Mart employee who witnessed Faltas's actions, after the photograph was taken, the incorrect labels were removed from the binders and disposed of, and the

binders were returned to the store shelves. A police officer testified at trial that he saw the evidence against Faltas, including the photograph, prior to transporting Faltas to jail.

Faltas testified at trial that she had previously returned two clear binders to Wal-Mart and had inadvertently attached the wrong labels to them prior to returning them. When she was in Wal-Mart on the date of the incident, Faltas testified she decided to correct her error and switch the incorrect labels for correct labels. She stated she actually switched less expensive labels for more expensive ones and that she went on to purchase completely different report covers with the appropriate labels attached. Faltas was convicted of shoplifting and fined $500. Her conviction was affirmed by both the circuit court and this court on appeal. City of Columbia v. Faltas, Op. No. 2005-UP-00143 (S.C.Ct.App. dated Mar. 1, 2005). On May 18, 2005, the case was remitted after the supreme court denied her petition for certiorari.

Faltas moved before the municipal court for a new trial based on after-discovered evidence, and a hearing was held on May 23, 2005, before the same municipal judge who presided over her criminal trial. Faltas had previously been allowed to make a copy of the photograph admitted into evidence during her trial. Based on a digitally enlarged copy, she argued that the photograph was not taken at the time of her arrest but was instead fabricated by the Wal-Mart employees at a later time because, among other reasons: (1) stickers on the shelves in the background of the photograph were similar to the "New Item" stickers used in 2002, indicating that the photograph was taken in 2002, not when Faltas was arrested in 2001; (2) the UPC symbols on the items in the photograph did not match the UPC symbols from the items she allegedly changed the labels on and purchased; and (3) the photograph was taken of items from the stationary aisle, not the arts and crafts aisle where Faltas obtained the binders she purchased. Faltas also introduced Wal-Mart's UPC manual that indicated that every item, including similar items of the same color, had a unique UPC symbol. Because the folders shown in the photograph were of different colors, Faltas argued that the UPC numbers on the labels would have different numbers. Thus, she argued, it was impossible that she took two labels from the different colored folders to put on the larger binders because her receipt showed she purchased two items with identical UPC numbers.

The municipal court issued an order granting Faltas's motion for a new trial. The municipal court found that Faltas "raised very serious and disturbing questions concerning the veracity of the testimony presented against her by the two Wal-Mart employees about the photograph." The court noted that the photograph entered against her at her trial could not have been made at the time of her arrest because the "New Item" stickers in the background were similar to the "New Item" stickers Wal-Mart copyrighted in 2002. The court found significant the fact that the colored folders would have two different UPC numbers and the items Faltas purchased had two identical UPC numbers. The court found the evidence had been discovered after trial, and could not by due diligence have been discovered prior to trial, because Faltas was not allowed to review the photograph until trial and therefore could not have made the digital enlargement until after trial. The court noted that where the original evidence was not retained and the City failed to make the photograph available to the defense until trial, despite Faltas's efforts to see it, "and where it is later shown that the photograph itself could not be what it has been purported by the prosecution to be, it may be said that the prosecution's case is not merely impeached but thoroughly destroyed by the after discovered evidence." The City appealed to the circuit court, arguing the municipal court made an error of law.

Faltas complained to the circuit court that the City did not have the right to appeal the order granting her a new trial. The circuit court determined that the City did have the right to appeal and that the appeal was not interlocutory. After reviewing the motion for a new trial, the transcript of the hearing, the evidence presented at the 2004 criminal trial, the briefs submitted by both parties, the affidavit of trial counsel, and the order granting a new trial, the circuit court concluded that the municipal court's order was in error and reversed the grant of a new trial. The circuit court determined that the physical evidence presented at the hearing on the new trial motion "did not lead to the conclusive result" that the municipal court believed it did. The circuit court found that Faltas had the opportunity at her criminal trial to challenge the photograph or request a continuance in order to further review the photograph, but she failed to do so. Relying on the new trial standards set forth in State v. Caskey, 273 S.C. 325, 256 S.E.2d 737 (1979), the court held: (1) the evidence would not likely change the result of the trial; (2) Faltas had the evidence available to her on the date of her trial, thus it was not discovered after trial; (3) the photograph could have been "discovered" prior to trial because Faltas's trial counsel was made aware of the existence of the photograph two weeks prior to trial; and (4) the evidence was merely cumulative or impeaching. The circuit court determined that the

municipal court committed an error of law in granting a new trial, reversed the municipal court's order, and reinstated Faltas's conviction. Faltas appeals.

STANDARD OF REVIEW

"In criminal appeals from magistrate or municipal court, the circuit court does not conduct a *de novo* review, but instead reviews for preserved error raised to it by appropriate exception." State v. Henderson, 347 S.C. 455, 457, 556 S.E.2d 691, 692 (Ct. App. 2001); S. C. Code Ann. § 14-25-105 (Supp. 2006) ("There shall be no trial de novo on any appeal from a municipal court."). Thus, as with any appeal of a criminal case, the circuit court, in its appellate capacity, sits to review errors of law only and is bound by the factual findings of the trial court unless clearly erroneous. See State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001) (holding that appellate courts in criminal cases only review errors of law and are bound by the factual findings of the trial court unless clearly erroneous). This same scope of review applies to this court. Id.; Henderson, 347 S.C. at 457, 556 S.E.2d at 692 ("In reviewing criminal cases, this court may review errors of law only.").

LAW/ANALYSIS

Citing Anderson v. City of Bessemer City, 470 U.S. 564, 573-75 (1985),[3] for the proposition that appellate courts are not to determine the factual issues de novo, Faltas argues the circuit court erred in finding that the municipal court's determination was clearly erroneous. We agree that the circuit court employed the wrong standard of review.[4]

It is well-settled that the granting of a new trial based upon after-discovered evidence is addressed to the sound discretion of the trial court once the movant has made the requisite showing that the new evidence: (1) would likely change the result if a new trial were granted; (2) was discovered since the trial; (3) could not have been discovered prior to trial by the exercise of due diligence; (4) is material to the issue of guilt or innocence; and (5) is not merely cumulative or impeaching. Caskey, 273 S.C. at 329, 256 S.E.2d at 738-39; see State v. Pierce, 263 S.C. 23, 31, 207 S.E.2d 414, 418 (1974) (noting that whether to grant a new trial based upon after-discovered evidence is within the trial court's discretion).

At the new trial hearing, Faltas: submitted a digital enlargement of the photograph from trial; provided examples of Wal-Mart's 2002 copyrighted "New Item" stickers that were similar to the ones in the photograph; provided UPC codes from paper folders; described where the photograph was taken; and described the differences between the folders based on either angled or rounded edges or lack of outer clasps or prongs. Faltas alleged that this evidence derived from the original photograph proved that the two Wal-Mart employees either were mistaken or that they fabricated their testimony and the photograph well after the date of her arrest. Faltas's attorney also testified that, despite his repeated requests to see the photograph prior to trial, it was not provided to him.

The municipal court was convinced that the digital enlargement of the photograph, and the evidence that was obtained as a result of the digital enlargement, constituted after-discovered evidence because Faltas was denied access to the photograph by the City. Thus, despite her attorney's efforts to gain access to the photograph, Faltas could not have made the enlargement until after she was given access to the photograph after trial. On appeal, the circuit court reviewed each piece of evidence introduced at the new trial hearing and made findings as to whether each piece of evidence was believable or supported the theory Faltas used it for. The circuit court then performed a new analysis of the evidence pursuant to Caskey. This was error. Whether or not the circuit court agreed with the factual findings made by the municipal court, there was evidence presented at the new trial hearing to support the factual findings and the circuit court was bound by them.

Thus, looking at the evidence, it was irrelevant that the circuit court would have ruled differently from the municipal court. The circuit court was bound by the municipal court's factual findings and the inferences to be drawn therefrom. Its power was limited to determining whether the municipal court made an error of law in granting the new trial, based on the facts as found by the municipal court. Because there were facts to support the municipal court's legal analysis of the new trial motion, we find the circuit court erred in reversing the grant of the motion for a new trial. We are likewise bound by the municipal court's factual findings and must employ the same scope of review as the circuit court was bound to employ. Applying this

scope of review, we find there was evidence to support the municipal court's findings, and thus, the municipal court did not abuse its discretion in granting the new trial motion.[5]

CONCLUSION

Because the circuit court erroneously conducted a de novo review of this matter, the circuit court's order reversing the municipal court's grant of a new trial and reinstating Faltas's conviction is

REVERSED.

ANDERSON, HUFF, and BEATTY, JJ., concur.

---

[1] The testimony is not clear as to whether the clear binders Faltas allegedly attempted to purchase were Plaid brand binders or Cardinal brand binders, each with a different price.

[2] Faltas fired her attorney after he called two witnesses, and Faltas completed the trial pro se.

[3] Anderson, a United States Supreme Court case, discusses the appellate court's role in federal cases to apply the clearly erroneous standard. Anderson, 470 U.S. at 573-74 ("If the . . . court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently."). As previously discussed, our state court cases hold a similar scope of review for circuit courts reviewing the findings of the municipal court or master-in-equity.

[4] Faltas also argues that the circuit court applied the wrong standard by relying upon State v. Caskey, 273 S.C. 325, 256 S.E.2d 737 (1979), in determining whether she was entitled to a new trial. She asserts that State v. Spann, 334 S.C. 618, 513 S.E.2d 98 (1999), effectively overruled Caskey, thus the circuit court relied upon the wrong standard. Initially, it does not appear from the record that this matter was ever ruled upon by the circuit court. This matter is not preserved for review. State v. Hicks, 330 S.C. 207, 216, 499 S.E.2d 209, 214 (1998) (holding that an issue was not preserved for appellate review where it was not raised to or ruled upon by the trial court). Further, both Spann and Caskey outline the five elements that a defendant must meet in order to obtain a new trial based on after-discovered evidence. Thus, Spann does not overrule Caskey. See Spann, 334 S.C. at 619-20, 513 S.E.2d at 99 (outlining the five elements for the granting of a new trial based on after-discovered evidence); Caskey, 273 S.C. at 329, 256 S.E.2d at 739 (same).

[5] Faltas raises numerous other arguments on appeal, including: (1) the City was not entitled to appeal the grant of a new trial; (2) the appeal of the grant of a new trial violated the double jeopardy clause; (3) the City waived its grounds for appeal; (4) the circuit court erred by requiring her to file her brief simultaneously with the City's without allowing her to respond to the brief and without holding a hearing on the merits; (5) the circuit court erred by requiring her, as the winning party before the municipal judge, to preserve additional sustaining grounds for appeal; and (6) the circuit court erred in finding the photograph was not after-discovered evidence. Because we reverse this case based on the scope of review, we need not address Faltas's remaining issues on appeal.

OPINIONS
OF
THE SUPREME COURT
AND
COURT OF APPEALS
OF
SOUTH CAROLINA

ADVANCE SHEET NO. 27

July 2, 2007
Daniel E. Shearouse, Clerk
Columbia, South Carolina
www.sccourts.org

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07-07-2952

ARREST WARRANT

K- 171203

193/477

STATE OF SOUTH CAROLINA

☐ County/ XX Municipality of Winnsboro

2007 JUL 16 P 3:40

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

THE STATE

against

Charlene Crouch

Address: 400 Partridge Lane 215 Cedar St.
Winnsboro, SC 29180

Phone: _____ SSN: 249-49-7878

Sex: F Race: W Height: _____ Weight: _____

DL State: _____ DL#: _____

DOB: 11/02/1968 Agency ORI#: SC0200100

Prosecuting Agency: Winnsboro Public Safety

Prosecuting Officer: A. Watkins/T. Crumblin

Offense: Grand Larceny

Offense Code: 0478

Code/Ordinance Sec. 16-13-0030 B 1

This warrant is CERTIFIED FOR SERVICE in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Charlene Crouch on 7/11/07.

_____
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

STATE OF SOUTH CAROLINA)
☐ County/ XX Municipality of)
Winnsboro)

Personally appeared before me the affiant Investigator Alan Watkins who being duly sworn deposes and says that defendant Charlene Crouch did within this county and state on July 8, 2007 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars:

DESCRIPTION OF OFFENSE: Grand Larceny

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The defendant, Charlence Crouch, along with another individual did go into the vehicle of Peter Elias and take two car DVD players, a Cannon Digitial camera, a wrist watch and a set of keys to the vehicle. The value of these items total over $1000.00. These facts are made known from an investigation through WDPS. This occured in the town of Winnsboro, county of Fairfield.

Signature of Affiant Allan Watkins

Affiant's Address Po Box 209 Winnsboro SC 29180

Affiant's Telephone 803-635-4511

STATE OF SOUTH CAROLINA)
☐ County/ XX Municipality of)
Winnsboro)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on July 8, 2007 defendant Charlene Crouch did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) as set forth below:

DESCRIPTION OF OFFENSE: Grand Larceny

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on July 11, 2007

_____ (L.S.)
Signature of Issuing Judge

Judge Code 6542

PO Box 209

Judge's Address Winnsboro, SC 29180

Judge's Telephone 803-635-1302

Issuing Court: ☐ Magistrate XX Municipal ☐ Circuit

ORIGINAL

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF FAIRFIELD)

At a Court of General Sessions, convened on August 7, 2007, the Grand Jurors of Fairfield County present upon their oath:

Grand Larceny-More than$1,000 but less than $5,000

That Charlene Crouch did in Fairfield County on or about July 8, 2007 take and carry away the personal property, to wit: Cannon Digital Camera, wrist watch, set of keys and two car DVD players, of Peter Elias with the intent to deprive the owner of possession of the property and to convert the property to the use of the defendant, the value of the property being more than $1000.00 but less than $5000.00, in violation of §16-13-30(A), (B)(1), *Code of Laws of South Carolina, (1976), as amended.*

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

Douglas A. Barfield, Jr., SOLICITOR

[page 1]

STATE OF SOUTH CAROLINA
COURT OF GENERAL SESSIONS
COUNTY OF FAIRFIELD
2007-GS-20-350

STATE OF SOUTH CAROLINA
VS.
CHARLENE CROUCH

WINNSBORO, SOUTH CAROLINA
AUGUST 15, 2007
BEFORE THE HONORABLE BUDDY NICHOLSON

APPEARANCES
FOR THE STATE: DOUG BARFIELD
FOR THE DEFENDANT: BOB FITZSIMONS
REPORTED BY: MICHAEL C. WATKINS
OFFICIAL COURT REPORTER

[page 2, lines 2-21] Mr. Barfield: This is indictment number 2007-GS-20-350, State versus Charlene Crouch represented by Mr. Fitzsimons. She's indicted for grand larceny over $1,000 but less than $5,000. This is one of these cases where the restitution issue really is the paramount concern in the case. We're doing sort of a hybrid sentence as a recommendation, if you will do it, she's going to plead guilty, the recommendation is that she pay the restitution which amount is set forth in the restitution order within 15 days, and if she - she thinks there's some good possibility she can get that taken care of in 15 days, however if she has not paid the restitution in the 15 days then she would be placed on probation with a period of time sufficient for her to make those restitution payments. This gives her the opportunity to get it paid off without having to go on probation, without having to pay the 20 percent collection fee, it gets his victim his money in a little over two weeks if she can get it together, and if she can't get it together then she will roll into probation and they'll set up some payments.

[22-23] The Court: Have you got a probation - restitution order?

[24] Mr. Barfield: Yes, sir.

[25 - page 3, line 1] The Court: Is she going to pay a fine or restitution or.

[2-4] Mr. Barfield: The sentence -- assuming that she can get the money together the sentence today however we need to say it --

[5] The Court: Are you going to PTUP it?

[6-7] Mr. Barfield: The idea is to give her 15 days to pay this restitution without going on probation.

[8] The Court: I understand that.

[9-10] Mr. Barfield: Yes, sir, correct. PTUP if she gets on probation and pays it off, yes, sir.

[11] The Court: This is Mrs. Crouch?

[12] The Defendant: Yes, sir.

[13] **(The defendant was sworn.)**

[14] The Court: How old are you, Ms. Crouch?

[15] The Defendant: Thirty-eight.

[16] The Court: How far did you go in school?

[17] The Defendant: 12th grade.

[18] The Court: Did you complete the 12th?

[19-20] The Defendant: No, sir. I quit one month before graduation.

[21-22] The Court: Okay. And have you worked anywhere since you dropped out?

[23-24] The Defendant: Yes, sir. I worked at Johnson and Johnson Food Service at Fort Jackson in Columbia.

[25] The Court: What do you do with them?

[page 4, line 1] The Defendant: I feed the soldiers in the mess hall.

[2] The Court: Okay. Are you still working there?

[3] The Defendant: No. I just got out of jail yesterday.

[4-5] The Court: Okay. 1,000 to 5,000, solicitor what is that?

[6] Mr. Fitzsimons: Five.

[7] The Court: Up to five, isn't it?

[8] Mr. Barfield: Yes, sir.

[9] The Court: Mr. Fitzsimons, do you agree with that.

[10] Mr. Fitzsimons: Yes, sir, Your Honor, I do.

[11-13] The Court: Ms. Crouch, you understand you are charged with grand larceny anywhere from 1,000 to 5,000 and you can get up to a maximum five years, do you understand?
[14] The Defendant: Yes, sir.
[15-16] The Court: Have you had any drugs or alcohol in the last 24 hours?
[17] The Defendant: No, sir.
[18-19] The Court: Have you taken any prescription medication?
[20] The Defendant: No, sir.
[21-22] The Court: Ever been diagnosed with emotional, nervous or mental condition by a doctor?
[23] The Defendant: No, sir.
[24] The Court: Are you satisfied with your lawyer?
[25] The Defendant: Yes, sir.
[page 5, lines 1-2] The Court: Has he done everything you've asked him to do?
[3] The Defendant: Yes, sir.
[4-5] The Court: Anything else you need to tell him about your case?
[6] The Defendant: No, sir.
[7-9] The Court: Mr. Fitzsimons, have you explained to Ms. Crouch her constitutional rights and the criminal and the elements of the crime?
[10] Mr. Fitzsimons: Yes, sir, Your Honor.
[11] The Court: Did they appear to understand?
[12] Mr. Fitzsimons: She does, Your Honor.
[13-14] The Court: Do you agree with her decision to plead guilty?
[15] Mr. Fitzsimons: I do, Your Honor.
[16-17] The Court: Thank you, sir. Ms. Crouch, do you understand you are entitled to a jury trial?
[18] The Defendant: Yes, sir.
[19] The Court: Do you want a jury trial?
[20] The Defendant: No, sir.
[21-22] The Court: You understand you have the right to appeal the guilty plea ten days from today?
[23] The Defendant: Yes, sir.
[24-25] The Court: You understand you have the right to remain silent under the 5th Amendment of the constitution?
[page 6, line 1] The Defendant: Yes, sir.
[2-4] The Court: Do you also understand when you enter a guilty plea you're going to be required to acknowledge your guilt?
[5] The Defendant: Yes, sir.
[6-7] The Court: Therefore you will be testifying against yourself, do you understand?
[8] The Defendant: Yes, sir.
[9-10] The Court: Are you willing it give up your right to remain silent and enter your guilty plea?
[11] The Defendant: Yes, sir, I plead guilty.
[12-13] The Court: Thank you, ma'am. Has anybody forced you, threatened you or intimidated you to make you plead guilty?
[14] The Defendant: No, sir.
[15-16] The Court: Has anybody promised you anything other than the recommendation by the State?
[17] The Defendant: No, sir.
[18-19] The Court: And have you had enough time to make your decision to plead guilty?
[20] The Defendant: Yes, sir.
[21-22] The Court: Are you pleading guilty of your own free will and accord?
[23] The Defendant: Yes, sir.
[24] The Court: Have you understood all of my questions?
[25] The Defendant: Yes, sir.
[page 7, lines 1-2] The Court: Have you answered them truthfully and correctly?
[3] The Defendant: Yes, sir.
[4] The Court: How do you wish to plead?
[5] The Defendant: Guilty.
[6] The Court: Are you guilty?
[7] The Defendant: Yes, sir.

[8-12] The Court: The solicitor will give met facts on the case concerning the DVD players and digital camera, I want you to listen, okay? And I'm going to ask you if you agree or disagree. If you disagree I want to know specifically what you disagree with. Can you do that?

[13] The Defendant: Yes, sir.

[14] The Court: All right. Solicitor.

[15 - page 8, line 21] Mr. Barfield: Your Honor I will start this little recitation off by indicating that it's pretty clear that Ms. Crouch was not the only one who was involved in this matter. With that said, the victim in the case is Peter Alias (phonetically) who is in the striped shirt over in the grand jury box on the other side. He was apparently in Charlotte but had a residence here in Winnsboro, had a car left in the yard at his house in Winnsboro, had some people doing some work on his house and they called him and told him that somebody had driven up in a car, gave a particular description of the car, that the folks in the car went into his automobile and his yard and he came home and found that the items listed in the indictment were missing from his car. The city police department followed up based on the description of the car, their investigation led them to a fellow named Mark Bell who gave a statement indicating that a male co-defendant who I think technically has not been charge yet or at least not been arrested, sold him a camcorder, or gave him a camcorder, tried to sell it to him but left it to him, which was later determined to have been taken out of Mr. Alias' car. Ms. Crouch was identified as being with the fellow who handed over the camcorder to Mr. Bell and she was questioned by the city police department and gave a statement I think implicating herself, it's not a real great statement but she implicated herself in the event along with the others who were involved in it. She's pleading guilty, the restitution amount is what Mr. Alias and I determined after I talked to him and his, again, primary concern is getting his restitution. Ms. Crouch has been in the court system three different times but all three of them have been magistrates court offenses and nothing like that.

[22-23] The Court: Okay. Ms. Crouch, do you agree with those facts?

[24-25] The Defendant: Yes, sir. I gave everything back, the watch I did not, yes, sir.

[page 9, lines 1-9] The Court: Okay. I find there's a factual basis for the plea, she has freely, voluntarily, knowingly and intelligently made the decision to plead guilty with the advice of an attorney and all elements of the charge has been met factually. Who is she going to pay this money to? Is she going to pay this money to the solicitor's office? How are we going to determine if she has done it in fifteen days or if she hadn't done it, who are we going to place that burden on is my problem?

[10-12] Mr. Barfield: Why don't we make it our next week of court, let's see by Friday of that week, which will be what?

[13] Mr. Fitzsimons: August 31st.

[14] The Court: Who is she going to pay it to.

[15-23] Mr. Barfield: She needs to report here and I will give her the correct payee for the funds and we would hope that we would require that it be a money order or cashier's check or something. I will get with Mr. Alias and we will get the correct spelling so whatever she brings to him will be negotiable. She will show up here and we will simply get him here and let them do that transaction in our presence her without any of us having to actually handle the money.

[24] The Court: What is the date of that term of court?

[25 - page 10, line 1] Mr. Barfield: August 27th is the Monday, the Friday of that week is August 31st.

[2-9] The Court: All right. Mrs. Couch, indictment number 350, you are sentenced to the department of corrections for three years, suspended to probation for three years. Once you pay the restitution probation will terminate. Defendant has until noon on August 30th, 2007 to pay restitution without probation. Solicitor will monitor that payment. Probation starts on August 30, '07 if the restitution is not paid by that date. Do you understand?

[10] The Defendant: Yes, sir.

[11] The Court: Thank you very much.

[12] (END OF THE HEARING.)

[page 11, lines 1-8] I, the undersigned, Michael C. Watkins, Official Court Reporter for the Sixth 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 General Sessions for Fairfield County, South Carolina, on the 15th day of August, 2007.

[9-10] I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

[12] December 1, 2010

[13-17] [s/] Michael C. Watkins
Court Reporter

198 477

WITNESSES

WPS #07-07-2952

ARREST WARRANT NUMBER/DOA

K171203 (DOA-07-11-07)

ACTION OF GRAND JURY

TRUE BILL 8-7- 2007

Foreperson of Grand Jury
Date: 8/7/07

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-20-350

The State of South Carolina

County of Fairfield

2007 AUG -7 P 12:57

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

COURT OF GENERAL SESSIONS

AUGUST TERM 2007

THE STATE
vs.

Charlene Crouch

Indictment for

Grand Larceny
More than$1,000 but less than $5,000

SC Code: § 16-13-0030(A), (B), (1)
CDR Code: 0478

STATE OF SOUTH CAROLINA)
COUNTY OF FAIRFIELD)
STATE VS.)
Charlene Crouch)
AKA:)
Race: W Sex: F Age: 38)
DOB: 11/2/68 SS#: 249-49-7878)
Address: 215 Cedar St.)
City, State, Zip: Winnsboro, SC 29180)
DL# SID#)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 07-GS-20-350
A/W#: K171203
Date of Offense: 7/8/07
S.C. Code §: 16-13-30(A), (B)(1)
CDR Code #: 0478

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS (5 YRS.)
TO: Grand Larceny $1000 < $5000
In violation of §16-13-30(A), (B)(1) of the S.C. Code of Laws, bearing CDR Code # 0478
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (Defendant initial)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.
ATTEST:

Solicitor — Defendant — Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $_____; provided that upon the service of _____ days/months/years and/or payment of $_____; plus costs and assessments as applicable*; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms:
☐ set by SCDPPPS

Recipient:

*Fine:		$
§14-1-206 (Assessments 107.5%)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§35.13 (Public Def/Prob)	$500	$
§73.3, 1B TP (Law Enforce. Funding)	$25	$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	$100	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

PTUP ✓ _____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other DEFENDANT HAS LIMITED ABILITY TO PAY RESTITUTION w/o INCARCERATION; SUBJECT TO LIMIT WHEN TO PAY BY DEFENDANT
☒ Appointed PD or appointed other counsel, §35.13 TP
Requires $500 be paid to Clerk during probation.

Betty Jo Beckham
Clerk of Court/ Deputy Clerk
Court Reporter: Mike Watkins

PRESIDING JUDGE: J. C. Buckner
Judge Code: 0171
Sentence Date: 8/15/07

Probation starts on 8/30/07 if restitution not paid as specified above.
J. C. Buckner

SCCA/217 (9/2006)

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)
)
STATE OF SOUTH CAROLINA)
)
-versus-)
)
Charlene Crouch,)
)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
SIXTH JUDICIAL CIRCUIT

ORDER OF RESTITUTION

INDICTMENT(S)

01-GS-20-350	_____-GS-20-_____
_____-GS-20-_____	_____-GS-20-_____
_____-GS-20-_____	_____-GS-20-_____
_____-GS-20-_____	_____-GS-20-_____

Upon Motion of the Solicitor of the Sixth Judicial Circuit, it appears South Carolina Code Laws §16-3-153(D)(3) provides that the court "shall order restitution at every sentencing for a crime against person or property" unless the court finds a substantial and compelling reason not to order restitution.

The Court hereby finds:

☐ Restitution should not be ordered for the following substantial and compelling reason:

_____

_____

☒ Defendant waived restitution hearing on the record. The agreed restitution is show below.

☐ The defendant as a condition of his sentence should pay restitution to the designated victims in the court ordered amounts.

1. **VICTIM:** Peter Elias
Address: 509 S. Congress St.
Winnsboro, SC 29180
Phone: (803) 943-5971 (803) 209-7969 Restitution: $3,250.00

2. **VICTIM:** _____
Address: _____
_____
Phone: _____ Restitution: $_____

3. **VICTIM:** _____
Address: _____
_____
Phone: _____ Restitution: $_____

4. **VICTIM:** _____
Address: _____
_____
Phone: _____ Restitution: $_____

IT IS SO ORDERED!

8/15, 2007
Winnsboro, South Carolina

PRESIDING JUDGE
SIXTH JUDICIAL CIRCUIT

I SO MOVE:
Douglas A. Barfield, Jr.
Solicitor, Sixth Judicial Circuit

By: _____
Assistant Solicitor

I HAVE RECEIVED A COPY.
Charlene Crouch
Defendant

NAME: Crouch, Charlene
ADDRESS: 215 Cedar Street
Winnsboro, SC 291830

DATE OF TRIAL: 8-15-07
INDICTMENT NO: 2007-GS-20-00350

OFFENSE: Grand Larceny
SENTENCE: 3 Yrs, susp

201 / 477

DATE FIRST PAYMENT DUE

AMOUNT OF PROBATION 3 Yrs

3

BALANCE FORWARD → 128 75

DATE	CHECK #	DESCRIPTION	DEBIT	CREDIT	BALANCE	PREVIOUS BALANCE
8/23/07			128 75	128 75	-0-	

FAIRFIELD COUNTY CLERK OF COURT

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

October 18, 2007

Dana M. Thye, Esquire
City of Columbia
Office of the City Attorney
P.O. Box 667
Columbia, SC 29202

Re: City of Columbia v. Asaad-Faltas
2005-CP-40-03837

Dear Ms. Thye:

The Court has issued the following Order on your Petition for Writ of Certiorari in the above entitled matter:

"Petition for Writ of
Certiorari denied.

s/ Jean H. Toal C.J.
For the Court

Justice Donald W. Beatty,
not participating.

October 18, 2007."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
JUL 27 2007
S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Opinion No.: 2007-UP-193 (S.C. Ct. App. filed April 26, 2007)

City of Columbia, ... Petitioner,

vs.

Marie-Therese Assa'ad Faltas, ... Respondent.

PETITION FOR A WRIT OF CERTIORARI

Dana M. Thye
Office of the City Attorney
Post Office Box 667
Columbia, South Carolina 29202
(803) 733-8247
Attorney for Petitioner

Marie-Therese Assa'ad Faltas
436 Byron Road
Columbia, South Carolina 29209
(803) 783-4536
Pro Se, Respondent

RECEIVED
JUL 27 2007
SC Court of Appeals

Petition for Writ of Certiorari Denied

C. J.

FOR THE COURT

Justice Donald W. Beatty, not participating October 18, 2007

Lykesland Magistrate

Judge : Michael R Davis
1403 Caroline Road
Columbia, SC 29209
(803) 576-2500

Received From: MARIA FALTAS

Date : 5/10/2010

RECEIPT # 64797

Clerk: LYKMILES

Paying for: MARIA FALTAS,

Payment Type:	Cash	$4.50	Reference #
Total Paid		4.50	Comment:

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Charles White
300 Byron Road Apt. 1
Columbia, SC 29209

SUMMONS AND RULE TO SHOW CAUSE

RE: Charles White **Vs** **Charlene Crouch**

PLAINTIFF(S) **DEFENDANT(S)**

Civil Case Number: **2007CV401062936.**

Please be advised that on **December 4, 2007 at 9:30 PM** a Show Cause Hearing will be held in the **RICHLAND COUNTY Lykesland Magistrate Court, 1403 Caroline Road** to determine if you are to be held in contempt of court for failure to pay the $80.00 filing fee as the nonprevailing party in the above action for a restraining order.

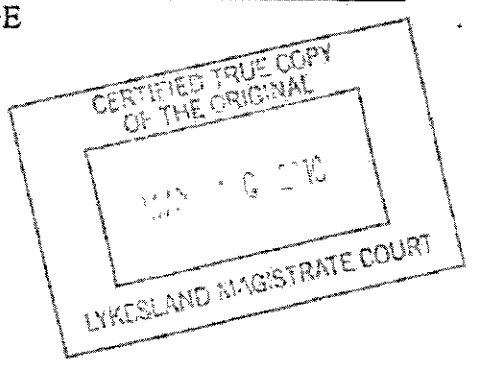
SECTION 16-3-1750. Action seeking a restraining order against a person engaged in harassment or stalking; jurisdiction and venue; forms; enforceability.
(D)....The court must not charge a fee for filing a complaint and motion for a restraining order against a person engaged in harassment or stalking. However, the court shall assess a filing fee against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

TO AVOID ISSUANCE OF THIS MAGISTRATE BENCH WARRANT FOR CONTEMPT OF COURT, YOU MUST: 1) PAY IN FULL $80.00 FILING FEE OR 2) BE PRESENT FOR THE HEARING AS SCHEDULED ABOVE.

JUDGE

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209
PHONE: (803) 576-2500 FAX: (803) 576-2504

November 20, 2007



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

2007CV401062936
CIVIL CASE NUMBER
IN THE MAGISTRATE COURT

AFFIDAVIT OF SERVICE

Charles White
300 Byron Road
Apartment 1
Columbia, South Carolina 29209
1.803.783.6888
PLAINTIFF

CERTIFIED TRUE COPY OF THE ORIGINAL
LYKESLAND MAGISTRATE COURT

PROCESS SERVED
2007 OCT 23 PM 3:51

RECEIVED
LYKESLAND MAGISTRATE COURT
RICHLAND COUNTY, S.C.

Charlene Crouch
300 Byron Road
Columbia, South Carolina 29209
None Provided
DEFENDANT

Court: Tuesday, November 20, 2007 at 9:30am

AGENTS

PERSONALLY APPEARED BEFORE ME Larry W Mason WHO, BEING DULY SWORN, SAYS THAT, ON THE 23rd DAY OF October 2007, AT 3:15 PM AM/PM, S/HE SERVED Charlene Crouch THE DEFENDANT ABOVE NAMED, BY DELIVERING COPIES THEREOF TO Charlene Crouch _____ PERSONALLY AND LEAVING THE SAME WITH Charlene Crouch _____ AT 300 Byron Rd, Columbia, SC 29209 _____, THE PLACE OF RESIDENCE/WORK/OTHER OF SAID DEFENDANT AND THAT THE DEPONENT IS NOT A PARTY TO THIS ACTION.

☐ **UNABLE TO LOCATE AND SERVE THE ABOVE PROCESS ON THE DEFENDANT AFTER DILIGENT EFFORTS TO DO SO. THE PROCESS IS RETURNED UNEXECUTED.**

☐ Summons and Complaint	☐ Counterclaim	☐ Crossclaim
☐ Claim and Delivery	☒ ~~Restraining Order~~	☐ Subpoena
☐ Petition Hearing		

Larry W Mason
Deputy Sheriff/Constable/Process Server

PRIVATE INVESTIGATOR, SLED LIC # 6658

RETURN TO: LYKESLAND MAGISTRATE

STATE OF SOUTH CAROLINA }
}
COUNTY OF RICHLAND }

IN THE MAGISTRATES COURT
CIVIL CASE # 2007CV40106 2934

Charles R. White
PLAINTIFF
300 Byron Road Apt 1
ADDRESS
Columbia S.C. 29209 783-6022
CITY STATE ZIP TELEPHONE

VS

Charlene Crouch
DEFENDANT
300 Byron Road
ADDRESS
Columbia S.C. 29209 783-6320
CITY STATE ZIP TELEPHONE

COMPLAINT & MOTION
FOR
RESTRAINING ORDER

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

COMPLAINT

1. The Harassment or Stalking occurred in Richland (COUNTY), S.C. (STATE).

2. Plaintiff alleges that the following conduct occurred by the defendant on the times, dates and places listed below, and such conduct falls within the definition of:

(✓) HARASSMENT (Sec. 16-3-1700 (A)), or ( ) STALKING (Sec. 16-3-1700 (B) or (C)).

3. On October, 20 ___, at 2:00 o'clock, P M., at Night 300 Byron Rd Apt 1 (STREET ADDRESS) which is in Richland County, S.C. (STATE), the conduct complained of occurred when the defendant: screamed, beat on door, woke up neighbors, used foul language, and said would damage my vehicle if I did not open door

On October, 20 ___, at 3:15 o'clock, P M., at 300 Byron Road (STREET ADDRESS) which is in Richland County, S.C. (STATE), the conduct complained of occurred when the defendant: she was drunk, screaming, a fighting with her sister in Apt, and begging for money to buy drugs, later I found out both were prostitutes and took them to Doctor. Olus and Left them

MC 620

On _____, 20___, at ___:___ o'clock, ___M., at _____
(STREET ADDRESS)

which is in _____ County, _____, the conduct complained of occurred when
(STATE)

the defendant: _____

_____

_____

_____

(State details of harassment/stalking and other facts and circumstances upon which relief is sought above. Attach additional sheets if necessary.)

CERTIFIED TRUE COPY
MAY 10 2010
LYKESLAND MAGISTRATE COURT

MOTION

4. Plaintiff requests: (Check one or more)

✓ a. That the defendant be temporarily enjoined from abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family.

✓ b. That the defendant be temporarily enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education or other location.

✓ c. That the defendant be temporarily enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 3, Title 16 of the 1976 South Carolina Code of Laws, as amended.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 23 DAY OF October, 2007.
Mabel L Brazell
Notary Public for South Carolina
My Commission Expires: 5/17/2009

Charles R. Wright
Signature of Plaintiff or Person Filing on Behalf of Plaintiff

NOTICE TO DEFENDANT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL TO REPRESENT YOU.

PROOF OF SERVICE

Personally appeared before me _____, who, being duly sworn, says that he served the within Complaint & Motion for Restraining Order / Summons / Rule to Show Cause (circle all which apply) on the within named defendant personally by leaving with _____ a copy of the same at _____ in said County and State on the ____ day of _____, 19 ____, and that deponent is not a party to this proceeding.

Sworn to before me this ____ day of _____, 19___.

_____
MAGISTRATE

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2007CV401062936
CIVIL CASE NUMBER
IN THE MAGISTRATE'S COURT

SUMMONS
(RESTRAINING ORDER)

Charles White
300 Byron Road Apt. 1

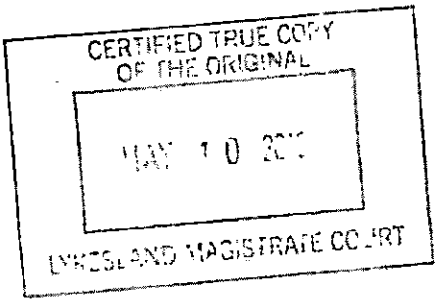
Columbia, SC 29209

PLAINTIFF(S)

VS.

Charlene Crouch
300 Byron Road
Columbia, SC 29209

DEFENDANT(S)



TO: Charlene Crouch, DEFENDANT:

The above named Plaintiff having filed a Petition for Restraining Order, copy attached.

YOU ARE HEREBY SUMMONED TO APPEAR before the:

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209

on **11/20/2007** at **9:30 AM** to show cause why the Restraining Order prayed for by the Plaintiff should not be made.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

JUDGE

Please be advised, the court shall assess a filing fee, $80.00, against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

October 23, 2007

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2007CV401062936
CIVIL CASE NUMBER

ORDER OF DISPOSITION

Charles White
300 Byron Road
Apartment 1
Columbia, South Carolina 29209
Phone: 1.803.783.6888

9:30am

PLAINTIFF(S)
Vs

DISMISSED
NO AFFIANT
OR DEFENDANT

Charlene Crouch
300 Byron Road
Columbia, South Carolina 29209
Phone: None Provided

Restraining Order

DEFENDANT(S)

IT IS ORDERED that the above referenced civil case shall reflect a disposition of:

- ☐ **Settled**
- ☒ **Dismissed**
- ☐ **Bench Warrant**
- ☐ **Default Judgment**
- ☐ **Find for the Plaintiff for Summons and Complaint**
- ☐ **Find for the Plaintiff for Claim and Delivery**
- ☐ **Find for the Plaintiff for Restraining Order**
- ☐ **Find for Defendant**
- ☐ **Transferred to another Court**

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

On *Tuesday, November 20, 2007,* the party/parties to this action presented testimony and arguments. Based on the above information and findings of fact, an award was made to the Plaintiff/Defendant in the amount of $_____, plus filing fees of $_____, for a total of $_____.

IT SO ORDERED

JUDGE

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, South Carolina 29209
PHONE: 1.803.576.2500
FAX: 1.803.576.2504

STATE OF SOUTH CAROLINA

2008 CV40106 1608
Civil Case Number

COUNTY OF RICHLAND

ORDER OF DISPOSITION

Carson Walker
4208 Branning Drive
Columbia, South Carolina 29209
Phone: 776.8718

Lea Walker
4208 Branning Drive
Columbia, South Carolina 29209

10:00am

Plaintiff

Versus

Charlene Crouch
300 Byron Road - Apt. 3
Columbia, South Carolina 29209
Phone: 776.4441

Summons and Complaint

Answered

Defendant

IT IS ORDERED that the above referenced civil case shall reflect a disposition of:

- ☐ **Settled**
- ☐ **Dismissed**
- ☐ **Bench Warrant**
- ☐ **Default Judgment**
- ☐ **Find for the Plaintiff for Summons and Complaint**
- ☐ **Find for the Plaintiff for Claim and Delivery**
- ☐ **Find for the Plaintiff for Restraining Order**
- ☒ **Find for Defendant**
- ☐ **Transferred to another Court**

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

On *Tuesday, June 24, 2008,* the party/parties to this action presented testimony and arguments. Based on the above information and findings of fact, an award was made to the Plaintiff/Defendant in the amount of

$ _____ plus filing fees of $ 80.00 for a total of

$ _____.

IT IS SO ORDERED

Judge Michael R. Davis

Richland County Lykesland Magistrate
1403 Caroline Road
Columbia, South Carolina 29209
Phone: 1.803.576.2500
Fax: 1.803.576.2504

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
)
)

2008CV401061608
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

ANSWER

Carson B Walker
4208 Branning Drive
Columbia, SC 29209
(803) 776-8718

Lea Weihong Walker
4224 Branning Drive
Columbia, SC 29209
(803) 252-9086

PLAINTIFF(S)

Vs
Charlene Crouch
300 Byron Road Apt 05
Columbia, SC 29209

RECEIVED
LYKESLAND MAGISTRATE'S OFF
RICHLAND COUNTY
2008 JUN 13 AM 9:05

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

DEFENDANT(S)

DEFENDANT ATTORNEY(S)

On _____ I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer which is hereby filed with the **RICHLAND COUNTY MAGISTRATE COURT,** is as follows:

CHECK ONE:

A. ☐ I do not live in this county and/or I want this case transferred to my home county or to the jurisdiction in which I reside.
B. ☐ I admit everything in the complaint and do not want a trial.
C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary) _____
D. ☐ I deny that I am responsible at all because: (use additional pages if necessary) _____

YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS

THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

5/30/08
DATED

Charlene Crouch
SIGNATURE OF DEFENDANT(S) (OR ATTORNEY)

IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER

PLEASE RETURN TO: RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road, Columbia, SC 29209
PHONE (803) 576-2500 FAX (803) 576-2504

June 09th, 2008

I Charlene Crouch denies all charges listed against me. In fact the plaintiff Mr. Lea Walker and I had been involved in a relationship. I even stayed with him a week. Mr. Walker Kept harassing me on my place of employment, and so was Mrs. Carson. At this time I placed a request for a restraining order against Mrs. Carson and it was granted. There was never any problems until the ex-wife found out that's when Mr. Carson made all the false accusations against me.

Thank you
Charlene Crouch

CERTIFIED TRUE COPY OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

RECEIVED
LYKESLAND MAGISTRATES OFFICE
RICHLAND COUNTY
2008 JUN 13 AM 9:05

2008CV4010616024/477
CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE MAGISTRATE'S COURT

Carson B. Walker & Lea Walker
PLAINTIFF

4208 Branning Dr.
STREET ADDRESS

Columbia SC 29209
CITY STATE ZIP CODE

VS.

252-9086
TELEPHONE

Charlene Crouch
DEFENDANT

300 Byron Rd. Apt. 3
STREET ADDRESS

Columbia SC 29209
CITY STATE ZIP CODE

776-4441
TELEPHONE

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

COMPLAINT

I, Carson B Walker & Lea Walker, the plaintiff in this civil action do make the following claims:

1. I believe that the defendant, Charlene Crouch is a resident of Richland County, and resides at 300 Byron Rd. Apt. 3, which is within Judge Davis's magisterial jurisdiction.

2. I make this complaint on the following:

1. Exploiting of a vulnerable senior citizen - Carson Walker
2. Took Money & stole from our home and business under false pretens
3 Stole our cell phone, stole van & snacks & Drinks
4 Stole our discover card & Debit Card, tried to stole money from Debit Card.
5 Blackmail & extortion, causing van wrack!

(Attach supplement if necessary)

3. I believe, because of the above information, that I am entitled to and do request a judgment for $ 7500.00 and/or other relief as below requested:
$80.00 filing fee, + Restrining Order
+ Took Money & Goods under false pretence ($4000),
+ Emotional Extortion & Damage ($3500)
including any costs resulting in this action.

I state under penalty of perjury that the above is correct and truthful.

DATED: 5/21/08

Lea, Carson B Walker
Signature of Plaintiff
(or his attorney)

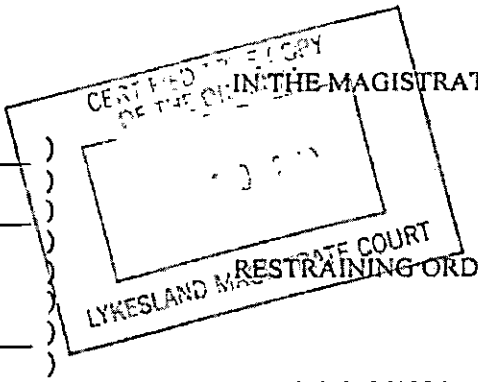
STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND) IN THE MAGISTRATES COURT

Charlene Crouch
300 Byron Road – Apt. 3
Columbia, South Carolina 29209
PLAINTIFF(S)

VS.

Carson Brandon Walker
4208 Branning Drive
Columbia, South Carolina 29209
DEFENDANTS(S)



RESTRAINING ORDER

ORIGINAL DOCUMENT BLUE INK

2008CV401061334
CIVIL CASE NUMBER

PLAINTIFF IDENTIFIERS

Date of Birth of Plaintiff

And/or on behalf of minor family member(s) or other
Protected persons: (list name and DOB)

DEFENDANT IDENTIFIERS

SEX *	RACE *	DOB*
Male	White	[redacted]
EYES	HAIR	SOCIAL SECURITY #
Brown	Gray	[redacted]
DRIVERS LICENSE #		STATE
[redacted]		SC

Relationship to Protected Person:

Defendant's Address

CAUTION:

*Indicates required information for entry into NCIC

☐ Weapon Involved ☐ Weapon Present on Respondent's Property ☐ Access to weapons

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter,
Defendant has been provided with reasonable notice and opportunity to be heard.
Additional findings of this order are as set forth below.

THE COURT HEREBY ORDERS:

☐ That the above named Defendant be restrained from committing further acts of abuse or threats of abuse.

☑ That the above named Defendant be restrained from any contact with the Protected Person as set forth on the attached pages.

The terms of the this order shall be effective until May 21, 2009 , [redacted]

WARNINGS TO RESPONDENT;

This order shall be enforced in any county of South Carolina and by the courts of any state, District of Columbia, any U. S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

State and federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922).

Only the Court can change this order.

For Additional Information Call:

576.3000 **Sheriff** Phone Number

576.2500 **Clerk of Court** Phone Number

After the filing of a complaint and motion for a Restraining Order on 5/1/2008 the Court held a hearing on 5/21/2008 at 9:30 AM. After hearing the evidence, and examining the affidavits and verified pleadings, the Court has determined that the plaintiff ☐ has/ ☐ has not proved by a preponderance of evidence the need for issuance of a Restraining Order.

The Court makes the Following findings of fact: (Check all that apply)

☑ 1. The Plaintiff lives at 300 Byron Road Apt. 3 (Street Address) which is in RICHLAND COUNTY, SC (State).

☑ 2. The Defendant lives at 4208 Branning Road (Street Address) which is in Richland County, SC (State).

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

☐ 3. The Defendant is employed..

☑ 4. The Defendant :
- ☐ is a current or former spouse of the victim.
- ☐ is a parent or guardian of the victim.
- ☐ cohabits or previously cohabited with the victim.
- ☐ has a child in common with the victim.
- ☐ is a person similarly situated to a spouse, parent or guardian of the victim.
- ☑ other:

☐ 5. The Defendant is a nonresident of this state or cannot be found.

☑ 6. The Harassment or Stalking, as described herein, occurred in RICHLAND (County), South Carolina.

☑ 7. The Defendant has committed the following acts which constitute Harassment or Stalking:
PHONE CALLS

IT IS THEREFORE ORDERED THAT (Check all that apply):

☐ A. The Defendant is restrained, prohibited and forbidden from abusing, threatening to abuse, or molesting the plaintiff or members of plaintiff's family.

☑ B. The Defendant is restrained, prohibited and forbidden from entering or attempting to enter the plaintiff's place of residence, employment, education, or the following locations:

☑ C. The Defendant is restrained, prohibited and forbidden from communicating or attempting to communicate with the plaintiff in any way.

☐ D. FEDERAL FIREARMS PROHIBITION -

1. Does the Order protect an intimate partner or child?	☐ YES	☑ NO
2. Did the person restrained have an opportunity to participate in the hearing?	☑ YES	☐ NO
3. Does the Order find the restrained person a credible threat or explicitly prohibit the use, attempted use, or threatened use of physical force?	☐ YES	☑ NO

☑ E. A copy of this Order shall be served on the following law enforcement agencies:
CPD RCSD

The terms of this Order remain in effect until May 21, 2009, (not to exceed twelve months) and may be extended by this Court for good cause shown. If the defendant has been or is during the duration of this Order charged with the crime of Harassment or Stalking, the terms of this Order remain in affect until the conclusion of the defendant's trial.

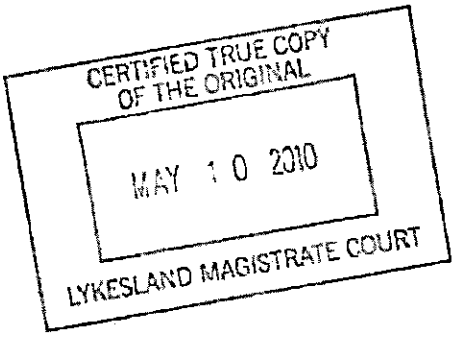
Entered at 9:30am on May 21, 2008.

Magistrate

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE PUNISHABLE BY THIRTY DAYS IN JAIL, A FINE OF FIVE HUNDRED DOLLARS, OR BOTH, AND IS IN ADDITION TO OTHER CRIMINAL PENALTIES WHICH MAY RESULT FROM SUCH ACTION.

TO LAW ENFORCEMENT OFFICERS:

Notwithstanding any other provision of law, the terms of this Order are enforceable throughout this State. S.C. Code Ann. § 16-3-1750(E). Any person who violates a provision of this Order is subject to a fine not to exceed $500 or imprisonment not to exceed thirty days, or both. S.C. Code Ann. § 16-3-1770(C). Law enforcement officers shall arrest a defendant who acts in violation of this Order after service and notice of the Order have been provided. An arrest warrant is not required. S.C. Code Ann. § 16-3- 1800.



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

2008CV401061334
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

AFFIDAVIT OF SERVICE

Charlene Crouch
300 Byron Road Apt. 3
Columbia, SC 29209
(803) 776-4441
PLAINTIFF(S)

PLAINTIFF ATTORNEY

Vs

Carson B Walker
4208 Branning Road
Columbia, SC 29209
8037834069
DEFENDANT(S)

MAY 6 2008

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

AGENT(S)

PERSONALLY APPEARED BEFORE ME G. MICKENS WHO, BEING DULY SWORN, SAYS THAT, ON THE 20 DAY OF MAY 20 08 AT 8:45 AM/PM S/HE SERVED CARSON B. WALKER THE DEFENDANT ABOVE NAMED, BY DELIVERING COPIES THEREOF TO 4208 BRANNING RD COLUMBIA PERSONALLY AND LEAVING THE SAME WITH _____ _____ AT _____ _____, THE PLACE OF (RESIDENCE)/WORK/OTHER OF SAID DEFENDANT AND THAT THE DEPONENT IS NOT A PARTY TO THIS ACTION.

☐ **UNABLE TO LOCATE AND SERVE THE ABOVE PROCESS ON THE DEFENDANT AFTER DILIGENT EFFORTS TO DO SO. THE PROCESS IS RETURNED UNEXECUTED.**

☐ SUMMONS & COMPLAINT ☐ COUNTERCLAIM ☐ CROSSCLAIM
☐ CLAIM & DELIVERY ☑ RESTRAINING ORDER ☐ SUBPOENA
☐ PETITION HEARING

George Mickens 1280
Deputy Sheriff/Constable/Process Server

5-20-08
Date

RETURN TO: LYKESLAND MAGISTRATE

JUDGE MICHAEL R DAVIS
Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209
(803)576-2500

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

IN THE MAGISTRATES COURT
CIVIL CASE # 2008CV4010601334

Charlene Crouch
PLAINTIFF
300 Byrnwd. Apt 3
ADDRESS
Columbia S.C. 29209 776-4441
CITY STATE ZIP TELEPHONE

VS

Carson Brandon Walker
DEFENDANT
4208 Brannings Drive
ADDRESS
Columbia S.C. 29209-783-4069
CITY STATE ZIP TELEPHONE

COMPLAINT & MOTION
FOR
RESTRAINING ORDER

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

COMPLAINT

1. The Harassment or Stalking occurred in Richland (COUNTY), S.C. (STATE).

2. Plaintiff alleges that the following conduct occurred by the defendant on the times, dates and places listed below, and such conduct falls within the definition of:

(✓) HARASSMENT (Sec. 16-3-1700 (A)), or ( ) STALKING (Sec. 16-3-1700 (B) or (C)).

3. On Arabout, 20 08, at 12:00 o'clock, P M., at Save-A-lot Store (STREET ADDRESS) which is in Richland (STATE) County, S.C., the conduct complained of occurred when the defendant: WAS HARASS me with verbal and emotional Ridicule in Front fellow employees. And Man Management. police officer Rivers told him not to come to store. But he still calls the Store ON this date mail, 2008.

On ____, 20___, at ___:___ o'clock, ___M., at ____ (STREET ADDRESS) which is in ____ (STATE) County, ____, the conduct complained of occurred when the defendant: ____

On _____, 20___, at ___:___ o'clock, ___M., at _____
(STREET ADDRESS)

which is in _____ County, _____, the conduct complained of occurred when
(STATE)

the defendant: _____

_____

_____

_____

(State details of harassment/stalking and other facts and circumstances upon which relief is sought above. Attach additional sheets if necessary.)

CERTIFIED TRUE COPY
OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

MOTION

4. Plaintiff requests: (Check one or more)

___ a. That the defendant be temporarily enjoined from abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family.

✓ b. That the defendant be temporarily enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education or other location.

___ c. That the defendant be temporarily enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 3, Title 16 of the 1976 South Carolina Code of Laws, as amended.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 1 DAY OF May, 2008.
Amber L Brazell
Notary Public for South Carolina
My Commission Expires: 5/18/2009

Charlene Crack
Signature of Plaintiff or Person Filing on Behalf of Plaintiff

NOTICE TO DEFENDANT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL TO REPRESENT YOU.

PROOF OF SERVICE

Personally appeared before me _____, who, being duly sworn, says that he served the within Complaint & Motion for Restraining Order / Summons / Rule to Show Cause (circle all which apply) on the within named defendant personally by leaving with _____ a copy of the same at _____ in said County and State on the ____ day of _____, 19 ___, and that deponent is not a party to this proceeding.

Sworn to before me this _____
day of _____, 19___.

_____
MAGISTRATE

MC-620

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2008CV401061334
CIVIL CASE NUMBER
IN THE MAGISTRATE'S COURT

SUMMONS
(RESTRAINING ORDER)

Charlene Crouch
300 Byron Road Apt. 3

Columbia, SC 29209

PLAINTIFF(S)

VS.

Carson B Walker
4208 Branning Road
Columbia, SC 29209

DEFENDANT(S)

CERTIFIED TRUE COPY
OF THE ORIGINAL
LYKESLAND MAGISTRATE COURT

TO: Carson B Walker, DEFENDANT:

The above named Plaintiff having filed a Petition for Restraining Order, copy attached.

YOU ARE HEREBY SUMMONED TO APPEAR before the:

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209

on **5/21/2008** at **9:30 AM** to show cause why the Restraining Order prayed for by the Plaintiff should not be made.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

NOTICE: THE NON-PREVAILING PARTY IN THIS ACTION IS ASSESSED A FILING FEE OF EIGHTY DOLLARS ($80.00). THE COURT MAY HOLD A PERSON IN CONTEMPT OF COURT FOR FAILURE TO PAY THIS FILING FEE. §16-03-170(D).

JUDGE

May 1, 2008

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2008 CV40106 1334
Civil Case Number

ORDER OF DISPOSITION

Charlene Crouch
300 Byron Road – Apt. 3
Columbia, South Carolina 29209
Phone: 776.4441

9:30am

Plaintiff

Versus

Carson Walker
4208 Branning Drive
Columbia, South Carolina 29209
Phone: 783.4069

Restraining Order

Defendant

IT IS ORDERED that the above referenced civil case shall reflect a disposition of:

- ☐ **Settled**
- ☐ **Dismissed**
- ☐ **Bench Warrant**
- ☐ **Default Judgment**
- ☐ **Find for the Plaintiff for Summons and Complaint**
- ☐ **Find for the Plaintiff for Claim and Delivery**
- ☐ **Find for the Plaintiff for Restraining Order**
- ☐ **Find for Defendant**
- ☐ **Transferred to another Court**

CERTIFIED TRUE COPY OF THE ORIGINAL
MAY 10 2010
LYKESLAND MAGISTRATE COURT

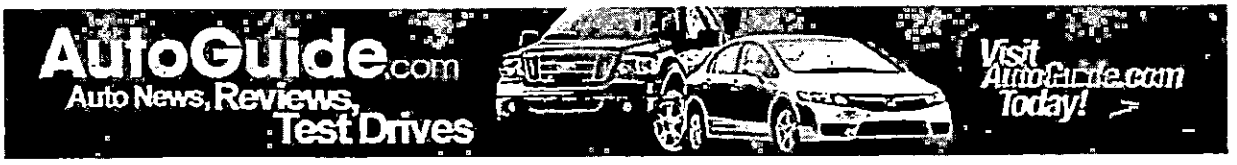
On *Wednesday, May 21, 2008,* the party/parties to this action presented testimony and arguments. Based on the above information and findings of fact, an award was made to the Plaintiff/Defendant in the amount of

$ 0.00 plus filing fees of $ 80.00, for a total of $ 80.00.

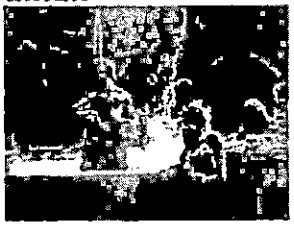
IT IS SO ORDERED

Judge Michael R. Davis

Richland County Lykesland Magistrate
1403 Caroline Road
Columbia, South Carolina 29209
Phone: 1.803.576.2500
Fax: 1.803.576.2504



dinah



Female
52 years old
South Carolina
United States

Last Login:
5/28/2008

View My: Pics | Gifts

dinah is in your extended network
view more

dinah's Latest Blog Entry [Subscribe to this Blog]

[View All Blog Entries]

Contacting dinah

Send Message	Forward to Friend
Add to Friends	Add to Favorites
IM / Call	Block User
Add to Group	Send Gift

dinah's Details

Status:	Single
Here for:	Networking, Friends
Body type:	5' 7" / Athletic
Ethnicity:	White / Caucasian
Zodiac Sign:	Gemini
Occupation:	IBO cyberwise Tunguska Blast

dinah's Blurbs

About me:

Who I'd like to meet:

dinah's Friend Space (Top 1)

dinah has 1 friends.

Tom

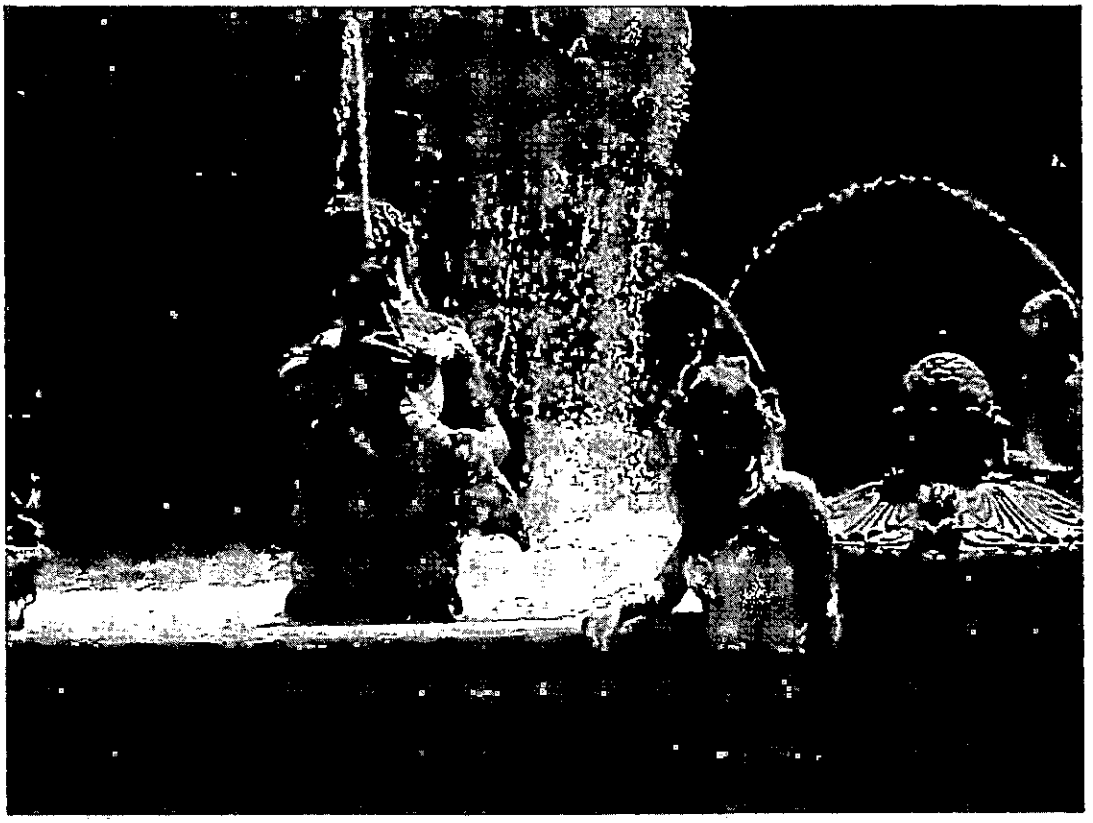


View dinah's Friends: **All** | **Online** | **New**

dinah's Friends Comments

Add Comment

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The State
COLUMBIA • SOUTH CAROLINA
METRO
MONDAY, JANUARY 5, 2009
SECTION B

HUNLEY MYSTERY DEEPENS, PAGE B5



COMICS, *Page B6* | WEATHER, *Page B8*

Columbia's special prosecutor brought back



Heather Savitz Weiss

By ADAM BEAM
abeam@thestate.com

City Council cut funding for position in July

A .40-caliber pistol in a trash can was enough to bring back Columbia's special prosecutor after the position was eliminated in July because of a funding dispute.

Beginning this month, Heather Savitz Weiss, an assistant solicitor for 5th Circuit Solicitor Barney Giese, will resume her duties as Columbia's special prosecutor for six months — and city officials won't have to pay for it.

"We talked about it, and I think it is so important that I'll do just about anything to reinstate it — including doing it without funding," Giese said.

Weiss' title was eliminated in July after Columbia City Council members voted to cut part of her roughly $50,000 salary.

Giese responded by cutting the position entirely and putting Weiss back in the general rotation of cases as an assistant solicitor. Giese also picked up her salary out of his budget.

But a series of events during the first week of November started a chain reaction that brought Weiss back to her role.

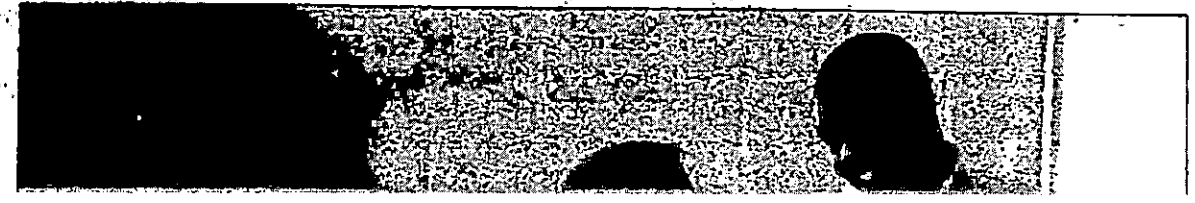
On Nov. 1, police heard gunshots in Columbia's Martin Luther King neighborhood and arrested 18-year-old Horace Antonio Taylor.

Police did not find a gun on Taylor, so he was released and, on Nov. 5, pleaded guilty in city court to disorderly conduct charges.

Two days later, the same Columbia police officer saw Taylor in the neighborhood again, this time with a .40-caliber pistol under his T-shirt. The officer saw Taylor put the gun in a trash can, according to an incident report.

SEE WEISS PAGE B5

LEXINGTON 2 SCHOOLS



School memories forever

plates were removed, allowing scientists to enter the crew compartment for the first time.

If we compare this investigation with, say, a tragic Connell said.

the tide to change.

TATTOO

FROM PAGE B1

The first Hinton knew of Kinard's plan was when she saw the comic-like figure already indelibly inked on Kinard's arm.

"I told her, 'Are you sure you want that on your body?'" Hinton said. "It's cool, but I wish I'd made something specifically for her."

Adam Shiverdecker, who just finished his graduate degree — and, as Kinard predicted, moved away — also considers her commitment "cool."

"It's definitely something more permanent than most other gestures," said Shiverdecker, who relocated to Philadelphia last month.

Shiverdecker and other graduate students "have been really important in teaching me," Kinard said. "You get the basics in class, but being in the studio is really what it's all about. They're here 24 hours a day — whenever you need them."

For tattoo artist Dale Kellett at Body Rites in Five Points, it has been a unique project because it's not his own art.

"These are other people's lines, and I'm totally hands-off," Kellett said. "I respect their art, and it's been a great experience."

Kinard began making art as a child and continued through her time at Dutch Fork High School. After attending a couple of other colleges, she settled back at USC. Most of her artwork takes the shape of fragmented and slumped vessels, some with words etched into the surface. The rough-hewn objects are left partially unglazed and fired at low temperatures.

"She has a real style," Hinton said.

And Kinard is a hard worker.

"She's very driven and anxious to get better," Shiverdecker said.

One person who wasn't thrilled with Kinard's tattoo project was Virginia Scotchie, an art professor at USC.

"She thought I was a little crazy" but finally signed off on it, Kinard said. "If she wasn't OK with it, I wouldn't have done it."

Reach Day at (803) 771-8518.

WEISS

FROM PAGE B1

Taylor, sent to a city judge who did not know his prior record, was let out of jail for $500.

Durham Carter, president of the MLK Neighborhood Association, was livid. He demanded a meeting with Mayor Bob Coble.

"The young man was a nuisance to the neighborhood," Carter said.

Coble, trying to appease neighborhood residents, called Weiss.

Weiss had been Columbia's special prosecutor for eight years. She handled only city cases and was the liaison between the Columbia Police Department and the solicitor's office — until the council members cut part of her funding.

Now, after Taylor's two arrests and two releases in one week, Coble needed Weiss to help.

"It was my day off, but, you know, the mayor wanted help," Weiss said.

Weiss knew Taylor.

She met him two years ago when Taylor was shot outside Williams-Brice Stadium following the Capital City Classic.

"He was originally a victim of mine," she said. "He was nicknamed 'Bloody Horace.'"

Weiss met with Carter and other MLK residents to explain why Taylor was let out of jail and what she could do about it.

She set up a meeting with Taylor's mother. Taylor lived with his mother in the MLK neighborhood in her Habitat for Humanity home, which Taylor's mother said was roughly four years away from being paid off.

Habitat for Humanity officials reminded her that a condition of her having the house was providing a safe environment.

"It was a different kind of intervention," Weiss said.

Taylor's mother, who did not want her name in the newspaper, confirmed that Habitat officials met with her about her son. She said another man in the MLK neighborhood was getting her son in trouble.

Finally, Weiss filed a motion to revoke Taylor's bail. The judge denied the request but ordered Taylor not to return to the MLK neighborhood. He is no longer living there.

"All (residents) have to do is call (if they see Taylor), and he will be in violation of his bond," Weiss said.

Weiss said if she had been working as the city's special city prosecutor, Taylor still might be in jail. The police officers she deals with would have called her, and she would have been at the bail hearing to request a higher bail, based on Taylor's history.

"This just lets me have a wider net of connections," she said.

Coble was so impressed with Weiss' work that he met with Giese about bringing back the special city prosecutor program.

Giese agreed.

"I saw the importance of having the same solicitor do two things," Coble said. "One, certainly keep up with cases and be familiar with defendants, particularly with repeat offenders. And secondly, to be an active partner with neighborhoods."

Giese said he will negotiate with City Council members about paying for her position in next year's budget. But either way, Giese said, he is committed to keeping the program.

"Without it I feel like we've lost some of the contact we've had with (the city) and with the community groups," he said.

Reach Beam at (803) 771-8405.

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hopes for the new principal, Jesse Washington.

Davis' previous principal stayed for two years, pulling together strategic plans and pro-

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Families are referred to free

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RICHLAND COUNTY
CENTRAL COURT
2009 SEP -3 PM 4:24

August 20, 2009

Ms Marie:

This is just A Few words or suggestions From A tenant in the same complex in which you live in on Byron Road, I wish to remain Anonymous but wish to offer Advice if I may which may be helpful in resolving the ongoing conflict between you And mgt.

Me And A few others have been supposed to appear in court in behalf of Miss Dinah Steele And to protect our own interest we will have to support her interests but some things are true but others are blown out of proportion Against you.

There was A petition circulated against you one time everybody signed it but nobody really read it verbatim but understood the contents but it Failed II heard. The thing is I think the best thing to Avoid Further conflict you should consider your Alternatives rather than court system.

What I Am trying to say is the Apts across the street are cheaper, newer, better maintained, better landlady who lives on premises and is A company owned business not private so it is not, governed by the whim of An individual like these if you understand what I mean.

Also just About everybody who lives here has skeletons in their closets or secrets they do not want made public!

THANS All A concerned tenant!

09 SEP -3 PM 3:55

29209. (This request seeks to document their knowledge of the condition arld boundaries of said property.)

RESPONSE:

Defendants object to this request and to the production of any items protected by the attorney/client privilege, work product doctrine, and/or prepared in anticipation of litigation. Subject to these objections, attached please find the following documents:

Title to Real Estate (Deed) for Tax Map No: 164-06-60-04/16406-06-05 Dated 4/19/2006

Defendants are not in possession of any other documents responsive to Plaintiff's requests

4. All leases, rent receipts, notices to vacate, notices of service calls, notices of building violations of any and all types ever issued and/ or received by Dinah Steele, Steele Enterprises, AAA Investigations, and Larry Mason, whether separately or jointly, related to Buildings 300 and 304 Byron Road, Columbia, SC 29209. (This is related to the discrimination and negligence allegations.)

RESPONSE:

Defendants object to this request and to the production of any items protected by the attorney/client privilege, work product doctrine, and/or prepared in anticipation of litigation. Subject to these objections, the leases will be produced when the final Confidentiality/Protective Order submitted to Judge Barber has been finalized. These leases will be produced subject to the final Confidentiality/Protective Order.

300 Byron Road

Unit #1 – No Lease	Rent	$420.00
Unit #2 - No Lease	Rent	$375.00
Unit #3 - Lease – 11/01/07	Rent	$320.00
Unit #4 – Lease - 07/31/07	Rent	$375.00

304 Byron Road

Unit #1 – No Lease	Rent	$445.00
Unit #2 – No Lease	Rent	$380.00
Unit #3 – Lease (Plaintiff)	Rent	$550.00
Unit #4 – Lease 05/01/09	Rent	$550.00

5. All letters, written complaints, reports and/ or petitions, of arry and all types ever written, solicited, and/ or received, by Dinah Steele, Steele Enterprises, AAA Investigations, and Larry Mason, whether separately or jointly, about Plaintiff. (This item's relevance is self-explanatory.)

Columbia Police Dept
SC0400100

INCIDENT REPORT

INFORMATION ONLY ☐

CASE NUMBER 090026569

NCIC INQ. | ENTD.

EVENT

	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1.	CR, 22-05-0150, 03-0550 ASSAULT/SIMPLE ASSAULT &/33; BATTERY 13B SIMPLE ASSAULT	☑YES ☐NO	☐YES ☑NO	APARTMENT/CONDO		I Individual B Business F Financial Inst. G Government R Relig. Orgn. S Soc/Public O Other U Unknown L Police Off.
2.		☐YES ☐NO	☐YES ☐NO			
3.		☐YES ☐NO	☐YES ☐NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER): 300 BYRON ROAD, COLUMBIA, SC

ZIP CODE: 29209-0000

WEAPON TYPE: PERSONAL WEAPON

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPART. TIME	LOCATION NO.
09/11/2009	18:00		09/11/2009	19:04	09/11/2009	19:15	19:22	20:00	639

VICTIM

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
STEELE, DINAH, GAIL	RU			S	W	F	52 /	N	803-800-5853	803-800-5853

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
1403 HAIGS CREEK DRIVE	ELGIN	SC	29045-0000	299

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT #1	#2	#3	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
STEELE, DINAH, GAIL	RU			S	W	F	52 /	N	803-800-5853	803-800-5853

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC
507	135	BLO	BLU	

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
1403 HAIGS CREEK DRIVE	ELGIN	SC	29209-0000	299

VICTIM(NO.1) VIOLENCE INJURY? ☐ YES NO ☑ EXPLAIN: COMPLAINT OF ANY KNOWN BELLIGERENCE? ☐ YES NO ☑

VICTIM(NO.1) USING: ALCOHOL ☐ YES NO ☑ UNK ☐ DRUGS: ☐ YES NO ☑ UNK ☐ TYPE:

TWO MAN VEH ☐ ONE MAN VEH ☐ DETECTIVES/PLAINCL ☐ OTHER ☐ ALONE ☐ ASSISTED ☐ J-This Jurisdiction, S-State, O-Out of State, U-Unknown.

SUBJECT(S)

☑ SUSPECT ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS	NAME (LAST, FIRST, MIDDLE)	RACE	SEX	AGE	ETH	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
	FALTAS, MARIE	W	F	56 /	N	04/04/1953	505	170	BRO	BRO

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

DAYTIME PHONE | EVENING PHONE

ADDRESS	CITY	STATE	ZIP CODE	LOCATION NO.
304 BYRON ROAD, 3	COLUMBIA	SC	29209-0000	639

SUBJECT(S) USING: ALCOHOL ☐ YES NO ☐ UNK ☑ | ARRESTED NEAR OFFENSE SCENE ☐ YES NO ☐ | DATE/TIME OF OFFENSE | DATE/TIME OF ARREST

DRUGS ☐ YES NO ☐ UNK ☑ TYPE: | TOTAL # ARRESTED

DAY OF THE WEEK	HOW REPORTED		DIFF. FACTOR	
S M T W T F S UNK	1= OFFICER DISPATCHED ON CALL 2= REPORT TAKEN BY PHONE 3= COMPLAINANT WALKED IN	4= COMPLAINT WRITTEN IN 5= OFFICER INITIATED 6= OTHER	N	1= RESISTANCE/HOSTILITY 2= WEAPONS 3= UNFOUNDED CALLS 4= MENTAL SUBJECT 5= COMPLAINANT FREQUENTLY INTOXICATED 6= DOMESTIC N= NORMAL

NARRATIVE

ON ABOVE LISTED DATES AND TIMES, COMPLAINANT STATES THE LISTED SUBJECT DID PHYSICALLY ASSAULT HER AT ABOVE INCIDENT LOCATION. COMPLAINANT STATES THE LISTED SUBJECT APPROACHED HER IN THE REAR OF THE RESIDENCE. THE COMPLAINANT STATES THE SUBJECT WAS VERY HOSTILE AND VIOLENTLY PUSHED THE COMPLAINANT IN THE UPPER CHEST AREA WITH AN OPEN HAND THREE TIMES AGAINST THE CHEST. THE COMPLAINANT STATES SHE WAS TRYING TO LEAVE THE LOCATION BUT THE SUBJECT KEPT YELLING AT HER AND FOLLOWING HER. THE LISTED WITNESS ALSO STATES SHE OBSERVED THE SUBJECT PUSHING THE COMPLAINANT IN HER CHEST AREA. THE COMPLAINANT ALSO STATES SHE HAS ALREADY SIGNED A COURTESY SUMMONS FROM A PREVIOUS INCIDENT THAT OCCURRED ON 09/05/2009 INVOLVING A HARASSMENT AND TRESPASS COMPLAINANT. THIS IS IN REFERENCE TO THE SUBJECT BEING EVICTED FROM HER RESIDENCE

PROPERTY LOSS

		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY				
TYPE/GROUP							TOTAL VALUE
STOLEN							$0.00
DAMAGED							$0.00
BURNED							$0.00
RECOVERED							$0.00
SEIZED							$0.00

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED	S.F.			
☑ YES NO ☐	☑ YES NO ☐	AI	☑ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
GOSS JEFFREY A	09/11/2009	21804	PASSMORE JOHN F	09/12/2009	12812
			FOLLOW-UP INVESTIGATION ☐ YES NO ☐ OFFICER		

ADDITIONAL NARRATIVE

Agency Name:	ORI #:	Report Date/Time:		DCA #:
Columbia Police Dept	SC0400100	09/11/2009	19:01	090028580

AT 304 BYRON ROAD (APT-3) THE COMPLAINANT STATES SHE WILL BE SIGNING A COURTESY SUMMONS FOR THIS INCIDENT. SGT PASSMORE WAS AT THE INCIDENT LOCATION AND ATTEMPTED TO MAKE CONTACT WITH THE SUBJECT, BUT THE SUBJECT REFUSED AND STATED SHE DIDNT WISH TO SPEAK TO SGT. PASSMORE AT THIS TIME. THE COMPLAINANT STATES EACH TIME SHE HAS ENCOUNTERED THE SUBJECT, THE SUBJECT IS ALWAYS VERY HOSTILE AND VERBALLY ABUSIVE TOWARDS THE COMPLAINANT.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE MUNICIPAL COURT
OF THE CITY OF COLUMBIA

CITY OF COLUMBIA
v.
MARIE ASSA'AD-FALTAS, MD, MPH

MOTIONS TO DISMISS THE CHARGE
AND ENTER A FORMAL ACQUITTAL IN THIS CASE
Or, in the alternative, for a continuance of this case

Defendant *pro se* hereby moves this Honorable Court to dismiss the charge of trespass after notice because Defendant cannot possibly trespass in her own front yard, parking lot, or near her mail box, which is in the right of way anyway and not subject to trespass. Additionally, no valid trespass notice was, or could have been, given to her prior to, on, or even after, the date of the allegation since the alleged trespass occurred in the very area where Defendant rents, her rent was fully paid on the date of the allegations, and no final order of eviction had then been, or is yet, issued against her on the date of the allegations. The charge of simple assault should be dismissed because of the Prosecution's failure to check the veracity of its witnesses and to admonish the police to include exculpatory facts in the report. Indeed, the Prosecution plans to use false witnesses and fabricated evidence as it had done before against this very defendant. Further, it appears the Prosecution conspired with its witnesses to prevent Defendant from receiving timely notification of the trial date.

Even if the charges are not dismissed, the case should be continued until Defendant has had a chance to receive and study all exculpatory material from the Prosecution.

Respectfully submitted on 4 November 2009.

Marie-Thérèse Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*
304 Byron Road, Apt 3, Columbia, S.C. 29209
Telephone and on-demand fax-receive only: (803) 783 - 4536.

Certificate of Service

I served this document by hand-delivery to Mr. Fernandez in open court or by hand-delivery to the designated person at the location of the City of Columbia legal department on 4 November 2009.

Marie Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*

RECEIVED
NOV 0 4 2009
LEGAL
DEPARTMENT

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page 1 of 2

Date: 11-04-2009 Time: 1700 HRS Place: Garners Ferry Rd

I am Charlene Crouch. My birthday is NOV 2

My address and phone number are: 300 Byron Rd Columbia S.C. 29209

I am giving this statement concerning MARIE FAITAS

to A. Burton who has identified himself as Investigator

I saw Marie Faitas, Come over to the Apartments' in the Back on Sept 11, 2009. Then Marie, approached Dinah Stelle with a letter of some sort. Pulling letter in Dinah chest area Pushing her. Dinah told her to get away from, her, She told her to leave me alone (Marie) her Crazy. she Keep doing it. Then later Dinah Called 911, And I gave the police a statment Along with Another resident.

Sworn and subscribed to me this 4th day of November 2009

/S/ Charlene Crouch

NOTARY PUBLIC OF SOUTH CAROLINA

/S/

MY COMMISSION EXPIRES: 2-28-15

_____ received a copy of this statement consisting of 2 pages

from _____ /S/ Charlene Crouch

Form 34:91

#2

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: WHERE WERE YOU WHEN MARIE FALTAS "PUT THE LETTER IN DINAH STEELE'S CHEST"?

A: ON MY BALCONY SITTING IN A CHAIR, CLEANING MY FAN.

Q: DID MARIE FALTAS STRIKE DINAH STEELE ON THIS INCIDENT DATE/TIME, THAT YOU OBSERVED?

A: YES, SHE WAS PUSH THE PAPER, SHE HAD, IN HER HAND, INTO HER CHEST.

Q: DID YOU OBSERVE DINAH STEELE STRIKE MARIE FALTAS ON THIS INCIDENT DATE/TIME?

A: NO,

Q: ARE YOU IN FEAR FOR YOUR SAFETY AND/OR THE SAFETY OF YOUR GUESTS?

A: YES, BECAUSE SHE TAKES PICTURES OF OUR GUEST, FAMILY, FRIEND, AND WHEN WHERE, SHE FINDS REASON TO CALL THE POLICE ON THEM. DUE TO UNSTABLE WAYS, I DON'T KNOW WHAT TO EXPECT OUT OF HER. MARIE FALTAS, PHYSICAL OR VERBAL.

Q: HOW LONG HAVE YOU LIVED AT YOUR RESIDENCE?

A: 2 YEARS

Q: IN THE TIME YOU HAVE LIVED AT YOUR RESIDENCE, HAVE YOU OBSERVED ANYONE OTHER THAN MARIE FALTAS COMING/GOING FROM HER RESIDENCE?

A: NO

Sworn and subscribed to me this 9th day of November 2009

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 2-28-15

/s/ [signature]

/s/

_____ received a copy of this statement consisting of 2 pages

from _____

/s/ [signature]

88POL03

10 YEAR DRIVER RECORD



Customer No: 22883215 Driver License No: [redacted]
Name: CROUCH, CHARLENE
Address: 300 BYRON RD APT 3
City: COLUMBIA State: SC Zip: 292091559
County: RICHLAND
DOB: [redacted] Sex: F Driver Training: N

Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restrictions	Endorsements
Current							
DL	D	Renewal	09/24/2008	11/02/2018	05/27/1993	N	N
Prior							
DL	D	Duplicate	09/15/2005	11/02/2008	05/27/1993	Y	N
DL	D	Duplicate	10/11/2005	11/02/2008	05/27/1993	Y	N
DL	D	Duplicate	03/17/2006	11/02/2008	05/27/1993	Y	N
DL	D	Duplicate	02/05/2007	11/02/2008	05/27/1993	Y	N
DL	D	Duplicate	10/19/2007	11/02/2008	05/27/1993	Y	N
DL	D	Modify	03/21/2008	11/02/2008	05/27/1993	Y	N
DL	D	Re-exam	07/24/2003	11/02/2008	05/27/1993	Y	N
ProvDL	D	Returned	01/27/2003	07/27/2003	05/27/1993	N	N
ProvDL	D	Original	01/27/2003	07/27/2003	05/27/1993	N	N
DL	D	Renewal	10/28/2002	11/02/2007	05/27/1993	N	N
DL	D	Returned	10/28/2002	11/02/2007	05/27/1993	N	N
DL	D	Renewal	10/28/1997	11/02/2002	05/27/1993	N	N

Address Change -

Date Changed: 06/03/2003
Address: 100 PARTRIDGE LN
City: WINNSBORO State: SC Zip: 291802226

Address Change -

Date Changed: 03/21/2008
Address: 100 PARTRIDGE LN
City: WINNSBORO State: SC Zip: 291802226

10 YEAR DRIVER RECORD

Customer No: 22883215 Driver License No: 8494256
Name: CROUCH, CHARLENE

Point Summary

Total Current Points: 2
Driver Credit: -0
Adjusted Current Points: 2

VIOL: 421 - Speeding 10-mph or less
Violation: 12/23/2008 Conviction: 01/14/2009
ACD: S51 Conviction Loc Ref:
Conviction State: SC
Ticket#: D537790
Recd: 02/18/2009 Post: 03/04/2009
Conviction Reference:
Court Type: MAG
Violation Points: 2 Current Points: 2

VIOL: 475 - Careless or negligent driving
Violation: 05/26/2008 Conviction: 07/07/2008
ACD: M81 Conviction Loc Ref:
Conviction State: SC
Ticket#: 79806EG
Recd: 07/16/2008 Post: 07/24/2008
Conviction Reference:
Court Type: MUN

VIOL: 421 - Speeding 10-mph or less
Violation: 11/29/2006 Conviction: 02/27/2007
ACD: S51 Conviction Loc Ref:
Conviction State: SC
Ticket#: Z212896
Recd: 03/08/2007 Post: 03/10/2007
Conviction Reference:
Court Type: MAG
Violation Points: 2 Current Points: 0

ACC: REPORTABLE
Accident: 01/05/2007
Accident Case Number: 7003613
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: Y Bodily Injury: N
Posted: 01/26/2007
FR-10 Audit Number: R-536402
History: N
Property Damage: >= $1000

SUSP: 001 - Driving Under the Influence
Special Driving Privilege: PROVISIONAL
Suspension Beg: 01/23/2003
Causal: 12/24/2002
Reinstatement Requirements Met: 07/24/2003
ACD: A20 Withdrawal Loc Ref:
Ticket#: 82581BZ
Suspension End: 07/23/2003
Post: 01/27/2003
Reinstatement Fee Paid: Y
Withdrawal Reason Ref:

VIOL: 499 - Driving Under the Influence
Violation: 12/24/2002 Conviction: 01/14/2003
ACD: A20 Conviction Loc Ref:
Conviction State: SC
Ticket#: 82581BZ
Recd: 01/24/2003 Post: 01/27/2003
Conviction Reference:
Court Type: MUN

SUSP: 057 - BAC of .15 or Greater
Special Driving Privilege: NONE
Suspension Beg: 12/24/2002
Causal: 12/24/2002
Reinstatement Requirements Met: 01/27/2003
ACD: A90 Withdrawal Loc Ref:
Suspension End: 01/22/2003
Post: 01/16/2003
Reinstatement Fee Paid: Y
Withdrawal Reason Ref:

SC Driver License Surrendered
License Type: DL Class: D Function: Returned
Posted: 01/27/2003
Issued: 10/28/2002
Date Surrendered: 01/14/2003
Reason for Return: DRIVERS LICENSE FROM COURT
Returning State: SC

10 YEAR DRIVER RECORD

Customer No: 22883215 Driver License No: 8494256
Name: CROUCH, CHARLENE

VIOL:457 - BAC of .15 or Greater
Violation: 12/24/2002 Conviction: 12/24/2002 Recd: 01/15/2003 Post: 01/16/2003
ACD: A90 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type:

ADSAP - Alcohol and Drug Safety Action Program

Enrolled: 12/27/2002 Status: SUCCESSFUL COMPLETION Post Date: 12/30/2002
Enrollment No: +000155067

End of Report









CASE SUMMARY

PREPARED BY: Investigator A. Blanton

Date: November 17, 2009

Subject Of Investigation: Dr. Marie Assaad-Faltas

Inv. Blanton received the first report of harassment on or around Sept. 29, 2009 reported by Teresa Ingram -B/F- 300 Byron Rd. Apt 4- 776/3541, a tenant at 300 Byron Rd. (case number: 090027895). Ingram's claim is that Marie Faltas- W/F- 304 Byron Rd. Apt.3- 783/4563, followed Ingram and a male friend by way of vehicle as they left the apartments then yelled at them "I'm going to get you" while at a stop light. On Oct. 6, 2009 Teresa Ingram submitted a written statement to this writer in reference to this event. Ms. Ingram also described several other events involving Ms. Faltas and the alleged harassment of herself and other tenants of Byron Rd. This writer then began making contact with other tenants of the property as well as the owners, Larry Mason and Dinah Steele Mason, along with gathering all reports filed by and against Marie Faltas.

On October 7, 2009 Larry Mason and Dinah Steele Mason – W/M, W/F -1403 Haigs Creek Drive, Elgin, SC – 600/5953 or 331/1000, responded to Columbia Police Dept to speak with Inv. Blanton in reference to the continued harassment of their tenants on Byron Rd as well as themselves. Mr. and Mrs. Mason brought with them numerous documents from other tenants, witnesses, and court documentation as well as tenant lease agreement from September 2008 when Faltas signed a lease for 304 Byron Rd. Apt 3.

Inv. Blanton then made contact with John Mitchel Jones- W/M- 304 Byron Rd Apt 1- 695/3616 who also filed a harassment report on Sept. 24, 2009 naming Marie Faltas as the suspect. In this report Jones claims that Faltas came onto her balcony to take pictures of him and that she was loud and boisterous when telling Jones he could not smoke outside of his apt. where he was when Faltas began "fussing" at him. Jones further states this is an ongoing issue with Faltas.

Inv. Blanton also made contact with Charlene Crouch- W/F- 300 Byron Rd. Apt3- 776/4441 who submitted a written statement as witness to an assault on Dinah Steele Mason by Marie Faltas, case number: 090026586. Due to the possibility of further harassment and the threat of more lawsuits by Faltas, Ms. Crouch was hesitant about giving any further information in regard to Faltas victimizing her by way of following her by vehicle and declined to file reports for such.

DEFENDANT'S EXHIBIT 1 DH ID

<u>September 2008</u>

Ms. Faltas moved into 304 Byron Rd Apt 3 in September of 2008 and immediately began causing problems for the owners by parking and leaving two moving vans in front of the building blocking the parking spaces for other tenants. Mr. Mason

states that he had to verbally threaten to have the moving vans towed before Ms. Faltas would move them. A few days later Mr. Mason again had to verbally threaten to have Ms. Faltas' two personal vehicles towed due to her parking them across 4 spaces rather than parking them the correct way and only using her 2 allotted spaces.

November 2008

Mr. and Mrs. Mason further state that around November 2008, they started receiving complaints from other tenants about Ms. Faltas who was allegedly questioning each of them on the amount of rent they paid, questioning Mr. Jones about where and why he smoked and tenants guests, then also questioning the Mason's about what they were doing inside/outside other apts. Mr. Mason also states that Ms. Faltas began asking him about the vacant lot next to her bldg. Mr. Mason states he and the owner of that land had "something in the works" and it was not his nor was it for sale. The Mason's state they continued to receive complaints from tenants in reference to Ms. Faltas questioning them and their guests.

Jan./Feb. 2009

Around Jan./Feb. 2009 Mr. Mason states Faltas questioned him about renewal of her lease (expiring 02/28/2009). Mr. Mason told her if she would leave other tenants alone she could stay on a month to month basis. Mr. Mason states "that's when the harassment got worse".

As the apt adjacent to Ms. Faltas became available she inquired about renting it for her mother around Feb. 2009. According to Mr. Mason, Faltas wanted to rent the apartment "very cheap" and was declined by him and his wife. Mr. Mason further states that Faltas then started "fussing" about maintenance being done, saying "it looked like crap."

On several occasions Mrs. Mason went to the location to show the apartment next to Faltas only to find that Ms. Faltas had already encountered the potential renter and told them to leave and presented herself as the landlord. One occasion the potential renter submitted a written statement to Mrs. Mason in reference to his encounter with Ms. Faltas. Another incident where Mrs. Mason was at the Byron Rd. address awaiting a potential renter when Ms. Faltas began screaming at her because she was going to show the apartment in an attempt to rent it, according to Mrs. Mason. Shortly after this occurred Mr. Mason delivered notice to Ms. Faltas stating the landlord/tenant law about harassment.

March 2009

Sometime during the month of March 2009, Faltas and her mother (Soraya Farid Fares of the same address) purchased the vacant land next to the apartments that Mr. and Mrs. Mason owned (324 Byron Rd.-vacant lot).

On March 1, 2009 Mr. Mason reports that he served Ms. Faltas with a notice for "disturbing tenants". Mr. Mason also served Ms. Faltas with similar notices on the following dates for "harassment of tenants": March 12, April 17, Sept. 24, Oct. 6, 13, 14,

17 and then two more notices on the 21st of Oct. Also on March 1, 2009 Faltas was served with an eviction notice by Mr. Mason.

March 14, 2009 Faltas filed a report with CPD (case # 09-7407) in reference to her landlord serving her with notices and stating that they were not justified. According to Mr. Mason, the formal eviction process had already begun. Also on the same date, Mr. Mason states that an iron, black and rust in color sign post with a white in color sign was taken from his property, the apartments, and appeared on the adjacent property which is owned by Ms. Faltas and her mother (address is 324 Byron Rd). Mr. Mason received several statements from other tenants in reference to the sign being of the exact same style that went missing approximately three days prior to it showing up on Ms. Faltas' property. Inv. J. Folding was assigned the case.

March 25, 2009, Rodney Ingram (brother of Teresa Ingram-tenant) was visiting his sister when Ms. Faltas approached him in the parking lot before his visit and portrayed herself to be the landlord, asking questions about who he was, who he was there to see, asking questions about his sister and told him to leave before she called the police. Rodney Ingram submitted a statement to Mr. and Mrs. Mason, but declined to do so with Inv. Blanton due to fear of being harassed and/or sued by Ms. Faltas and/or the safety of his sister, Teresa.

March 26, 2009 Ms. Faltas followed Mrs. Mason from the Byron Rd apartments to Mrs. Mason's job off Trenholm Rd. Mrs. Mason states that she called her husband because she was in fear of her own safety. Mrs. Mason states that Ms. Faltas sat in her vehicle in the parking lot of Mrs. Mason's job place then quickly left when Mr. Mason pulled into the parking lot. The next day on the 27th of March, Mr. Mason reports that he observed Ms. Faltas sitting in her vehicle at the Shell gas station across from his home address in Elgin, SC. When Mr. Mason pulled into the parking lot Ms. Faltas departed quickly. According to Mr. Mason, also on March 27, 2009, Ms. Faltas filed for a temporary restraining order against him, where he had been serving notices to her at the apartment she rented from he and his wife, then called him over 27 times within a few days threatening to sue him and his wife Dinah. Mr. Mason told Ms. Faltas he would only come over to her apartment in an emergency. That restraining order was denied by Judge Womble on April 14, 2009.

On March 29, 2009, Mr. Mason states that he received a letter from Mitchel Jones stating that Ms. Faltas was "harassing" him and his visitors as well as "nagging" him about where and why he smoked cigarettes and how and where to park his vehicle. In the letter Mr. Jones references the hope that the Mason's can do something about this behavior from Faltas.

April 2009

On April 3, 2009 Ms. Faltas received another eviction notice from the Mason's, requesting her to vacant the premise at 304 Byron Rd. Apt 3.

April 6, 2009, Ms. Faltas reported that "pipes were exploding" to the fire dept. so they responded. No problems were found by the fire dept. upon their arrival. Ms. Faltas refused to come to the door when the fire dept. arrived and they had to check a neighbors' residence to make sure there was no danger or hazard.

Mr. and Mrs. Mason report that on numerous incidents Faltas was observed sitting in her vehicle in the parking lot and "harassed" potential tenants and guests of existing tenants, calling police...etc.

On April 16, 2009 Ms. Faltas told a potential tenant (Alden Wheeler) that there were no apartments to rent and that he had to leave. Alden Wheeler submitted a statement to Mr. and Mrs. Mason stating that Dr. Faltas approached him and identified herself as the owner and landlord of the building and stated that there were no apartments available for rent. On April 18, 2009 Ms. Faltas called 911 because Mr. Mason attempted to give her another notice. Sgt. Auld responded to the location

On April 20, 2009 again Ms. Faltas was observed by the Mason's sitting in the parking lot at Mrs. Mason's place of employment. Mrs. Mason states that Ms. Faltas had no apparent business at the location and was "just sitting in her vehicle." Also on the same day, Mr. Mason reports that he saw Ms. Faltas driving her vehicle, coming from his driveway at his home address in Elgin, SC.

Between the months of April to Sept. 2009, the Mason's state they received numerous complaints from their tenants of Byron Rd. stating that Ms. Faltas was blocking them in with her vehicle, taking photos of them and their guests, and following them when they left the apartments. Sometime during this period Ms. Faltas reported to the Human Affairs Commission that the Mason's were discriminating against her because of her nationality.

August 2009

In August of 2009 a notice from the Human Affairs Commission was sent stating that there was no evidence to support this claim made by Ms. Faltas nor were there any violations found.

September 2009

In September 2009 the Mason's started receiving violations from the city in reference to numerous complaints made by Ms. Faltas about "paint chips' on the buildings, faulty electrical wires, violations about the ditch that separates the apartment building from her vacant lot, and about the common area at the apartments. Mr. and Mrs. Mason have hired workers as well as themselves attempt to address these issues but each time Ms. Faltas comes out of her apartment and becomes confrontational with all around according to Mr. Mason. Mr. Mason further states that it is impossible to address the issue of the "paint chips" due to the only area of the building that cannot be fixed is on Ms. Faltas' side. Mr. Mason states a ladder must be placed on the vacant property of Ms. Faltas in order to reach the area in violation and Ms. Faltas will not allow that to happen.

On Sept. 5, 2009 the Mason's report that Ms. Faltas had been sitting in her vehicle when they began doing maintenance work on a building when Ms. Faltas came over, began taking photos of them and yelling, calling Mrs. Mason a "whore" as well as calling both Mr. and Mrs. Mason "swindlers, liars, and thieves". Officers responded to the location and a report was made for Mrs. Mason in reference to trespassing (case # 09-25972). A courtesy summons was signed by Mrs. Mason against Ms. Faltas, which is still pending in Jury Trials on the City level.

On Sept 8, 2009 Mrs. Mason states that Faltas again came to her job on Trenholm Rd. and sat in parking lot. Then on Sept. 11, 2009 Mrs. Mason states she was assaulted by Ms. Faltas in the parking lot at the apartments and witnessed by Charlene Crouch, a tenant. A report was taken for Mrs. Mason and a courtesy summons signed (case # 09-26586). Ms. Crouch submitted a written statement to Inv. Blanton in reference to observing this event.

On Sept. 23, 2009 Ms. Ingram states that Ms. Faltas used her vehicle to block Ingram's vehicle in the parking lot in front of her apartment and then took photos of Ingram. The following day, Ms. Ingram made a report of harassment (case # 09-27895), stating that Ms. Faltas followed her and a male friend as they left the apartment and yelled at them while at a red light "I'm going to get you". Ms. Ingram's male friend declined to give written statement due to being scared of law suit from Faltas. Ms. Ingram submitted a written statement to Inv. Blanton. This was the first report Inv. Blanton received and began looking into the history of these allegations. Mr. Jones also made a report of harassment on the 24th of September (case # 09-27962) stating that Ms. Faltas was continuously taking unwanted photos of him and his guests as well as yelling at Mr. Jones for smoking in the common area outside of his apartment. On this date, officers that responded to take the report from Mr. Jones met with some resistance when attempting to get information from Ms. Faltas.

On September 27, 2009 Ms. Faltas filed a report (case # 09-28267) in reference to Mr. Mason taking from her front door, computer typed and printed, "no trespassing" signs in which Mr. Mason states he has advised Ms. Faltas in the past that there was to be nothing taped to the doors and/or buildings. Ms. Faltas called dispatch back due the reporting officers asking for her photo ID. Ms. Faltas refused to show the original responding officers her identification so that they could issue her a report. Ms. Faltas made accusations while on the phone with dispatch that if officers did not hurry that the man who took her signs would continue to hurt her.

October 2009

On Oct. 3, 2009 Ms. Faltas made a report with CPD stating that Mr. Mason "took her sign" (case # 09-28848). The signs are computer typed and printed "no trespassing" notes taped onto the door of Faltas' apartment. Ms. Faltas called 911 in reference to Mr. Mason again taking down signs off of her door and she stated that he had a gun only after the second call to 911 was made by Faltas. Then on Oct. 6, 2009 Ms. Faltas used her vehicle to "block" Mrs. Mason from leaving the property as Mason attempted to exit the apartment complex. The Mason's issued another notice to Ms. Faltas in reference to this type of behavior. Yet the very next day Ms. Faltas is reported to have "blocked" Mr. Mason's vehicle in the parking lot by use of her own vehicle and then took photos of him, after being asked numerous times not to do so. Then on Oct. 9, 2009 Ms. Ingram states that Faltas "blocked" her vehicle in the parking lot by way of Faltas' vehicle and again took photos, after being asked not to do so.

Mr. Jones made a report with CPD on Oct. 14, 2009 (case # 09-29996) stating that he had a guest over and they were sitting in the common area with an 18 month old child, when Faltas came onto her balcony and began yelling at them and throwing water on the three of them. Mr. Jones states that he told Ms. Faltas to stop several times then after she

would not he squirted her with the hose. Mr. Jones submitted a written statement to Inv. Blanton about this event although his guest refused due to being afraid of a lawsuit and/or harassment from Faltas. Ms. Faltas also made a counter report (case # 09-30001) on the same day but only after the report was taken from Mr. Jones then Faltas signed a courtesy summons against Jones.

Oct. 21, 2009 Teresa Ingram made report (case # 09-30691) stating Faltas intentionally threw 2 rocks and struck Ingram on the leg while in the parking lot as well as "blocked" Ingram in with her vehicle. Ms. Ingram has four witnesses but all declined to submit written statements because they are scared of being harassed and/or sued by Faltas. As the 911 recording was reviewed by this writer, it is heard in the background by a female stating "I have a small child here and you're intimidating us by taking pictures". Ms. Ingram submitted a written statement to Inv. Blanton about this event and several others.

Numerous incidents have been alleged by Ms. Ingram where Faltas has used her vehicle to block in Ms. Ingram, her family and guests from leaving the parking lot. It is also alleged that Ms. Faltas has taken numerous photos of Ingram's family while in the parking lot hooking up a vehicle to be towed (vehicle owned by Ingram's family member who was also present) as well as blocking in their vehicles w/ hers and taking photos.

Ms. Ingram states that another incident occurred where she and a guest were on her balcony and Faltas came onto her balcony and starting taking photos, questioning Ingram and her guest and "flipping" her middle finger at Ingram as well as calling her a "bitch". Ms. Ingram states this occurred with no provocation by her. Ms. Ingram further states that Faltas has said on a couple of occasions that she will "bury' Ingram and points to the ground and has threatened to "beat" Ingram's "ass". Ms. Ingram believes Faltas started this behavior towards her shortly after Faltas moved in b/c she was trying to civilly sue the Mason's and wanted Ingram to testify against them.

Another tenant of the Byron Rd. apartments owned by the Mason's, Charlene Crouch, states there have been several incidents where Faltas has "harassed" her and her daughter, yelled at them, followed them from the property, opened Crouch's mailbox...etc but she is afraid to file reports due to Faltas' "unstable mental state".

On Oct. 31, 2009 (case # 09-31759) a report was made due to Faltas calling in a person with a weapon to dispatch. Upon arrival officers state that Mr. Mason had an electrician at the property to address a notice he received from the city, that Faltas had made and that Faltas came out of her apt and began yelling at the electrician and Mr. Mason then taking photos of them. Ms. Faltas also cursed while on the phone with dispatch as well as stating the man who she claimed was trespassing had a weapon.

November 2009

Then on Nov. 11, 2009 Faltas made a report (case # 09-32673) stating that Mr. Mason blew leaves on her when she came out of her apartment to take photos of him cleaning the parking lot. Mr. Mason states Faltas exited her apartment and came directly into his path to take his picture.

On Nov. 9, 2009 Ms. Faltas called the city (Tim Rushman) stating that trees needed to be removed from her property. The city came out and removed what was on City of Columbia property which caused an altercation between Mr. Mason and Ms. Faltas due to Ms. Faltas informing the city that it was her property. Inv. Blanton spoke with Tim Rushman who assured this investigator that the trees were on city property and only those were removed. On the same day Ms. Faltas showed up at the Social Security Office stating her mother was in a nursing home in Ohio and there was no way she could come in. Ms.Faltas was very "argumentative" with the workers and caused a disturbance at the Federal building. Ms. Faltas has in the past attempted to use her mothers name for dispatch purposes as well as told officers the behavior of her neighbors was disturbing her "ill" mother at her apartment. Ms. Faltas receives a social security check each month in her mothers name and is allegedly the power of attorney for her mother. It has come to this investigators attention that her mother may not be residing at 304 Byron Rd. Apt 3. The Social Security Office in Columbia, SC is currently investigating this matter.

A deportation order was issued on Ms. Faltas on 01/07/2002. During the appeal filed by Faltas, she received a green card on 09/13/2005. Faltas has been observed by other tenants as well as Mr. Mason, "looking into mailboxes" at other tenants mail in order to get their personal information. Ms. Faltas also has numerous lawsuits pending w/ various places to include the Universities where she studied in the past.

The continued behavior that has been displayed by Ms. Marie Assaad-Faltas is disruptive in nature and causing her neighbors and landlords undue mental and emotional stress. Ms. Faltas has "bullied" Teresa Ingram, Mitchel Jones, Charlene Crouch, Mr. and Mrs. Mason as well as visitors of these individuals due to Ms. Faltas manipulation and abuse of the legal system. Numerous judges and attorneys have recused themselves when Ms. Faltas' cases come in front of them due to her "harassing" and erratic behavior as well as the fear of lawsuits..

[page 1] City of Columbia) Transcript of Record November 17, 2009 Jury Trials
vs.) Warrant nos: I-066971, I-066954
Marie-Therese Assa'ad-Faltas,) Judge Marion O. Hanna
Defendant) ACA David A. Fernandez

[1-3] Mr. Fernandez: Your Honor. This case is not being called for any purposes other than to put on the record what was done today.

[4-9] Defendant Faltas: Actually, good morning, Your Honor. I'm sorry, I have waited a long time. ***Actually there is a pending motion to dismiss and the reason for the motion to dismiss is that I am charged with trespassing where I actually live. This cannot be done. I live there. I am there so I cannot be trespassing from there. The motion is in writing.***

[10] The Court: Okay. Well, hold on just a second.

[11] Defendant Faltas: ***It's in the file.***

[12-13] The Court: This is a matter of evidence that you need to present when the trial comes up and then ask for a dismissal.

[14-15] Defendant Faltas: ***On the face of the charge I am charged with trespassing at my own address.***

[16-17] The Court: ***Well, the court has no way of knowing what your own address is.***

[18] Defendant Faltas: ***Because it's on the charge.***

[19] The Court: All right

[page 2, lines 1-3] Defendant Faltas: I'm sorry, and I don't mean to be ugly with Your Honor, but if you knew the background of this you would really feel sorry for me. What it is --

[4-13] The Court: Well, excuse me for interrupting again but our Supreme Court has ruled that in a case of a misdemeanor that we don't have -- you don't have any right to a probable cause hearing which in a felony we could have a hearing such as this to see that there was no reason, no probable cause reason, to arrest you but I can't do that in this kind of a hearing. So we need to wait until we get there for you to present that evidence. If that's true, then I'm sure that that would certainly be taken into account. So you are just -- ***you are asking on the trespassing after notice that that be dismissed.***

[14] Defendant Faltas: ***Yes, Your Honor.***

[15-16] The Court: ***But you are going to have to wait until we get to your case for that to be heard.***

[17 – page 3, line 8] Defendant Faltas: All right. Then the other matter is, of course, ***Mr. Fernandez is an officer of the court and he has an obligation to not bring frivolous prosecution***. I did ask for a jury trial so it -- ***and I invited him to go to the location and see for himself that this is where I live from the face of the address that he has for me and the face of the alleged location where I'm alleged to have*** -- I mean I cannot trespass where I live. ***This is not a matter of evidence, this is a matter of law. Just as Your Honor cannot be charged of trespassing by sitting on your bench because this is where you work. So all I'm saying this is a matter of law and, of course***, Your Honor has -- I am making the motion and I'm trying to argue it and it has been (inaudible). In addition it has become *res judicata* because they -- the complainants went and tried to take a restraining orders against me that I don't park my car where I rent from them. And Magistrate Davis, the Lykesland magistrate, said, no, they cannot do that. So this is *res judicata*. As far as that I can park --

[9 – page 4, line 4] The Court: Ma'am, excuse me for interrupting you but this is so very much a big demonstration as to why you need a lawyer. The magistrate court cannot make *res judicata*. Only the Supreme Court can do that. What the magistrate court does has no effect upon what this court does. You really need to have an attorney because -- and I understand that you are capable of understanding all this but you haven't been to law school. It takes quite a bit of study to get this down and quite a number of years of practice. I think if you would get an attorney, if what you say is true, the matter could be taken care of in a much more reasonable fashion and time. But when you are trying to just jump into these things that you really don't understand, not through any fault of your own but because it's a very complicated matter, then it puts you at such a terrible risk because you can go to jail for these matters. You know, we don't want to see that happen but if you don't have a lawyer you are likely to end up there because you don't understand what you are doing and you are also emotionally involved, of course, in your own case. So I would like for you to get a lawyer and I think that could help you tremendously in getting these matters moved along and perhaps to your advantage as well. Would you do that for me, please?

[5-9] Defendant Faltas: If it pleases the court, I believe I'm more likely to go to jail if I have the lawyer and my record against the City is five "0" so far. the City tried to prosecute me five different times and every time I won. That's fine. You want to deny the motion, deny the motion.

[10] The Court: I'm not hearing the motion, ma'am.

[11] Defendant Faltas: Oh, that's fine.

[12] The Court: All right. You may have a seat.

[13] Defendant Faltas: No, there were two other--

[14] The Court: You may have a seat, ma'am.

[15-16] Defendant Faltas: ***He was supposed to give me some discovery on the record.***

[17]The Court: Ma'am, you may have a seat.

[18-20]Mr. Fernandez: Your Honor, all I want to just put on the record the point of calling the case was to say that I did hand Ms. Faltas --

[21]Defendant Faltas: You didn't hand me anything.

[22]The Court: Ma'am.

[23-24]Mr. Fernandez: The discovery that you have in your hand--

[25 – page 5, line 1] Defendant Faltas: This is not the discovery. You didn't hand me anything else.

[2-3] Mr. Fernandez: What I provided Ms. Faltas with is the incident report --

[4-5] The Court: Ma'am, if you interrupt one more time you are going to be in contempt of court.

[6-17]Mr. Fernandez: Incident reports, Your Honor, a statement by the victims, statements provided to the C.P.D. and a copy of the restraining order against Marie Faltas. What remains for the City to turn over is a letter regarding the trespass after notice. There's apparently a letter -- the notice letter that was provided to her. We will give her a copy of that and we'll also put it in the court file as we did all the other discovery. Now I don't know if there's anything remaining but we did have a hearing I believe a few -- last week or two weeks ago in front of Judge Turner discussing what the City needed to provide Dr. Faltas and I believe we have complied. Now I understand she disagrees with that but that's what I would like to put on the record.

[18-20]Defendant Faltas: Judge, today he did not hand me anything. He print something from the witnesses and the Court Clerk made copies but Mr. Fernandez did not hand me those copies.

[21]The Court: Did anyone hand them to you?

[22]Defendant Faltas: No, ma'am, no one did.

[23]Mr. Fernandez: Did we not give her the copies of that?

[24-25]Court Clerk: You asked me to give you copies. I gave them to you.

[page 6, lines 1-2] Mr. Fernandez: If she's doesn't have the copies, there are copies in the court file at the very least,

[3] The Court: Is that what you are handing up here?

[4] Court Clerk: It's for the file,

[5] Defendant Faltas: But I don't have anything yet.

[6-9] The Court: Well, I'm sorry, ma'am. It's just a misunderstanding, he thought that they had been passed to you. They will be. I have a copy here of everything that is going to be given to you this morning.

[10-11] Defendant Faltas: Could we put on the record what it is because --

[12]The Court: We just did that,

[13]Defendant Faltas: Well, I haven't --

[14-15]The Court: You didn't listen because you were talking, please have a seat, thank you. All right. What's next?

[16](adjourned) [17](case resumes)

[18-20]Mr. Fernandez: Your Honor, I believe that concludes the day's matters, Ms. Marie Faltas is still here so I don't know if she has anything she would like to discuss,

[21-23]Defendant Faltas: Well, your honor, I still haven't received the discovery and I hope Your Honor acknowledges that I was correct, he didn't hand me anything,

[24-25]The Court: Ma'am, if you will go over to the court officer he's trying to hand it to you.

[page 7, line 1] Defendant Faltas: Well, I want on the record --

[2-6] The Court: Ma'am, if you'll go over to the court officer he's trying to hand it to you. Now it's been handed to Mr. Fernandez who is now passing it to you. You will receive it into your hand. Do you have it, ma'am? Hold it up so that I can see. Very good. Have a seat and overlook it and see if anything is missing.

[7] Defendant Faltas: Well, I don't know what's supposed to be in it to know what's missing.

[9] Mr. Fernandez: Your Honor --

[10 – page 8, line 10]The Court: [10-13] Well, as I said before, ma'am, you were talking while he recited into the record what was in there and that's why you don't know and that's not a good excuse. Have a seat and look at it. [14]**(pause)** [15 – page 8, line 10] The Court: All right what I've been handed, Mr. Fernandez, is -- first of all, there's a restraining order on the top of this group of documents. John Mitchell Jones, 304 Byron Road, Apartment One, Columbia, South Carolina 29209 versus Marie Assa'ad-Faltas, 304 Byron Road, Apartment Three, Columbia, South Carolina 29209. This is a restraining order from the magistrate in Lyklesland. The second document is an incident report and that is followed by a typed statement which is initialed by Dinah G. Steel Mason of 1403 Haigs Creek Drive, Elgin, South Carolina 29045 and signed by the same person and notarized. And also attached is a police department statement form from Charlene Crouch of 300 Byron Road, Columbia, South Carolina 29209. It's a statement signed by the same person. Following that is page two of Columbia Police Department statement continuation signed by Charlene Crouch. Following that is an incident report and this is from the Columbia Police Department. And it starts off the victim reports that the listed subject lives in the building at 304 Byron Road and has been placed on trespass notice, followed by a supplemental incident report, followed by a copy of the courtesy summons on simple assault and a copy of the courtesy summons on trespassing after notice. Anything in your group, Ms. Faltas, that I recited here that you don't have?

[11-14]Defendant Faltas: Your Honor, respectfully, I'm Dr. Faltas. And no, everything is here, but I object to the restraining order and (inaudible) statements. That charge has nothing to do with --
[15-16]The Court: Ma'am, I just asked you if you have it. That's all I asked you.
[17]Defendant Faltas: Yes, but there is --
[18]The Court: Thank you very much.
[19-23]Defendant Faltas: There is another issue which Mr. Fernandez wouldn't talk to me except on the record which is when the jury trial comes I'd like arrangements to be made for the jury to view the site. That is in my written motion and that is exculpatory and --
[24]The Court: Ma'am.
[25 – page 9, line 4] Defendant Faltas: Okay. So then every time it gets called I will ask for this and they will say we haven't made arrangements and it will get put over to the next. I would like Mr. Fernandez to commit today that when the trial comes he will have made arrangements for the jury to view the site.
[5-8] The Court: That will be up to the court. That will be up to the trier of fact and that is not necessarily going to be me. It may be, it may not and I will not rule upon it prematurely. Thank you very much. Have a seat.
[9-11] *Defendant Faltas: In fact, Your Honor, while I wish you very happy Thanksgiving, I'd like Your Honor to recuse yourself. I like you very much but our temperaments do not -- I don't see –*
[12-13] The Court: Ma'am, it's not -- you have to have a reason better than that you like or don't like the judge.
[14-19] Defendant Faltas: No, no, I'm not saying that. I don't say the reason is that. I'm saying although I like you, I think your temperament cannot give me a fair trial or even a fair hearing. For example, today I was just trying to make the fact that I wasn't handed anything and you threatened to put me in contempt of court.
[20-23] The Court: Ma'am, when I ask you to sit down and be quiet, that's what you are supposed to do. You are not in charge of the court and you need to get that through your head. You are not in charge of the court.
[24] Defendant Faltas: Yes, ma'am.
[25 – page 10, line 1] The Court: The court will tell you when and what to do and you have to accept that.
[2-4] Defendant Faltas: But when he is saying he gave me something when he didn't I have the right to stand up for myself and say, no, I didn't --
[5-9] The Court: You have a right to do so when the court wishes to hear from you. You've got to understand that. We got this all straightened out. There was a misunderstanding. It was copied, it was not presented to you. We figured that out but it doesn't help when you keep on talking. It doesn't help.
[10-11] Defendant Faltas: So who was correct? Who was factually correct? He was saying --
[12]The Court: What difference does it make?
[13-14]Defendant Faltas: It makes a lot of difference that you don't give me any credibility. That's why I ask Your Honor to --
[15-16]The Court: Did I not make sure that you had these papers, Ms. Faltas? Did I not make sure of that?
[17]Defendant Faltas: Your Honor, I'm Dr. Faltas.
[18-19]The Court: I understand that, ma'am, but you are not entitled to a title in here.
[20]Defendant Faltas: Yes, ma'am, I am.
[21]The Court: Everyone is Mr. or Ms. In this court.
[22-23]Defendant Faltas: I'm sorry. I'm more educated than the average Ms. or Mr.
[24-25]The Court: That doesn't make any difference on everybody is equal under the law. You are not superior.
[page 11, lines 1-3] Defendant Faltas: I'm not superior but my I didn't get this title for being (inaudible), I got it through a lot of study which -
[4-5] The Court: Well, that has nothing to do with being in court. That doesn't make you better than somebody else.
[6-12]Defendant Faltas: I am better because I don't tell lies. And I think that people who tell lies are not as good as I am. And I am going to be (inaudible) speaker who tell lies and I've had a history of the City using witnesses who tell lies and I went through a six-year ordeal to clear myself so I don't have particular confidence in the City as prosecutors. And I am sorry I do not have to apologize for that. It's not paranoid, it's based on actual life experience.
[13-17]The Court: Well, it doesn't make any difference. That's your opinion but that's not what you can present to the court. That's fine, I understand that but that is not going to help your case. It is not going to be relevant to the jury. It's not going to be relevant.
[18-19]Defendant Faltas: What is going to be relevant for the jury --
[20]The Court: Evidence.

[21-23]Defendant Faltas: Yes, and part of the evidence is the actual site for them to go and see and I would like arrangements made. The other --

[24 – page 12, line 11] The Court: Ma'am, let me tell you something. It is very, very, very, very unusual to take the jury out to a site and it's not normally done on a misdemeanor and you are going to have to have some very compelling reason and I cannot at this point imagine what that might be but I think you are going to have to present your evidence. I understand from what little I've seen so far there's apartment three and apartment four, but that is not going to require -- just off the top of my head I can't see that it would require a visit. But that is not a ruling. That will have to be made by the trial judge. And you, ma'am, need to learn to cut down on your argument with the court and learn and accept that the court, the judge, runs this court. And when we ask you to be quiet then you need to do so because there's a good reason for that.

*[12]**Defendant Faltas:** So have you ruled on the recusal?*

*[13-14]**The Court:** No, ma'am, I'm not going to recuse myself. No, ma'am.*

[15- 20]Defendant Faltas: All right. Then may I put on the record an exception to that and may I renew the fact that last time we came before Judge Turner and Mr. Fernandez promised that whenever he sends me something he'll also back it up by fax because those people have been opening my mailbox and taking things out of it.

[21-24]The Court: Well, you've just said that but I'm not making any ruling about whatever you present that for. It's not relevant at this time and you'll have to have a transcript of a court record if you want to put something that happened before.

[25 – page 12, line 1] Defendant Faltas: That's exactly what I asked Mr. Fernandez for this morning.

[2-4] The Court: You don't ask Mr. Fernandez for the transcript. There's a procedure for that. Mr. Canteen can tell you where to go. Thank you.

[5] Court Officer: This way, ma'am.

[6] Defendant Faltas: But Happy Thanksgiving, Judge.

[7] The Court: Thank you.

[8] Defendant Faltas: So where am I going now?

[9-10] The Court: The court officer is waiting to help you out there.

[11] Defendant Faltas: judge, I need the transcript--

[12-13]The Court: Ma'am, the court officer is waiting for you out there to tell you where to go.

[14-15]Defendant Faltas: But only you can order that I get the transcript free for indigents.

[16]The Court: Ma'am, that's not before me today.

[17]Defendant Faltas: So may I put it before you today?

[18]The Court: No, ma'am. No, ma'am, not today. No, ma'am.

[25](adjourned)

[page 14] State of South Carolina)
County of Richland)
City Of Columbia,)
vs.)
Marje-Therese Assa'ad-Faltas,)
Defendants.)

In The Municipal Court for the City of Columbia

CERTIFICATE

This is to certify that the within hearing, consisting of thirteen (13) pages, is a true and correct transcript of record on November 17, 2009, said transcript being prepared to the best of my ability from a tape recording provided to me without the benefit of my being present at the proceeding. I further certify that I am not related to any of the parties in this matter or their counsel, nor do I have any interest, financial or otherwise, in the outcome of the same.

In witness whereof I have hereunto set my hand and seal on the 18th day of November, 2009.

[S/] Nancy S. Ahrens

Notary public for South Carolina

My commission expires: 03-09-19

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS

RICHLAND COUNTY CIRCUIT COURT
No. 09-CP-40-02219

Marie Assa'ad-Faltas, MD, MPH,
Plaintiff,
vs.
Dinah Steele; Steele Enterprises, d.b.a. "Compustyles"; Larry Mason; AAA Investigations, a business wholly or partially owned by Larry Mason; Joseph and Idola Nadau; David and Brenda Bullard; James Perry Schneider; Sharon B. Koon; Eugene W. (Buddy) Koon, Jr.; Eugene W. (Trip) Koon III; the Evers-Koon Group, d.b.a. EKG of South Carolina; Southern Accents, a business wholly owned by Sharon B. Koon; Cynthia Childers; Lasalle Bank National Association, as Trustee for RAMP 2007SP1, a business; The City of Columbia, SC, a municipality; Steve Gantt, in his official capacity as Interim City Manager for the City of Columbia; Ken Gaines, in his official capacity as City Attorney for the City of Columbia; John Dooley, in his official capacity as Director of Utilities for the City of Columbia; Tandy Carter, in his official capacity as Chief of Police for the City of Columbia; Jane Roe; John Doe; and other unknown-named persons and entities who injured Plaintiff,
Defendants.

RICHLAND COUNTY
FILED
2009 NOV 20 PM 5:00
JEANETTE W. WALBRECK
C.C.P. & G.S.

FIRST AMENDED AND SUPPLEMENTAL COMPLAINT (Trial by Jury Requested)
And MOTION FOR TEMPORARY RESTRAINING ORDER and PRELIMINARY INJUNCTION
(Fourth substitution of "First Amended Complaint" to reflect intervening events)

1. All allegations arising out of events previous to, and on, 23 March 2009, in this First Amended and Supplemental Complaint relate back to the date of the initial Complaint in this case.
2. All allegations against the City of Columbia, SC, ("the City") and its agents arise out of events postdating 19 May 2009 and have never been asserted before in any case or controversy.
3. Plaintiff Marie Assa'ad-Faltas, MD, MPH ("Dr. Faltas") is a Coptic Orthodox Christian quadrilingual physician and Master of Public Health of Egyptian national origin, Afro-Asian ethnicity and Catholic education, who legally resides in Richland County, SC. Of relevance to this case is that she first came to the U.S. in August 1979 on an expedited subset of the Fulbright Scholarships to earn a graduate degree in Public Health, which she did at the University of North Carolina at Chapel Hill (UNC-CH) in 1982. In her 1979 application to the Fulbright Scholarship, she emphasized her interest in solar energy and its potentials to promote public health. While studying at UNC-CH, she suffered a tragic hospitalization which caused her many physical disabilities, including later-developed asthma and easy fatigability. The natural person defendants herein who met Dr. Faltas know of her Coptic identity and faith, disabilities, and interest in solar energy.
4. Also specially relevant hereto are Dr. Faltas' specialty of, and commitment to, Preventive Medicine and her moral convictions and practices which prevent her from fighting evil with evil.
5. Sharon, Buddy and Trip Koon ("the Koons"), Mason, Steele, Joseph and Idola Nadau ("the Nadaus"), David and Brenda Bullard, ("the Bullards"), Schneider, Childers, Roe and Doe, are natural persons residing/doing business in Richland County, SC. On information and belief, they are all white of European ethnicity; none of them is disabled or Catholic or Orthodox Christian; but they all harbor, and their herein-alleged acts against Plaintiff were and are motivated by greed in addition to racial, ethnic, religious and anti-immigrant animus against Plaintiff.

6. The City is capable of suing and of being sued as a political subdivision of South Carolina.

7. On information and belief, with the possible exception of Trip Koon and James Schneider, none of the individual Defendants other than agents of the City has a college degree or skills allowing him/her to produce or sell to others goods or services related to life's necessities (nutrition, shelter, education, and healthcare) or to true arts and none ever provided honest goods/services. Rather, each defendant got money solely by providing various illusory services at inflated rates.

8. Defendants Steele Enterprises d.b.a. Compustyles, AAA Investigations, the Evers-Koon Group dba/EKG of South Carolina, and Southern Accents are separate individually-or-family-owned businesses with principal or sole locations in Richland County, South Carolina. Plaintiff is presently without complete information about the sizes or incorporation status of said businesses.

9. On information and belief, Defendant Lasalle Bank National Association, as Trustee for RAMP 2007SP1, ("Lasalle") does business in South Carolina and receives federal funds specifically limited to alleviate genuine hardships on residents of owner-occupied residences whose houses become subject to foreclosure sales due to non-manufactured default on the respective mortgage.

10. On information and belief, Steele is married to or cohabits with Mason, who holds himself out as a present or former police officer and private investigator but is in reality a home wrecker.

11. Steele owns, in whole or part, Steele Enterprises and both own sixteen single-family rental units. Steele and Steele Enterprises are thus governed by South Carolina's Fair Housing Law, §§31-21-10 *et seq*, SC Code of Laws. Mason owns, in whole or part, AAA investigations. He and that business are mutually responsible for all each other's acts on behalf of each other.

12. On information and belief, Childers is a realtor, married to a South Carolina law enforcement officer, and a close friend of the Koons. Roe and Doe have law-enforcement connections.

13. Sharon Koon is married to Buddy Koon. Their son, Trip Koon, lived in his adulthood in their household for most of the times giving rise to this Complaint. The Koons as a household at one time owned four or more single family residences, which they sell and rent out. The Koons are thus governed by South Carolina's Fair Housing Law, §§31-21-10 *et seq*, SC Code of Laws. The Koons own or owned the Evers-Koon Group dba/EKG of South Carolina, in whole or part.

14. Plaintiff is the first-born to Souraya Fares, an elderly U.S. citizen, who recently bought land now addressed 324 Byron Road, Columbia, SC 29209 land ("*the* parcel") for Dr. Faltas to build a solar house. Although Citizen Fares paid the whole price of *the* parcel and all expenses so far incidental to developing and acquiring it, she allowed Dr. Faltas to be her joint owner on the title.

15. Dr. Faltas' late father was a U.S. citizen, a saint and a brilliant engineer. When Sharon Koon first met Dr. Faltas, Dr. Faltas was in mourning garb for her deceased father and was seen to be consistently so clad for a three-year period. When Sharon Koon first saw Dr. Faltas in a non-mourning outfit in May 2005 (after three years since Engineer Faltas' death), Koon remarked that Dr. Faltas looked good in color. Sharon Koon also met Dr. Faltas' mother at least twice.

16. Dr. Faltas entered medical school at age seventeen and graduated With Honors at age twenty-four but continued to love and study engineering on her own and to develop beneficial relationships among Medicine, Public Health and Engineering. She needs to honor her father's memory and perpetuate his talents as an engineer through her own inventions including a solar house.

17. The events complained of herein occurred in 2008 and 2009 or started in 2002 and continued to 2008 or to the present. This Court has jurisdiction, venue is proper, and this lawsuit is timely.

First Cause of Action: Civil and Criminal Conspiracies

18. All other allegations of this Complaint are incorporated herein by reference.

19. The Koons conspired with Childers and others to fraudulently access federal funds meant for others in the federal Home Mortgage Assistance Program.

20. From January 2008 *and continuing*, the Koons further conspired with Childers and others to invade Dr. Faltas' privacy, convert her family's money and belongings kept in a house on 436 Byron Road, Columbia, SC 29209, which Dr. Faltas rented from Sharon Koon from 9 August 2002 to 10 October 2008 ("*the* rented house"), pry into Dr. Faltas' inventions with the intent of copying and/or appropriating them, defame her, maliciously prosecute her, falsely transfer Evers-Koon's delinquent tax bills to her, and intentionally inflict severe mental suffering on her.

21. In 2006 *and continuing* Steele conspired with Mason, Schneider and others to defraud the City from payment for sewer service to Buildings 300 and 304 Byron Road, Columbia, SC 29209, which Schneider sold to Steele in April 2006 ("Steele's rental buildings on Byron"), and to use land adjacent thereto without paying just compensation to its owners. They further conspired to erect or maintain unpermitted buildings in flood-plain areas in violation of the building codes.

22. Most of the torts alleged herein, specially defamation and outrage, inflicted by Defendants on Plaintiff were meant to cover up Defendants' criminal enterprises and give an illusion of Defendants having acted out of impatience with Plaintiff, when in fact she is blameless and hapless. Defendant Steele and Mason's, and their co-conspirators' torts and crimes against Plaintiff were also meant to distract, intimidate and deter Plaintiff from exposing Defendants' malfeasance.

23. To fulfill the object of their conspiracy, the Koons used their law enforcement connections to have Dr. Faltas, at 9:00 a.m. on 30 September 2008, prematurely set out from *the* rented house though her rent was fully paid through 9 October 2008. They did so by *interalia* by (a) Sharon Koon signing an affidavit undertaking on herself all civil liability resulting from the eviction and absolving Richland County's Sheriff and Magistrates of all civil liability resulting from same; (b) fraudulently concealing from the courts and the sheriff that the Koons' purpose in the premature set out of Dr. Faltas is for the Koons themselves to commit "occupancy fraud" by defaulting on the mortgage of *the* rented house but still keeping it under an illusory claim that it is their primary residence; (c)*falsely* concealing from Richland County's Sheriff that Dr. Faltas' rent was paid through 8 October 2008 and that she was moving on her own in an orderly manner; and (d)*falsely* representing to Richland County's Sheriff that Dr. Faltas had been served with an eviction notice on 25 September 2008. She had been served with an eviction notice on 9 September 2008; but it was recalled as improvidently issued. She had been otherwise assured that she will not be set her out but will be given every consideration so long as she was moving on her own, which she had started doing in mid-September 2008 and had so informed Ms. Koon.

24. Incidentally to the set out, and although Richland County's Sheriff had told Dr. Faltas that she may return to retrieve her and her family's property which was set out to the yard of *the* rented house, the Koons and Childers hindered Dr. Faltas' access to that yard after refusing to let said property be taken directly from *the* rented house onto another moving truck after the first truck she had provided was filled up. Said defendants thus and otherwise knowingly and recklessly caused said property to be damaged, stolen, and/or otherwise disordered beyond use. They later falsely pretended they were entitled by law to treat said property "as trash."

25. The Koons' intent to unjustly take money from Dr. Faltas is proven by their refusal to refund her deposit and unused rent or give accounting of either although Dr. Faltas timely demanded it in writing. The Koons' pretext of needing to move into the rented house as soon as possible to "downsize" from the house on 111 Eagle Road and sell or rent the latter out is belied by the facts that the latter house was on the market for sale and later for rent from February 2008 to May 2009 **but was *not* sold or rented** until after Dr. Faltas challenged their schemes in court.

26. The Koons and Childers knew there was no prospective buyer or tenant for their house on 111 Eagle Road and had no reason to rush Dr. Faltas out of *the* rented house except their desire to inflict severe mental distress on her and punish her for her refusal to cower to their demand that she pay what they knew to be 15%-40% above the fair market rental value of *the* rented house **and except for their hurry to fraudulently access federal funds meant for others.**

27. In their dealings with Dr. Faltas, the Koons acted through the Evers-Koon Group dba/EKG of South Carolina and Southern Accents by sending her faxes from said businesses' offices and letters in their their envelopes and Fed-Ex labels, by calling her from said businesses' phones, and by depositing some of her rent checks and money orders into said businesses' accounts.

28. In their dealings with Dr. Faltas, Steele and Mason acted through Steele Enterprises and AAA Investigations by calling her from said businesses' phones, sending her letters from said businesses' address, and depositing some of her rent checks into said businesses' accounts.

29. On information and belief, from 12 March 2009 *and continuing*, immediately on learning that Fares and Faltas bought *the* parcel, Steele, Mason, and the Koons, conspired together and with others to illegally wrest possession of it from Dr. Faltas by suddenly trying to evict her under false pretexts from the unit she rents from Steele at 304 Byron Road, Apartment 3, Columbia, SC, 29209 ("*her* Byron Road apartment"), by sabotaging her building permit, by defaming and threatening her, and by invading her privacy. Specifically but not exclusively, Mason told Dr. Faltas on 12 and 14 March 2009 that he will have her things **"put on the street, not in the parking lot as was done before"** and have her arrested and, without her permission, photographed the interior of her cars parked in front of *the* Byron Road apartment as "evidence" to the neighbors that she should not reside among them. Later, Steele and Mason, **by their own sworn testimony in open court and on audiotapes made by Dr. Faltas,** wrote **"sixteen Senators and Congressmen"** to try to get Dr. Faltas deported, have her driver's license canceled, have her mother denaturalized, revoke Dr. Faltas' medical licenses, and have her mother's social security retirement checks and concomitant Medicare coverage stopped—all under false pretenses that Dr. Faltas is "an illegal alien" and whose mother had been dead but that Dr. Faltas fraudulently continued to receive her mother's checks. Steele's and Mason's acts are particularly egregious as they are barely literate themselves and have no understanding of immigration and naturalization laws or of medical licensing procedures. They are horrendously malicious as they knew Dr. Faltas' mother has, in June and July 2009 suffered an extremely serious and debilitating series of surgeries and that he physique and psyche were fragile. They further could not have failed to know that discontinuation of Citizen Fares' Medicare coverage in the middle of the crucial medical she was receiving could have caused her death or permanent disability. They also could not have failed to know, but likely intentionally used, Dr. Faltas' devotion to her mother to pressure Dr. Faltas to cower to Steele's and Mason's criminal demands of Dr. Faltas.

30. Steele and Mason's acts were with knowledge that the service sewer lines from Steele's rental buildings on Byron cross *the* parcel and thus trespass on it. Steele and Mason continued their illegalities even after *the* City offered to install new sewer taps for Steele's rental buildings on Byron provided Steele installs the pipes to connect to said new cleanouts at Steele's expense and even after Dr. Faltas offered, as an alternative, to negotiate a reasonable easement with Steele.
31. Steele and Mason's refusal to make small expenses to meet their legal obligations, and their choice to resort to thuggery, intimidation, fraud, and other torts and crimes, to avoid such small expenses, makes them dangerous people whom the law should promptly punish and enjoin.

Second Cause of Action: Racially, Ethnically, Religiously and Anti-Immigrant-Motivated Conspiracies To Deny Civil Rights to Equal Housing

32. All other allegations of this Complaint are incorporated herein by reference.
33. On learning Dr. Faltas acquired *the* parcel, Mason and Steele copied her application for a special exception to build a residence on it and threatened to appeal it although they have no interest in the case except their desire to illegally use *the* parcel and trespass on it without ever buying it.
34. When Dr. Faltas tried to appease Mason by returning his call and asking him how her building what is possibly South Carolina's first solar house could hurt him or Steele, he said he copied her drawings for that house and **"it looks like a church"** and that instead of building a single family residence next door to Steele's rental buildings on Byron, Dr. Faltas **"should go back to the country [she] came from"** not build **"in this country,"** denigrated the **"Obama '08"** sticker on her car, twice called President Obama **"a big piece of s--- like you"** and otherwise insulted her.
35. In open court on 29-30 September 2009, Mason testified that he and Steele tried to get Plaintiff deported, first by contacting **"INS"** and, when that failed, by writing to **"sixteen Senators and Congressmen"** that Dr. Faltas ***"literally* files a new lawsuit every day,"** already filed **"two hundred lawsuits"** and **"is terrorizing our courts."** In open court on 14 October 2009, in proceedings of which audio recordings are made by Columbia Magistrate Hudnell and by Dr. Faltas with Magistrate Hudnell's permission, Mason insisted Plaintiff does **"not have any civil rights,"** that he **"guarantee[s]"** she will never acquire U.S. citizenship but should be deported instead and that *the* City police is about to issue a **"felony warrant"** against Plaintiff to incarcerate her.
36. Since April 2009, with heightened frequency since mid-September 2009, Mason did, and caused Mitch Jones and Teresa Ingram to, often stand under Plaintiff's balcony and window, and loudly taunt her with shouts to the effect that her lawful Permanent Resident Alien Card (**"Green Card"**) is about to expire or be revoked, that she is not really a doctor but had applied to enter the U.S. **"as a nanny,"** and is a **"crazy-a-- Egyptian b----"** whose **"whoring a--"** will be kicked
37. While driving on Byron Road after she had been set out from *the* rented house and been served with a trial date to imprison her for 30 days for having parked in the front yard of that house *when she legally resided in it,* Dr. Faltas saw the Koons, who had moved into that house, **with five cars parked in the front yard of that same house.** Dr. Faltas needed to photograph the Koons' parking to prove selective prosecution. Thereupon, Sharon Koon and Childers came out laughing and told Dr. Faltas that no one is really concerned about cars parked in the front yard of any house but they wanted her out of *the* rented house and used parking as a pretext. They also shouted to her, within hearing of the neighbors and passers-by, that she is mentally ill and needs professional treatment for pointing out the heartless hypocrisy of the Koons' acts.
38. Dr. Faltas is certain that her white neighbors and the Koons wanted her out for racial reasons.

Third Cause of Action: Intentional Infliction of Mental Suffering

39. All other allegations of this Complaint are incorporated herein by reference.

40. Knowing that Dr. Faltas cares very much about, and worked very hard on, her solar energy inventions, and that the hindrance of those will cause her severe mental suffering in addition to financial loss, Mason and Steele are cruelly and recklessly trying to scuttle her solar building.

42. Knowing that Dr. Faltas is a sincere Christian, proud of her Coptic heritage, a diligent reader, and devoted to her family, the Koons and Childers, during the set out process, threw Dr. Faltas' replica of a Coptic icon of Virgin and Christ in the mud and let their dogs defecate near it before Dr. Faltas was able to retrieve it. They tore some of her family pictures, spilled her perfumes, broke her tools and souvenirs, dropped, crumpled and mixed her books and files, and stopped to eat pizza and drink beer and threw the leftovers and empty containers over her clothes.

43. Specially, though not the only loss, Dr. Faltas had carried to her father's funeral a hand-made navy-blue leather purse he had brought her from Egypt. In his wake at a funeral parlor, she clipped some of his hair with scissors provided to her there, kept the scissors and an envelope containing the hair clippings in that purse, and never carried it again. That purse was stolen during the set out; and as soon as she so discovered, she called the Koons' lawyer's assistant to see if they would help to trace it. Dr. Faltas promised to buy it back—no questions asked—from whoever has it. The Koons refused to help even though they had photographed the interior of Dr. Faltas' closets during the set out and a photo of that purse could have helped police locate it.

44. Although Dr. Faltas—thank God—later found some of her late father's hair in other envelopes in a secure location, the months she thought her last relic of him was taken from her were very painful; and the permanent loss of the purse and scissors continues to inflict pain on her.

45. To further inflict extreme emotional distress on Dr. Faltas, during the 30 September 2008 set out, the Koons and Childers refused to use the fifty-plus plastic buckets Dr. Faltas told them can be used to orderly and safely move her belongings out. Instead, they placed them in black plastic trash bags and put them out in the yard to give passers-by a false impression that she kept so much trash in her house. The Koons' wanton throwing of Dr. Faltas' belongings in black plastic trash bags damaged them and caused her to spend several months and continuing to put those items which were not stolen or broken back in place. So doing reopens her emotional wounds.

46. To inflict more outrage on Dr. Faltas, the Koons, Childers, Mason and Steele wantonly and falsely claim Dr. Faltas is mentally ill and dirty and urge her neighbors to harass and reject her.

47. As a result of Defendants' actions, Dr. Faltas suffered severe mental distress which damaged her health and caused her loss of opportunities to advance in her useful endeavors.

Fourth Cause of Action: Abuse of Process and Malicious Prosecution

48. All other allegations of this Complaint are incorporated herein by reference.

49. The Koons are still attempting to have Dr. Faltas imprisoned for front-yard parking. Further, in October 2008, Sharon Koon filed a false police report to the effect that Dr. Faltas often opens Koon's mailbox at *the* rented house. After having been set out from that house, Dr. Faltas never touched its mailbox; and Koon knew it. Ms. Koon also filed a false police report to the effect that Dr. Faltas harassed her. Dr. Faltas never did so but only took pictures of the very front-yard parking which the Koons practice with impunity but for which they want Dr. Faltas imprisoned.

50. On 14 and 15 March 2009 *and continuing*, Mason repeatedly threatened to take out a warrant falsely alleging Dr. Faltas **"stole [his] signpost."** Dr. Faltas never stole anything from anyone. Caring to prevent injury to others, upon closing on *the* parcel, she started cleaning it and uprooting the vegetation overgrown on it. In that vegetation in the middle of the parcel was lying a heavy rusted metal post for which she bought reflective digits and asked the men who helped her clean *the* parcel to securely plant the signpost in the front of *the* parcel to facilitate future building inspectors' location of the newly-created address. Mason has no proof he ever owned the signpost and knew it to be too heavy for Dr. Faltas to have moved it by herself if it had previously been on "*his*" land. Further, on 14 April 2009, Mason and Steele attended a hearing in Richland County Magistrate's Court on Dr. Faltas' application for an order restraining Mason from harassing her. In that hearing, City of Columbia Investigating Police Officer J. M. Folding testified that he investigated Mason's allegations and determined that Dr. Faltas did not steal the sign and so told Mason, who persists in defaming Dr. Faltas by claiming she stole the sign and has other incidents of **"theft from WalMart"** and in threatening to have her arrested for the sign.

51. In September 2009, Steele and Mason filed a **"claim and delivery"** against Dr. Faltas falsely claiming she had stolen their sign. Schneider assisted them in that with a false affidavit.

52. Between March and October 2009, illegally using Dr. Faltas' SC driver's license number they had requested from her to execute the lease on her Byron Road Apartment under pretext that it is required from non-citizens, Steele and Mason urged SC's Department of Motor Vehicles to cancel Dr. Faltas' driver's license under false pretext that she is **"an illegal alien."** Upon receipt of the DMV's letter, Dr. Faltas promptly faxed DMV her valid Green Card and DMV responded that her proof is valid and her driver's license will not be canceled. The quasi-prosecution was resolved in favor; but the effort and anxiety caused her damages.

Fifth Cause of Action: Invasion of Privacy

53. All other allegations of this Complaint are incorporated herein by reference.

54. In September 2008, and possibly later without her knowledge, Mason opened Dr. Faltas' Byron Road apartment closets without her consent.

55. In March 2009, Mason surreptitiously photographed the interior of Dr. Faltas' vehicles.

56. During the 30 September 2008 set-out, the Koons rifled through Dr. Faltas' papers and read some of them. They also photographed her belongings and refused to return the pictures to her.

57. In September-October 2009, Mason took from Dr. Faltas' door six different times a new set of computer-made signs quoting Bible verses and warning against trespass which she had scotch-taped to her door. He intends to take her fingerprints off the tape and use them nefariously.

58. These acts were knowingly intended to invade Dr. Faltas' privacy and make her suffer. As a result she felt and continues to feel naked, violated and vulnerable, all of which affected her physical health and caused her severe mental suffering which no reasonable person can bear.

Sixth and Seventh Causes of Action: Tortious Interference with Existing and Prospective Advantageous Relationships

59. All other allegations of this Complaint are incorporated herein by reference.

60. *The* parcel was not previously addressed as 324 Byron Road, nor did it exist as a standalone parcel. It was only the "pole" of a "flagpole" lot and store on 301 Veterans Road, Columbia, SC

29209. It was Dr. Faltas' ingenuity and diligence which, by the Grace of God, persuaded the appropriate authorities that a neglected, overgrown land-strip can be made useful and beautiful. For that, she worked over two months and in the process developed mutual good will and cordiality with relevant offices. The variance, plat approval, and address assignment she obtained are the result of her hard work and raise the value of *the* parcel from its purchase price by her work equity in it. Steele and Mason fully knew the foregoing after reviewing her applications. In having frivolously and maliciously insinuated to relevant officers that said officers had mistakenly granted Dr. Faltas' applications, Steele and Mason tortiously interfered with the advantageous relationship Dr. Faltas now has with the appropriate offices and with her buildable parcel.

62. In trying to make peace with Mason and Steele, when Dr. Faltas returned Mason's call, she tried to explain to him that she will—God willing—build and live in the house herself, which puts her out of rental competition with Steele's rental buildings on Byron. He responded that, from the drawings he saw in her application for a special exception, **"I don't know how you can build it. That will be a million dollar house."** It will—God willing—be a very valuable house, not due to the dollar cost of building it, but due the ingenuity and care of Dr. Faltas' invention. Steele and Mason thus know Dr. Faltas has a prospect of building a million-dollar house there.

63. Mason also testified in court, and had told Dr. Faltas by phone, that he will make sure she will never get the final step in her building permit as he asked *the* City's permit inspector to show him all building plans she submits and to give him the identity of all engineers she engages.

64. In common knowledge, President Obama promotes green buildings and renewable fuels. Dr. Faltas' solar house, when built, could bring her to his attention and otherwise bring her royalties and renown. Mason and Steele are knowingly, tortiously and maliciously trying to scuttle it.

65. If Mason's and Steele's malicious and tortious interference is not immediately enjoined, Dr. Faltas stands to lose her work equity in making 324 Byron Road a buildable parcel and also risks losing her potential place as builder of SC's first solar house with the benefits attendant to that. She also needs to build, and reside in, a solar house as soon as possible to get more natural Vitamin D and otherwise rescue her health from the damage caused to it by shabby rental units.

Eighth Cause of Action: Violations of Civil Rights

66. All other allegations of this Complaint are incorporated herein by reference.

67. Under color of law, because he has some government-issued badge, which he flashed to Dr. Faltas when he tried to have her give him her sign post, Mason is violating Dr. Faltas' civil right to own property and to equal accommodation under the law. Mason is co-opting in his schemes the powers of various City, State, and Federal agencies and officials, specially *the* City Police Department many of whose members are indifferent to Plaintiff's need to be protected from him.

Ninth Cause of Action: Abuse of Authority for Private Gain

68. All other allegations of this Complaint are incorporated herein by reference.

69. Mason has a government-issued badge which he flashed to Dr. Faltas when trying to unjustly take her sign post from her. Although Dr. Faltas called the police to make him stop harassing her, *he* did not file a report with the police officers who arrived. That proves he knew the sign post was not his and that he was trying to rob Dr. Faltas of it by flashing his government badge.

70. In addition to flashing his badge to intimidate Dr. Faltas, when Dr. Faltas asked to speak to a police supervisor and insisted that a supervisor investigate whether Mason's badge is authentic

or counterfeit and whether, if authentic, Mason is illegally using it for private gain, Mason asked Sargent Connell to omit from the police report Mason's real last name; and the former complied. Dr. Faltas believes that Mason thus abused his authority to conceal his true last name from her.

71. In addition, Mason told Dr. Faltas in threatening manners that he knows all the judges by their first names and their home phone numbers and can call any judge any hour. He further told her that a judge directed him, in the evening of Thursday, 12 March 2009, to give Dr. Faltas a termination notice and assured him that she can be set out shortly thereafter.

Tenth Cause of Action: Extortion and Attempted Conversion

72. All other allegations of this Complaint are incorporated herein by reference.

73. Steele and Mason know that they have no basis to evict Dr. Faltas and had taken and cashed her rent check on 2 March 2009. But, upon learning in the afternoon of 12 March 2009 that her mother and she had acquired *the* parcel, they prepared an invalid termination notice under false pretexts and knocked on her door late at night to leave it. Also upon learning in the afternoon of 12 March 2009 that Dr. Faltas and her mother had acquired *the* parcel, Mason called Dr. Faltas, abused her, told her that he will evict her from her apartment, and claimed he had **"an oral agreement"** to buy that lot but that she interfered with it. Dr. Faltas checked with that lot's seller, who denied any agreement to sell anything to Mason and/or Steele. That seller, Dave Winn, had told Dr. Faltas that he had been previously approached by a real estate agent about that lot but did not trust him. Mr. Winn also so testified in the 14 April 2009 hearing in magistrate's court.

74. Mason also told Dr. Faltas that, after she gets evicted, he will take "his" signpost **"back"** and that he will trespass on her lot **"all [he] want[s]"** because she will not be there to see it.

75. Mason admitted in his testimony on 29 and 30 September 2009, and again repeated in court on 14 October 2009, that Steele and Mason are unwilling to reroute the sewer lines from where they cross *the* parcel because Steele and Mason will not do anything unless ordered by a court.

Eleventh Cause of Action: Obstruction of Justice

76. All other allegations of this Complaint are incorporated herein by reference.

77. When Dr. Faltas tried to have a lawyer speak reason to Mason, Mason responded that he already prepared **"nine witnesses"** against Dr. Faltas. She believes he prepared them to perjure themselves and that such and his *exparte* contacts with judges constitute obstruction of justice.

78. Specifically but not exclusively, Steele, Mason and Schneider, intimidated one Charlie White, who had *sua sponte* written to Dr. Faltas that Steele had asked the tenants to testify **"blown out of proportion against [Dr. Faltas],"** into watering down his testimony and paid Teresa Ingram and Mitch Jones to testify falsely against Dr. Faltas in court and file false police reports against her.

79. Dr. Faltas had a crushing experience of having been falsely accused of label swapping and first convicted with a fabricated Polaroid. It took her over six years to prove her innocence but many people, including Defendants herein and their attorneys still knowingly falsely claim she has **"a shoplifting conviction."** So, though she knows herself to be totally innocent of the accusations made against her, she knows that she can be falsely convicted and would have to spend a lot of effort, time and money to clear herself but may never be able to remove the stigma even then.

For a Twelfth Cause of Action: Defamation

80. All other allegations of this Complaint are incorporated herein by reference.

81. With knowledge of their falsity or reckless disregard for their truth or falsity, the Koons and Childers intentionally defamed Dr. Faltas throughout 2008 and 2009 by publishing to others words to the effect that she is insane and filthy; and, in March 2009 *and continuing*, Steele and Mason intentionally defamed Dr. Faltas with words to the effect that she stole a signpost, harasses her neighbors, stole Mason's contract with Winn and is an illegal alien. Defendants' said words lowered Plaintiff in her neighbors' eyes and induced some of them (if they indeed did so) to sign petitions to prevent her from building her solar house on *the* parcel.

Thirteenth Cause of Action: Fraud

82. All other allegations of this Complaint are incorporated herein by reference.

83. In July 2002, Sharon Koon defrauded Dr. Faltas by telling her *the* rented house previously rented for $795/month and another potential tenant was interested in it. Koon further defrauded Dr. Faltas by assuring her that, if they so wrote in the lease, tenant alone can give a thirty-day notice of termination of a month-to-month tenancy after expiration of the initial term. In reliance thereon, Dr. Faltas paid about $600 to upgrade the house and agreed to pay $795/month thereafter. When she discovered, and by exercise of due diligence could not earlier have discovered, that all previous tenants of that rented house (who were white and not disabled) paid substantially less than $795 per month, the Koons caused her to be brutally set out to punish her.

84. In August 2008, Steele and Mason defrauded Dr. Faltas by falsely representing to her that the rent for her Byron Road apartment is $550/month, that another prospective tenant was ready to rent it if she does not hurry, and that it was safe and habitable. In fact, Steele owns on 304 and 300 Byron Road eight basically identical apartments. For each such apartment's rent, Steele charges American-born white male and female tenants between $320 and $445 per month; but only the foreign-born Dr. Faltas and later a Chinese tenant are charged $550/month. Nor was Dr. Faltas' apartment ready in the first half of September 2008. It had a strong paint odor and its balcony was and still is severely sagging and in need of stabilization. Dr. Faltas could not even begin to move in until after the middle of September 2008; but Steele refused to abate the rent.

85. When in January 2009, Dr. Faltas discovered she was paying more rent than other similarly-situated tenants and asked Steele to treat her equally and give her a new six-month lease, Steele responded by threatening to terminate her existing lease. Steele then further defrauded Dr. Faltas by giving her Steele's "word of honor" that if Dr. Faltas continued to pay $550/month in rent, Steele will not terminate Dr. Faltas' lease for six months. Mason later repeated that assurance to Dr. Faltas. In reliance thereon, Dr. Faltas forwent trying to find other housing and paid $550 for each of January, February and March 2009, but under protest. The fraudulent intent of their assurance is proven by their arbitrary and unjustified attempted termination of the lease only ten days after having cashed the $550 check Dr. Faltas had given them for the March 2009 rent.

86. In September 2008, Steele and Mason defrauded Dr. Faltas by assuring her that no tenant is allowed to smoke in the common areas. In reliance thereon, she rented from them; but when she found that other tenants' smoke rises from the common areas to her apartment and aggravates her asthma, Steele and Mason refused to help her but falsely accused her of harassing others.

Fourteenth Cause of Action: Discrimination

87. All other allegations of this Complaint are incorporated herein by reference.

88. Sharon Koon's actions in charging Dr. Faltas more than previous tenants and refusing to make necessary repairs for her and Steele's actions in charging Dr. Faltas more than other tenants and refusing to adjust her rent constitute discrimination by race, national origin, age and disability.

Fifteenth Cause of Action: Retaliation

89. All other allegations of this Complaint are incorporated herein by reference.

90. During her tenancy at the rented house, Dr. Faltas complained to Koon about dangerous trees and faulty electric wiring. Koon retaliated by causing Dr. Faltas to be brutally set out. During her tenancy at 304 Byron Road, Apt. 3, Dr. Faltas complained to Steele and Mason about the sagging balcony, Steele wrote to her to stop "questioning the owner" and is trying to evict her.

Sixteenth Cause of Action: Violations of South Carolina's Residential Landlord Tenant Act, §27-40-10 *et seq.*, SC Code of Laws

91. All other allegations of this Complaint are incorporated herein by reference.

92. From August 2002 to October 2008, Ms. Koon charged Dr. Faltas and her mother above the fair market rental value of the rented house, prevented their quiet enjoyment of said house by refusing to timely make necessary repairs and by otherwise harassing them, refused to refund the rent they had prepaid for part of October 2008 and refused to refund their deposit or account for it. The issues of that house's fair market rent and any abatement thereof by Koon's acts were specifically severed from the counterclaims to Koon's action to evict Dr. Faltas and reserved for a separate law suit by the rulings of Dentsville Magistrate Newsom and Circuit Judge Barber.

93. Plaintiff is entitled to refund of her deposit with interest and treble damages, refund of all rent she was defrauded or coerced into paying in excess of the rented house's fair market value, and refund of the pro-rated rent pre-paid for ten days after her ouster therefrom, and for all damages to her belongings resulting from the Koons' negligent and intentional acts during the set out.

94. In trying to terminate Dr. Faltas' lease for having the parcel, Steele violated SC RLTA's requirements of good faith and fair dealing. Her acts frighten Dr. Faltas and damage her health.

Seventeenth Cause of Action: Assault and Communication of Threats

95. All other allegations of this Complaint are incorporated herein by reference.

96. On 14 March 2009, when Mason was trying to unjustly take Dr. Faltas' signpost and she tried to call the police on her cell phone, he stretched his hand to take it from her. That along with his flashing a badge and threatening to harm her caused her reasonably to fear for her safety. Later in Spring 2009, Mason told Dr. Faltas "I'm going to get you." During a break in court proceedings, he looked to her smugly and said: "We're going to speak to INS this afternoon."

Eighteenth Cause of Action: Negligent or Intentional Damage to Property

97. All other allegations of this Complaint are incorporated herein by reference.

98. The Koons' handling of Dr. Faltas' belongings during the set out, particularly the irreplaceable ones with little monetary value but immense sentimental value, was grossly negligent or calculated to, and did, damage or destroy said items. For that they should pay punitive damages.

Nineteenth Cause of Action: Trespass and Conversion of Property

99. All other allegations of this Complaint are incorporated herein by reference.

100. In April 2009, it was discovered (and by the exercise of due diligence could not earlier have been discovered) that the service (not main) sewer lines from Buildings 300 and 304 Byron Road cross, and trespass on, the parcel. Dr. Faltas promptly wrote to Steele's lawyer offering to negotiate a reasonable easement or asking them to remove their sewer line from her parcel so she can build on it without hindrance. Steele refused to negotiate an easement and failed to reroute her service sewer line away from Dr. Faltas' parcel. Steele is thus continuing to trespass on Dr. Faltas' parcel and convert part of it to Steele's own use without Dr. Faltas' permission.

Twentieth Cause of Action: Fraud upon the Government

101. All other allegations of this Complaint are incorporated herein by reference.

102. The Koons set Dr. Faltas out from the rented house to intentionally default on its mortgage then access federal funds (meant to assist genuinely-defaulting resident owners) by *falsely* claiming the rented house as their primary residence. Their rush to do so damaged Dr. Faltas.

Twenty-First Cause of Action: Negligence and Collusion

103. All other allegations of this Complaint are incorporated herein by reference.

104. In January to March 2009, Lasalle foreclosed on *the* rented house but did not sell it. Through Dr. Faltas' efforts to intervene in the foreclosure case, Lasalle learned that Koon manufactured the default and foreclosure in order to fraudulently access federal funds meant to assist others. But Lasalle dismissed the case in collusion with Koon and negligence with federal funds.

Twenty-Second Cause of Action: Uncompensated Taking

105. All other allegations of this Complaint are incorporated herein by reference.

106. In October 2009, *the* City admitted to Dr. Faltas in writing that it does not own sewer taps located on the parcel; yet, *the* City refused to remove them from *the* parcel or compensate Dr. Faltas for the use of her land by *The* City which prevents her from building her planned house.

Twenty-Third Cause of Action: Negligent or Intentional Endangerment

107. All other allegations of this Complaint are incorporated herein by reference.

108. The Koons and Steele's and Mason's above-alleged and other acts were meant to put Dr. Faltas in risk of death or incapacitation so she does not expose their criminal enterprises. *The* City acted with reckless indifference to Dr. Faltas' needs for protection by the police.

Prayers for Relief

109. Defendant's acts alleged in this Complaint and incorporated herein by reference caused Plaintiff damages including, but not limited to, payment of excess rent and not receiving quiet enjoyment in return, spending time, money and resources to defend herself from Defendants, losing chances to advance in her useful endeavors, being lowered in the community's eyes, and suffering severe mental anguish and health effects. So, she prays this Court to order Defendants to desist from harming her or attempting it, to disclose the extent of their other torts against her, to assist her in mitigating her damages and to pay her actual, compensatory and punitive damages as the Court finds commensurate, and the costs of this action. She also prays for leave to supplement this Complaint as more information is gained, for trial by jury, and for all such other and further relief as this Court deems just and proper.

110. Plaintiff prays the Court to issue its immediate restraining order and preliminary injunction preventing Defendants Steele and Mason from harassing, threatening or abusing Dr. Faltas or her mother or invading their privacy, ordering Mason to surrender to the Court the badge he flashed to Dr. Faltas on 14 March 2009 for the Court to examine it and/or refer it to the issuing authority to determine its authenticity and the appropriateness of his having flashed it for private gain, ordering Steele to immediately negotiate an easement or reroute her sewer service lines away from *the* parcel or ordering the City to cap the taps on *the* parcel, ordering Lasalle to publicly and fairly sell *the* foreclosed-upon rented house, and ordering the City to protect Plaintiff.

Respectfully submitted on 20 November 2009, and served on counsel for all represented named defendants by hand-delivery to their respective offices.

Marie Assa'ad-Faltas, MD, MPH, Plaintiff *pro se*
304 Byron Road, Apt. 3, Columbia, S.C. 29209
Telephone and on-demand fax-receive only: (803) 783-4536

CITY OF COLUMBIA
INTEROFFICE MEMORANDUM

TO:	**The Honorable Mayor Coble and City Council**	**DATE: 11/30/09**
CC:	**Ken Gaines, City Attorney** **Erika Salley, City Clerk**	
FROM:	**Steve Gantt, Interim City Manger** SAG	
RE:	**Richland County Solicitor's Office**	

During the FY 09/10 Budget process, City Council allocated $70,000 for the continued support of a Special City Prosecutor with the Richland County Solicitor's Office. Attached is a letter from the Solicitor's office request for this year. The City has supported this position for several years with great success. I am requesting your approval for this allocation for FY 09/10. Funding is included in the General Fund Budget for this request.

If you have any questions, please let me know.

Attachment

RECEIVED
NOV 30 REC'D
CITY OF COLUMBIA
CITY CLERK

The State of South Carolina

W. Barney Giese
Solicitor

John P. Meadors
Deputy Solicitor

SOLICITOR
Fifth Judicial Circuit
Post Office Box 192
1701 Main Street
Columbia, South Carolina 29202

Phone
(803) 576-1800

Fax (803) 576-1718

November 24, 2009

Steve Gantt, Interim City Manager
City of Columbia
PO Box 147
Columbia, SC 29217
Re: Special City Prosecutor Funding

Dear Mr. Gantt:

Thank you so much for the continued support of the Special City Prosecutor position in my office. The $70,000 you have allocated for the position helps us continue to fund a prosecutor to facilitate the positive relationship we have with the City and streamline prosecution of the cases arising there. I look forward to continuing this relationship for years to come. Please feel free to contact me or Heather Weiss, your Special City Prosecutor, if we can be of service to you.

Sincerely,

Warren B. Giese

STATE OF SOUTH CAROLINA AFFIDAVIT

COUNTY OF RICHLAND
CITY OF COLUMBIA

Personally appeared before me, judge of this court, one Inv. A. Blanton/ H. WEISS who, first being duly sworn, deposes and says that (name of defendant)

Marie Assaad-Faltas

Did within this County and State on the between feb 2009 day of and nov 2009 200__ violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

HARASSMENT 1ST (16-3-1700)

The affiant states that there is probable cause to believe that the defendant above named did commit the crime(s) set forth , and that such probable cause is based upon the following fact(s):

BETWEEN FEB 2009 AND NOV 2009, IN THE CITY OF COLUMBIA, COUNTY OF RICHLAND, VICTIM DINAH STEELE MASON HAS BEEN HARASSED BY DEFENDANT. DEF HAS SHOWN A PATTERN OF INTENTIONAL AND UNREASONABLE INTRUSION INTO THE LIFE OF DINAH STEELE MASON BY WAY OF, BUT NOT LIMITED TO, THE FOLLOWING ACTS: FOLLOWING VICTIM TO HER WORKPLACE, ASSAULTING VICTIM, AND BLOCKING VICTIM IN THE PARKING LOT BY USE OF DEF. VEH. DEFENDANTS CONTINUED BEHAVIOR OF THIS TYPE IS CAUSING UNDUE MENTAL STRESS TO VICTIM, DINAH STEELE MASON AND INTRUDING ON HER DAY TO DAY ROUTINE.

Inv. A. Blanton
AFFIANT

ADDRESS 1 JUSTICE SQ

PHONE 545-3500

Name: Marie Assaad-Faltas Sex: F Height: 505

Address: 304 BYRON RD. APT.3 Race: W Weight: 170

Case Number: 090032758 Date of Birth: 04/04/1953

http://sdrv.ms/10KMX41 [minute A 00:00] **Male voice**: All rise. City Bond Court is now in session. The Honorable Jean Burns now presides.

[minute A 00:08] **B.J. Burns:** Be seated please. Good afternoon. We're about to begin bond settings. The purpose of this hearing is for this Court to try to determine what a fair and reasonable bond would be for you, hmm, considering a number of things: hmm, Number One: The nature of the offense that you're charged with, your ties to this community, your employment, hmm, any criminal record you might have, that type of thing. [minute A 00:36] This is not the time to go into the facts of the case. Everything you say is being recorded. Even if you are represented by counsel, hmm, anything you say here could be used against you in a court of law. Hmm. Now we have two people in here. Everything is General Sessions?

[minute A 00:52] **Male voice:** Both.

[minute A 00:54] **B.J. Burns:** O.K. So both, hmm, defendants here are. Hmm. You're both charged with General Sessions level offenses. So this information pertains to both of you. [minute A 01:05] Your next appearance in court after today is gonna be January the 25th, 2010. That will be in the Richland County Courthouse, which is at, hmm, 1701 Main Street. It will be at nine o'clock a.m. in courtroom 3A. And this will be written down for you. [minute A 01:25] Hmm. You, hmm, this is not a roll, call by the way. That's the first appearance and they'll issue a bench warrant if you're not present. [minute A 01:35] Hmm. You have a right to a preliminary hearing. That's a constitutional right that you have when you go to this first appearance and your next order of business should be about getting a lawyer unless you already have one. [minute A 01:47] You'll be screened through the public defender's office while you're here at the jail. If you want them to represent you, that's fine. If you want to hire your own attorney that's fine. [minute A 01:55] But come January 25th you need to have a lawyer because, hmm, for one thing, you have a constitutional right to a preliminary hearing. [minute A 02:05] It's not mandatory; but, hmm, what they will do is they will present you some paperwork when you go, hmm, to the first appearance; and if you want a preliminary hearing, you simply fill it out and submit it. [minute A 02:15] If you don't want a preliminary hearing, you don't submit the paperwork. [minute A 02:20] But that's why you need a lawyer to help you make that decision as to whether you want to give up that important constitutional right. [minute A 02:25] Hmm. You have a right to a jury trial and one will be provided for you by the General Sessions court. [minute A 02:32] Hmm. In considering bonds, I'm trying to determine two things. Number one: whether I think that you might be a flight risk or whether I think that you will come back to court on your court date. [minute A 02:45] And number two: that while you're out on bond if that's the case whether I think that you would pose a danger or nuisance to the public or, hmm, to an individual in particular. [minute A 02:50] So, that's the reason I'm asking questions that I will. [minute A 02:59] This is, like I said, not the time to go into the event itself. [minute A 03:00] Hmm. You have a right to a jury trial and one will be provided for you by the General Sessions court. Hmm. [minute A 03:08] And these, like I said, these court dates and locations will be written down for you. [minute A 03:12] All right.

[minute A 03:14] **Male voice:** Marie Faltas Assa'ad

[minute A 03:24] **Female voice:** Marie Faltas

[minute 03:43] **B.J. Burns:** All right. Hmm.

[minute 3A 3:44] **Male voice:** Ms. Faltas Assa'ad, this is the bond setting on charges of two counts of harassment, first degree.

[minute 03:51] **B.J. Burns:** All right. Hmm. And Mr. Briggs, ---

[minute 03:52] **Orin G. Briggs:** (interposing) That's right, Your Honor, ---

[minute 03:53] **B.J. Burns:** --- you are representing ---

[minute 03:54] **Orin G. Briggs:** (interposing) nice seeing you again.

[minute 03:56] **B.J. Burns:** Assa'ad-Faltas? Is that how you pronounce your name?

[minute 04:02] **Orin G. Briggs:** (interposing) Yeah. She, she will go by Faltas, Your Honor.

[minute A 04:05] **B.J. Burns:** Faltas?

[minute A 04:06] **Orin G. Briggs:** In short for we Americans who don't know all those names.

[minute A 04:09] **B.J. Burns:** Okay. And, hmm, the assistant solicitor is here.

[minute A 04:10] **Assistant Solicitor Weiss:** Yes, Your Honor, Heather Weiss from the solicitor's office.

[minute A 04:17] **B.J. Burns:** Okay. And, hmm, do we have our victims' advocate?

[minute A 04:20] **Female voice:** Yes, I'm with the victims Ms. Ingram and Ms. Mason.

[minute A 04:33] **B.J. Burns:** Are you Miss. Lowery?

[minute A 04:23] **Female voice:** Rorey.

[minute A 04:33] **B.J. Burns:** Laurie?

[minute A 04:25] **Female voice:** Rorey.

[minute A 04:32] **B.J. Burns:** Okay. We have them up here because none of us can remember anything from one second to another. Ms. Rorey. Okay. Nice to see you, meet you. Hmm. So, start again.

[minute A 04:42] **Female voice:** I'm here with the victims, Ms. Ingram and Ms. Mason.

[minute A 04:48] **B.J. Burns:** Ms. Mason? Okay. And that's Investigator.

[minute A 04:54] **Female voice:** Amanda Blanton.

[minute A 04:55] **Assistant Solicitor Weiss:** This is the husband of the victim, Your Honor.

[minute A 04:48] **B.J. Burns:** Okay. Investigator?

[minute A 04:57] **Female voice:** Blanton.

[minute A 04:49] **B.J. Burns:** Blanton. Okay.

http://sdrv.ms/10KMX41 [minute B 00:02] **B.J. Burns:** All right, Solicitor?

[minute B 00:02] **Female voice:** Thank you, Your Honor.

[minute B 00:04] **B.J. Burns:** Or Miss. Rorey, which ever wants to go first.

[minute B 00:08] **Assistant Solicitor Weiss:** Hmm, on behalf of the state, I would like to go first. Hmm. [minute B 00:09] I'm just here, hmm, for the two harassment charges, Your Honor. [minute B 00:13] The victims are in this case is that, hmm, Ms. Faltas is still, is here on a green card, is still a resident of Egypt, I believe. She could be a flight risk. [minute B 00:27] I'd like to put that on the record, hmm, as well as the fact, Your Honor, we would like to request that Your Honor, hmm, order her to receive a mental health evaluation before a bond is set. [minute B 00:35] I think she is a threat to the community and we will hear from the victims. They are the community, the victims are the residents of the location she lived in. Hmm. [minute B 00:49] These are two charges that are allegations from many different people; but there were two that the City of Columbia felt they're enough to go forward on these two charges, the two charges of harassment. Hmm. [minute B 00:58] So, we would ask for mental health evaluation as well as to tell her to stay from the community based on these allegations and numerous allegations against her for harassment, threats, following them around. She doesn't live in the same complex on Byron Road. There have been eviction, hmm, proceedings which are on appeal right now; and so ---

[minute B 01:16] **B.J. Burns:** (interposing) What proceedings?

[minute B 01:19] **Assistant Solicitor Weiss:** Eviction, hmm, which are on appeal by Ms. Faltas. She was ordered evicted by magistrate's court. She appealed that and the eviction has been stayed simply by the appeal. So, she is currently living there. I don't know how Your Honor would choose to try to protect the community as well as set an appropriate bond for Ms. Faltas. I just wanted to make you aware of that.

[minute B 01:37] **B.J. Burns:** She was ordered not to, not to go back to that residence?

[minute B 01:38] **Assistant Solicitor Weiss:** She was ordered evicted; but that eviction was stayed for residential purposes. So, she was still living in that residence; and all of the victims, hmm ---

[minute B 01:53] **B.J. Burns:** That was not a condition of her former bond, that she move, that she leave.

[minute B 01:55] **Assistant Solicitor Weiss:** Hmm, part, she did not have a former bond.

[minute B 01:56] **B.J. Burns:** Okay. All right.

[minute B 01:57] **Assistant Solicitor Weiss:** This is her, these are her first criminal charges, Your Honor.

[minute B 02:02] **B.J. Burns:** Okay. Hmm. And insofar as the harassment is concerned, I'm assuming you checked the law on that. I know that stalking is a GSC, harassment first ---

[minute B 02:12] **Assistant Solicitor Weiss:** (interposing) Harassment is GSC, harassment in the first degree, Your Honor, that's GSC as well.

[minute B 02:15] **B.J. Burns:** All right. All right, hmm, and the, hmm, Ingram?

[minute B 02:23] **Female voice:** Yes.

[minute B 02:25] **B.J. Burns:** Okay. Tell me, hmm, what, what you know about this, since you're one of the alleged victims.

[minute B 02:29] **T.F. Ingram-Jackson:** Well, hmm, since the beginning of, of August, she harassed myself. Hmm, we are in the same complex.

[minute B 02:43] **B.J. Burns:** What do you mean by that? What? Tell me in your own words what that means.

[minute B 02:44] **T.F. Ingram-Jackson:** Okay. The nonstop taking pictures, hmm, the blocking me with her vehicle physically to, hmm, to be able to take pictures, hmm, she sits downstairs in waiting till I come outside and then she would take the pictures and, hmm, she threw rocks at me, hmm, I believe it was a month or two ago actually.

[minute B 03:04] **B.J. Burns:** Is this out of the clear blue or did, was there some previous issues?

[minute B 03:06] **T.F. Ingram-Jackson:** It's just out of the blue, hmm, in all honesty I think it started back when she asked

me to testify against the landlord and the landlady about issues that she was having. At that time I told her I did not want to get involved with that. I have been living out here for quite a bit of time and I have not had any problems. So, I told her I did not want to get involved with that. And almost immediately, hmm, she started the pictures when my family members come, my friends come. It's nonstop. And even after the restraining order has been, hmm, issued, hmm ---

[minute B 03:44] **B.J. Burns:** (interposing). You took out a restraining order?

[minute B 03:45] **T.F. Ingram-Jackson:** Yes, Your Honor, uh-huh. She, she has these little threats that she just stands out. If you just happen to be outside at the very same moment, this is after the restraining order, it's just she ---

[minute B 03:57] **B.J. Burns:** (interposing). **Now, what does the restraining order require her to do? Stay within a thousand feet away?**

[minute B 04:01] **T.F. Ingram-Jackson:** No, hmm, photographs.

[minute B 04:07] **B.J. Burns:** (interposing). No photographs?

[minute B 04:10] **T.F. Ingram-Jackson:** Correct and no harassment.

[minute B 04:11] **B.J. Burns:** And how long ago was this, hmm, restraining order issued?

[minute B 04:23] **T.F. Ingram-Jackson:** The tenth of, hmm, the 10th of November. 10 November.

[minute B 04:29] **B.J. Burns:** 10th of November. Okay. And this incident occurred when, these harassments?

[minute B 04:28] **T.F. Ingram-Jackson:** Since, hmm ---

[minute B 04:33] **B.J. Burns:** I don't have a copy of the warrant. Is there ---

[minute B 04:34] **Male voice:** Your Honor, it might be ---

[minute B 04:36] **B.J. Burns:** I do. I do. All right. This says "since February the 1st, 09, through 11/30 09.

[minute B 04:47] **T.F. Ingram-Jackson:** Exactly, yes, ma'am, hmm, she calls the police, hmm ---

[minute B 04:51] **B.J. Burns:** And so, when you got the, hmm, restraining order what day, you said?

[minute B 04:57] **T.F. Ingram-Jackson:** On the tenth of November.

[minute B 04:54] **B.J. Burns:** Okay.

http://sdrv.ms/10KM1X41 [minute C 00:04] **B.J. Burns:** All right. Okay. Ms. Mason? Is that all you wanted to say?

[minute C 00:09] **T.F. Ingram-Jackson:** I just know that she poses to be the landlady. [minute C 00:14] I have relatives that come from out of town and, hmm, she actually turns them around. [minute C 00:20] Hmm, she has followed me and my friend for several miles, hmm, for no apparent reason. [minute C 00:25] It's pretty much obvious what this is. I just feel threatened by her. [minute C 00:29] In fact I'm not sure if it's actually mental or anything else. [minute C 00:33] But it's nonstop harassment.

[minute C 00:34] **B.J. Burns:** All right, thank you. Ms. Mason?

[minute C 00:38] **Dinah Gail Steele:** My husband and I own the building. I don't actually live there. Hmm. [minute C 00:42] But, hmm, the harassment started basically immediately from the time she signed the lease; and, hmm, but ---

[minute C 00:53] **B.J. Burns:** And this property is located where?

[minute C 00:53] **Dinah Gail Steele:** At, hmm, three-o, 300 and 304 Byron Road. It's right near, across the street from the, hmm, VA Hospital. [minute C 01:02] **And, hmm, we've been getting complaints from other tenants about her conduct in the parking lot, hmm, but after we gave her the, hmm, eviction notice it just escalated, hmm.** [minute C 01:16] I've been stalked at my home, my residence, at my place of work. Hmm. [minute C 01:19] When we enter the property, I mean ---

[minute C 01:24] **B.J. Burns:** (interposing) By stalking you, describe that in your own words.

[minute C 01:25] **Dinah Gail Steele:** Hmm, I've seen her vehicle out, out at, in, on my property, pulling out of my parking, my driveway. [minute C 01:29] I've also seen her across the street at the gas station. Hmm.

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

[minute C 01:40] **Dinah Gail Steele:** No. This is at my residence. [minute C 01:40] Hmm, at my place of work. I've seen her driving through my parking lot. [minute C 01:45] Hmm. Then, when we go on to the property, we're harassed the entire time we're doing any kind of maintenance. [minute C 01:55] She has called the police on us almost every time we have cut the grass. [minute C 01:59] **Something about cutting the grass pisses this woman off.** [minute C 02:02] Hmm, we got to the point where the police were coming up to us and they were just saying, you know, Ms. Mason, you're cutting the grass again. [minute C 02:10] You know. They, they just knew. [minute C 02:13] You know. [minute C 02:14] They showed up; they saw the lawn equipment. [minute C 02:19] Anything she's taking photographs of us, just harassing us. [minute C 02:21] What are you doing? Why are you doing that? Who is that? Who is that contractor over here? Why is this going on? It's is none of your business. Leave us alone. [minute C 02:30] I don't like what

you're doing. [minute C 02:35] And then I said we started getting complaints that she was, hmm, hmm, addressing herself as if she was the landlord or the owner and she was ejecting people from the parking lot. [minute C 02:43] So we ended up giving her a do not trespass onto the 300 building. [minute C 02:47] She lives in the 304 building. [minute C 02:49] The buildings are right side by side. [minute C 02:50] That was the only way I could protect the people in the next building since I couldn't do anything about her being there. [minute C 02:57] The law is allowing her to stay there during her appeal. [minute C 03:00] So, at least I tried to protect the people over to the next building. [minute C 03:03] That didn't seem to work at all. [minute C 03:07] She was detaining them with her vehicle, blocking them in. [minute C 03:10] I mean you can even imagine: these people were getting, getting out of their apartment, getting into their car to go to work in the morning and she's pulling her car directly behind them preventing them from leaving. And then ---

[minute C 03:18] **B.J. Burns:** Did she even know them?

[minute C 03:20] **Dinah Gail Steele: Yes, she knows them.** [minute C 03:22] **Everybody's lived there for years; you know** [minute C 03:26] Hmm, **and any, anyway, you can imagine how it would escalate when, you know, they sit there and wait and they look in the rear-view mirror and, you know, she doesn't move; and then they finally get out of the car.** [minute C 03:37] **And you can see where this would escalate; and she's still not moving.** [minute C 03:40] **So, and this happened repeatedly.** [minute C 03:44] Hmm, **I was assaulted on the property on September 11 late in the evening about seven o'clock.** [minute C 03:51] **I was working on the 300 Building.** [minute C 05:22] **She trespassed on to that property in order to get to me; and she was trying to serve me with a paper saying that I could not, we were doing inspections of the apartments, like for, inspections for the fire, hmm, extinguishers, filters, leaks under the sinks, those kinds of yearly inspections.** [minute C 04:08] **And she was trying to give me a paper saying that I wasn't allowed in her apartment.** [minute C 04:15] **And, you know, like I said, she's already had a lot of problems.** [minute C 04:18] **I didn't want any contact with her.** [minute C 04:29] **You know, I put my hands up and I said: You know, Marie, you need to send any paper that you got to the attorney and I started backing up because the buildings are so close together you can't get around each other.** [minute C 04:33] **It's too narrow.** [minute C 04:35] **I started backing up so I didn't have any contact with her.** [minute C 04:39] **But she slammed me three times in the chest with that paper in her hand.** [minute C 04:45] **I've got witnesses to that.** [minute C 04:49] **Hmm, then we called the police and they, they made a complaint.** [minute C 04:53] **But the harassment and the stalking didn't ---**

[minute C 04:58] **B.J. Burns:** (interposing) [] Is that still pending?

[minute C 04:57] **Dinah Gail Steele:** Yes, ma'am.

[minute C 04:58] **B.J. Burns:** What's that still pending?

[minute C 04:59] **Dinah Gail Steele:** Simple assaulting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[minute D 00:32] **B.J. Burns:** All right. Got it.

[minute D 00:35] **Dinah Gail Steele: We now have a total of four restraining orders against her, Your Honor: myself, my husband, and Teresa Ingram's, and Charlene Crouch.** [minute D 00:46] **Hmm, if we can at least, these things have escalated to assaults and, hmm, you know, I mean, it's, it's just like continuously getting worse.** [minute D 00:59] **And we, we are fearful.**

[minute D 00:59] **B.J. Burns:** All right.

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

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

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

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

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

[minute D 01:16] **B.J. Burns:** On a simple assault charges, they set a bond; they might have set a, a summons ---

[minute D 01:22] **Dinah Gail Steele:** (interposing) **She just automatically, hmm, went for a jury trial and, hmm, then just said --**

[minute D 01:26] **B.J. Burns:** Oh, a jury trial?

[minute D 01:28] **Dinah Gail Steele:** Yes, Your Honor.

[minute D 01:32] **B.J. Burns:** Okay, a jury trial? She wasn't booked in.

[minute D 01:29] **Dinah Gail Steele:** And we just left the courthouse.

[minute D 01:35] **B.J. Burns:** All right. It just hasn't come up yet?

[minute D 01:36] **Dinah Gail Steele:** No, ma'am.

[minute D 01:37] **B.J. Burns:** Okay

[minute D 01:38] **Assistant Solicitor Weiss:** And, your Honor, hmm, I would say considering these charges, it's certainly all encompassed in these charges as well. **So, as a solicitor, I've become wary of trying the individual charges that ended up underlying whether the City has cause for the harassment charges, Your Honor.**

[minute D 01:55] **B.J. Burns:** Well, if, if the case had been that a PR bond had been set on the simple assault, hmm, if I found that she had violated the conditions of that bond, then I would reset that bond or revoke that bond. [minute D 02:08] Hmm, is that what you're saying: let's don't, let's don't worry about this now?

[minute D 02:12] **Assistant Solicitor Weiss:** No, your Honor. As far as, as far as bond, I think, my understanding is ---

[minute D 02:16] **B.J. Burns:** (interposing) If it's a courtesy summons

[minute D 02:10] **Assistant Solicitor Weiss:** [indecipherable] the trial date, on those ---

[minute D 02:19] **B.J. Burns:** Okay. I just, I just wanted to know: had it been adjudicated, hmm, because I don't have.

[minute D 02:29] **Dr. Assa'ad-Faltas:** Actually, Your Honor, ---

[minute D 02:31] **B.J. Burns:** (interposing) No, ma'am. When I, when I, I am going to give your a chance to say something. [minute D 02:39] But I don't want you to say anything that's gonna ---

[minute D 02:42] **Dinah Gail Steele:** (interposing) She, she's also been notified like twenty times with certified letters, hmm, notifying her that, you know, we know that she is stalking and harassing these people, hmm, notified by certified mail over twenty times. [minute D 02:57] So, it wasn't like, you know, this is a big shock to her. This is like.

[minute D 03:11] **B.J. Burns:** Now, Solicitor, do you have any other criminal record more than what I have here maybe?

[minute D 03:18] **Assistant Solicitor Weiss:** No, Your Honor.

[minute D 03:21] **B.J. Burns:** Just a shoplifting in 2003?

[minute D 03:23] **Dr. Assa'ad-Faltas:** Actually, Your Honor, ---

[minute D 03:24] **Orin G. Briggs:** Your Honor, other than that one time she was charged with shoplifting, no. That was completely reversed, no longer exists.

[minute D 03:31] **B.J. Burns:** Okay. All right. Any other conviction that you know about?

[minute D 03:34] **Orin G. Briggs:** No.

[minute D 03:35] **B.J. Burns:** Okay. All right. Hmm, Investigator, would like to add something to this?

[minute D 03:41] **Amanda Star Blanton:** No, Your Honor.

[minute D 03:45] **B.J. Burns:** All right. Hmm. Mr. Briggs, hmm, let me hear from Mr. Briggs.

[minute D 03:50] **Dr. Assa'ad-Faltas:** Actually, Your Honor, ---

[minute D 03:51] **B.J. Burns:** (interposing) I want to hear from Mr. Briggs.

[minute D 03:52] **Orin G. Briggs:** May I ask her one question, Your Honor?

[minute D 03:53] **B.J. Burns:** Sure.

[minute D 03:52] **Orin G. Briggs:** Yes, she would want to talk to you. So, I ask you to let her.

[minute D 04:02] **Dr. Assa'ad-Faltas:** It never happened. It never happened. She ---

[minute D 04:05] **Orin G. Briggs:** All right. Okay, I understand.

[minute D 04:07] **Dr. Assa'ad-Faltas:** She was the one who threw rocks at me ---

[minute D 04:10] **Orin G. Briggs:** Okay, okay. (scolding) Wait.

[minute D 04:18] **B.J. Burns:** All right, Mr. Briggs.

[minute D 04:20] **Orin G. Briggs:** Your Honor, I have known Dr. Faltas in excess of fifteen years. Hmm, I worked with her on some legal issues. Some things she has done herself. And some four years ago, she, we did get her status adjusted to that of permanent resident. So, when she is here another year, she will be eligible for, for, hmm, citizenship, Your Honor. Doctor ---

[minute D 04:49] **B.J. Burns:** (interposing) All right. Well, the immigration is not an issue.

[minute D 04:51] **Orin G. Briggs:** I know. But, but, you need to know a little bit about her, Your Honor, if I could. Hmm. She is a medical doctor licensed to practice in the State of Virginia.

http://sdrv.ms/10KMX41 [minute E 00:01] She has two sisters that are prominent eye surgeons in Cleveland, Ohio. [minute E 00:08] And both her brothers-in law are doctors, Your Honor. [minute E 00:12] But because of jobs and other things, she ended up down here; and she has chosen to live down here. [minute E 00:22] And she doesn't go to Ohio more than once a year, Your Honor.

[minute E 00:24] **B.J. Burns:** What brought her to South Carolina?

[minute E 00:25] **Orin G. Briggs:** She actually was on the medical staff at the medical university at USC.

[minute E 00:34] **B.J. Burns:** And what happened with that?

[minute E 00:38] **Orin G. Briggs:** Hmm.

[minute E 00:40] **B.J. Burns:** Was she terminated?

[minute E 00:36] **Orin G. Briggs:** Disagreements over things that I think were essentially political; and, so, they decided to fire her and she went through all that process, Your Honor.

[minute E 00:50] **B.J. Burns:** But she was not acting, she was not practicing as a physician since she was not licensed in this state?

[minute E 00:56] **Orin G. Briggs:** That's correct. She was just teaching.

[minute E 00:58] **Dr. Assa'ad-Faltas: No, no, no. When I worked here, I was licensed.**

[minute E 01:02] **B.J. Burns:** So there was termination in that job. And have you been employed since?

[minute E 01:05] **Dr. Assa'ad-Faltas:** Are you talking to me, Your Honor?

[minute E 01:08] **B.J. Burns:** Yes, yes.

[minute E 01:09] **Dr. Assa'ad-Faltas:** Yes, Your Honor, I was ---

[minute E 01:12] **B.J. Burns:** (interposing) What, first ---

[minute E 01:13] **Orin G. Briggs:** (interposing) First, answer the question, Marie.

[minute E 01:14] **B.J. Burns:** First, what year was that that your were terminated with this, with this medical school?

[minute E 01:19] **Dr. Assa'ad-Faltas:** 1993.

[minute E 01:14] **B.J. Burns:** 1993?

[minute E 01:23] **Dr. Assa'ad-Faltas:** Yes.

[minute E 01:28] **B.J. Burns:** And how long had you been in South Carolina by 1993?

[minute E 01:29] **Dr. Assa'ad-Faltas:** About two years.

[minute E 01:30] **B.J. Burns:** Two years, okay. And that's what brought you to Columbia.

[minute E 01:32] **Dr. Assa'ad-Faltas:** Yes, Your Honor.

[minute E 01:33] **B.J. Burns: All right. And now, hmm, have you not, my other question is: have you been employed since that time?**

[minute E 01:43] **Dr. Assa'ad-Faltas:** Self-employed on my own inventions. And recently I applied for a patent on my solar energy and flood plain building inventions. I, the patent itself takes about four years. But I was granted a priority filing date on the plans ---

[minute E 02:09] **B.J. Burns:** All right. So, you're self-employed and you're an inventor.

[minute E 02:12] **Dr. Assa'ad-Faltas:** Yes, Your Honor, ---

[minute E 02:13] **B.J. Burns:** (interposing) Okay.

[minute E 02:14] **Dr. Assa'ad-Faltas:** --- in addition to being medical doctor and I'm also a biostatistician. I hold, not only an MD degree, but also an MPH degree and ---

[minute E 02:26] **B.J. Burns:** (interposing) Okay. I understand. You're very well degreed and qualified.

[minute E 02:27] **Dr. Assa'ad-Faltas:** --- and ---

[minute E 02:28] **B.J. Burns:** (interposing) I just want to know how you're actually supporting yourself.

[minute E 02:32] **Dr. Assa'ad-Faltas:** My family supports me.

[minute E 02:33] **B.J. Burns:** Okay, and hmm.

[minute E 02:34] **Dr. Assa'ad-Faltas:** And ---

[minute E 02:35] **B.J. Burns:** (interposing) Now, wait. Hmm. So, right now, hmm, your residence is on Byron Road,

Apartment 3. But there is a, a motion or a, hmm, pleading, pleadings have been filed for eviction.

[minute E 02:51] **Assistant Solicitor Weiss:** Your Honor. The magistrate did grant the eviction and she appealed it.

[minute E 02:55] **B.J. Burns:** She appealed it. Okay. And do you know where that appeal is now, Mr. Briggs? Is it in General Sessions or it's gone up to the Court of Appeals?

[minute E 03:02] **Dr. Assa'ad-Faltas:** May I answer, Your Honor?

[minute E 03:05] **B.J. Burns:** Yeah, please.

[minute E 03:06] **Dr. Assa'ad-Faltas:** It's in the circuit court.

[minute E 03:05] **B.J. Burns:** Okay

[minute E 03:06] **Dr. Assa'ad-Faltas:** It has not yet been scheduled.

[minute E 03:07] **B.J. Burns:** That's not been heard yet by a circuit court judge.

[minute E 03:11] **Dr. Assa'ad-Faltas:** The answer is no, Your Honor.

[minute E 03:12] **B.J. Burns:** Okay. All right. So, Mr. Briggs, is there anything else you wanted to tell me?

[minute E 03:18] **Orin G. Briggs:** Yes, Your Honor. I'd like to tell you just a couple of other things.

[minute E 03:20] **B.J. Burns:** Besides the shoplifting and the ---

[minute E 03:21] **Dr. Assa'ad-Faltas:** (interposing) Your Honor, there was no shoplifting.

[minute E 03:22] **B.J. Burns:** That was, that was nolle prossed.

[minute E 03:24] **Orin G. Briggs:** She understands that.

[minute E 03:27] **Dr. Assa'ad-Faltas:** No, it wasn't nolle prossed. I, Let me tell you ---

[minute E 03:28] **B.J. Burns:** (interposing) No, I don't care. In other words it's no longer pending and you don't have a conviction. That's all that matters.

[minute E 03:34] **Orin G. Briggs:** Your Honor, there was a disagreement. It was completely reversed by the Court of Appeals. **And then it was pulled and reheard by the trial judge.** And he threw it out completely because of false testimony.

[minute E 03:44] **B.J. Burns:** Okay. That's all I want to know. Okay.

[minute E 03:53] **Orin G. Briggs:** Your Honor, obviously the, the assistant solicitor doesn't know Dr. Faltas. So, just a couple of things I've observed. Hmm. She tells me that the alleged throwing of the rocks is just a total fabrication. Of course, this Court is not interested in the merits of the case at this bond hearing. And of course, she has not been charged with, with stalking. So, any reference to stalking is, is a waste of time. Hmm. The only, the only discussion we've had so far that could have possibly been harassment as defined in the statute, Your Honor, which is, as you know, a really assault.

[minute E 04:30] **B.J. Burns:** I am very familiar with the harassment statute and the stalking statute.

[minute E 04:36] **Orin G. Briggs:** My, my computer is on the blink or I would have brought it with me. But I know what it says, too. Okay? Hmm. I'm not sure that an attempt to serve some papers and touching the person with the papers is really an assault. But that could be interpreted as assault. I understand that, Your Honor. Okay? And if that's assault, then that could fit into the definition of harassment, Your Honor. http://sdrv.ms/10KMX41 [minute F 00:03] The point is that all of these other words are protected speech, Your Honor. And I could give an illustration, I know the Court ---

[minute F 00:11] **B.J. Burns:** (interposing) Let me stop you there, hmm, hmm, parking, hmm, blocking a person in the parking lot from being able to, to go to work, blocking their car with her car, I'm assuming it's with her car, how is that protected speech?

[minute F 00:29] **Dr. Assa'ad-Faltas:** Mr. Briggs ---

[minute F 00:30] **Orin G. Briggs:** Your Honor ---

[minute F 00:31] **Dr. Assa'ad-Faltas:** Mr. Briggs ---

[minute F 00:32] **B.J. Burns:** (interposing and scolding) **I do not want to hear anything from you until I ask you for it. Mr. Briggs.**

[minute F 00:37] **Orin G. Briggs:** Your Honor, let me give you an illustration

[minute F 00:32] **B.J. Burns:** (interposing) Well answer that.

[minute F 00:47] **Orin G. Briggs:** I will; but I want to do it this way. I know the Court understands the distinction between a verbal interference with an arrest, Your Honor, and actually physical interference with arrest, which is a crime. I —

[minute F 00:57] **B.J. Burns:** (interposing) Arrest? We're not talking about arrest.

[minute F 00:59] **Orin G. Briggs:** But it's the same basic thing, Your Honor. Most words and actions themselves that do not constitute an assault are protected speech, whether it's commercial, whether it's yelling too loud, whether it's calling people names, whether it's calling police names or cursing police, all of that stuff is protected speech, Your Honor. And, hmm ---

[minute F 01:22] **B.J. Burns:** (interposing) Protected by what? The First Amendment?

[minute F 01:27] **Orin G. Briggs:** The First Amendment, yes, Your Honor.

[minute F 01:28] **B.J. Burns:** Okay. All right.

[minute F 01:27] **Orin G. Briggs:** Now, the point I'm, the point ---

[minute F 01:28] **B.J. Burns:** (interposing) **Calling people names and talking too loudly is all protected by the First Amendment?**

[minute F 01:39] **Orin G. Briggs:** I'm trying to make a simple point, Your Honor.

[minute F 01:42] **B.J. Burns:** Go ahead.

[minute F 01:44] **Orin G. Briggs:** I have known Dr. Faltas for fifteen years, Your Honor. We have had heated arguments. But in all those times, she never threatened me physically. This lady wouldn't hurt a flee. She would hurt herself before she hurt anybody else physically, Your Honor. She's incapable of doing that. Now, she has problems. She sees things in different ways. She thinks her way is the only way of doing things and all that bit. But she is in, in my opinion, incapable of physically harming anybody. So, this is a my, I'm arguing that this is a minor quote alleged assault, alleged harassment. And I would like to propose a bond which will fully protect the Court, Your Honor. Again, I talked to one of her sisters this morning. They would buy her a home so she wouldn't have to deal with landlords if she would find one. That was reinterated [sic] with me today. That family has plenty of money, Your Honor. So, if the Court saw fit to, to, to use a PR bond but put a substantial figure on the payment of that if she doesn't show up at trial. **Her family is capable of paying ---**

[minute F 03:08] **B.J. Burns:** (interposing) **Well, you know, part of the condition of my bond, whatever it is, would be that she needs to cease and desist from, from going back to this particular apartment. I can do that as a condition of the bond. I do it every day. Now, eviction notice aside, the trouble is stemming from this, this, hmm, 304 Byron Road, Apartment 3, and, hmm, I've got lay witnesses here; I've got investigators; I've got the solicitor and the victims' advocate and people who are concerned enough to actually come and attend the bond setting. So, that is going to be a condition of your bond. If your family want to buy you a house, then they can surely get you a motel, motel or hotel room from now until your court date.**

[minute F 03:53] **Dr. Assa'ad-Faltas:** Your Honor, I need to say something ---

[minute F 03:54] **B.J. Burns:** (interposing and scolding) I am not here to argue with you. What I am going to do is, hmm, I am going to order a mental health, hmm, evaluation from, we have that person in house here, BJ Preston. She's very good. She's from the Columbia Area Mental Health. Hmm. And so, after that is completed, hmm, then you will have, after posing, after the mental health evaluation is completed, then the bond would go into effect, because you will be here when you're evaluated.

[minute F 04:35] **Dr. Assa'ad-Faltas:** Your Honor, ---

[minute F 04:36] **B.J. Burns:** (interposing) **And that may take a day. If you would quit interrupting me, I would appreciate it.**

[minute F 04:41] **Orin G. Briggs:** In just a minute, I'm gonna ask her to let you talk.

[minute F 04:42] **B.J. Burns:** Okay.

[minute F 04:43] **Orin G. Briggs:** (scolding) Just wait. You're impossible.

[minute F 04:45] **B.J. Burns:** Let me just tell you, Mr. Briggs, I respect you, I've known you forever. But I am not going to argue with any defendant about my bond.

[minute F 04:55] **Orin G. Briggs:** I understand that, Your Honor.

[minute F 04:57] **B.J. Burns:** And, hmm, so

http://sdrv.ms/10KMX41 [minute G 00:01] **Orin G. Briggs:** Your Honor, could I just raise one question?

[minute G 00:02] **B.J. Burns:** Yes, sir.

[minute G 00:03] **Orin G. Briggs:** I don't think there has been any testimony that justifies a mental health hearing. And I would just file an immediate appeal on that matter. Hmm. I just, I just don't think it's warranted. I don't have any problem with the court, by giving her two or three hours to go into the apartment, which, for instance, the police wouldn't give me one of her credit cards, Your Honor, so she has no, no money. She does not have her, her purse; and so, she at least needs to go in there under police escort and get some personal items ---

[minute G 00:35] **B.J. Burns:** (interposing) Okay, my, let me,

[minute G 00:36] **Orin G. Briggs:** (interposing) I have no problem ---

[minute G 00:37] **B.J. Burns:** (interposing) Okay, let me, ---

[minute G 00:39] **Orin G. Briggs:** Yes, sir.

[minute G 00:40] **B.J. Burns:** Let me tell why I'm ordering and you can appeal it. What I've heard here, hmm, is rather bizarre behavior, certainly not characteristic of as an educated woman as she is, hmm, and credentialed as she is. It's just downright bizarre. Taking pictures of people and posing as the manager and blocking people's car. **I mean that's not something that you would expect, hmm, a Ph. D. or medical doctor, hmm, hmm, what else you said you were?**

[minute G 01:11] **Dr. Assa'ad-Faltas:** May, may I speak now?

[minute G 01:12] **Orin G. Briggs:** Your Honor ---

[minute G 01:14] **B.J. Burns:** (interposing) The other credentials that you have. So, I am gonna order that, just to find out so "she doesn't see things the way others see it." Hmm, I don't know if that, I don't know if that's talk, you're talking about schizophrenia or borderline personality disorder or maybe some form of bipolar. I don't know, hmm, but that's; I'm not a professional in that field and that's why I'm gonna order the, hmm, the evaluation. [minute G 01:41] Now, would like to say something?

[minute G 01:43] **Dr. Assa'ad-Faltas:** Your Honor, this has begun when I discovered that they were charging me for identical apartments, for identical apartment about 30% more than the other tenants. And then, Mother and I ---

[minute G 02:03] **B.J. Burns:** (interposing) Did you sign a lease?

[minute G 02:06] **Dr. Assa'ad-Faltas:** Yes, Your Honor, ---

[minute G 02:07] **B.J. Burns:** (interposing) Was that made clear to you how much the rent was going to be?

[minute G 02:10] **Dr. Assa'ad-Faltas:** At that time I didn't know what the other tenants were paying for identical apartments.

[minute G 02:13] **B.J. Burns:** (interposing) Well, regardless of that; but in other words you were made aware of what the rent was going to be, what the deposit would be.

[minute G 02:20] **Dr. Assa'ad-Faltas:** Yes, yes, ---

[minute G 02:23] **B.J. Burns:** (interposing) Okay.

[minute G 02:24] **Dr. Assa'ad-Faltas:** **Yes, but that doesn't prevent a discrimination claim.** And then, after that, Mother and I ---

[minute G 02:29] **B.J. Burns:** (interposing) **Are you sure they just didn't go up on their rates?**

[minute G 02:34] **Dr. Assa'ad-Faltas:** **I am, I am sure and what's more important, Your Honor, is that there is a civil lawsuit pending by me against them.**

B.J. Burns: (interposing and scolding) a fact to be determined by a jury or a judge who is sitting hearing the case. **I'm not going to listen to that during the bond setting. It doesn't matter to me. What I am concerned about is, hmm, not so much whether you're a flight risk. I mean: you know, you have family in the United States. Hmm. In fact, I've seen you. I don't really know you. You've never been before me. But I've seen you at the City courthouse.**

[minute G 04:18] **Dr. Assa'ad-Faltas:** May I say ---

[minute G 04:21] **B.J. Burns:** (interposing) I don't know if you just observe or what, what you do there.

[minute G 04:22] **Dr. Assa'ad-Faltas:** May I say why Your Honor?

[minute G 04:23] **B.J. Burns:** Hmm.

[minute G 04:24] **Dr. Assa'ad-Faltas:** I need to tell why.

[minute G 04:25] **B.J. Burns:** All right. Go on.

[minute G 04:26] **Dr. Assa'ad-Faltas:** Previously, ---

[minute G 04:26] **B.J. Burns:** (interposing) Do you have business with the court?

[minute G 04:29] **Dr. Assa'ad-Faltas:** Absolutely, do you think I just go there to ---

[minute G 04:31] **B.J. Burns:** (interposing) No, I said that I don't know.

[minute G 04:34] **Dr. Assa'ad-Faltas:** I'll tell you, I'll tell you, I'll tell you exactly what happened.

[minute G 04:37] **B.J. Burns:** (interposing) No, I don't want to go into ---

[minute G 04:39] **Dr. Assa'ad-Faltas:** (interposing) Okay, I was charged with front-yard parking, which is supposed to be a criminal ordinance in the City of Columbia, parking in the front yard of a house I rented before ---

[minute G 04:51] **B.J. Burns:** (interposing) Okay. All right. If that's the only reason you were up in court, then I'm going to consider it. I wasn't going to consider it before. I was just saying that I don't

 [minute H 00:00] **B.J. Burns:** I don't know you personally. But I've seen you, hmm, ---

[minute H 00:01] **Dr. Assa'ad-Faltas:** (interposing) Yeah, in fact Your Honor dismissed ---

[minute H 00:02] **B.J. Burns:** --- in the courthouse.

[minute H 00:03] **Dr. Assa'ad-Faltas:** --- dismissed it because ---

[minute H 00:07] **B.J. Burns:** (interposing) What I'm going to do is this, hmm, I'm ---

[minute H 00:09] **Dr. Assa'ad-Faltas:** (interposing) Your Honor, ---

[minute H 00:10] **B.J. Burns:** I am going to set your bond now; and I would like you to be quiet while I'm doing that, because this, this reporter [sic] can't, or a court reporter can't, hmm, can't understand when two people are talking at one time. Hmm. I think that you are, hmm, like I said, not a flight risk; but that you are, hmm, you would, you could be a danger to the community because I've already got this many people up here now. And I don't, that doesn't, it's not my business what goes on in the civil court, hmm, but my business is the two charges in from of me. And also that I think that, hmm, I very, hmm, emphatically, hmm, agree with the solicitor that you need a, hmm, mental health evaluation. So, what I'm gonna do is I'm gonna order the mental health evaluation, hmm, that should be, I don't know what Ms. Preston's schedule is. It doesn't take more than a day, does it?

[minute H 01:10] **unknown voice:** (undecipherable) Monday to Friday, nine to five.

[minute H 01:18] **B.J. Burns:** Monday through Friday, nine to five? Okay. I'm ordering the evaluation by, hmm, B.J. Preston from the Columbia Area Mental Health, hmm, so that will be done here. And once that is completed, then I'm going to, hmm, to set, hmm, the bond on these charges at [sighs] twenty thousand dollars each. I'm gonna allow you to post 10% of that with the court. So, that's two thousand dollars on each count. Now, the other condition of your bond is that you are not to go back to Byron Road Apartment 3 unless you have police escort in order to get your things that you will need temporarily until these matters have been, hmm, adjudicated.

[minute H 02:12] **Dr. Assa'ad-Faltas:** May I ask you ---

[minute H 02:13] **B.J. Burns:** (interposing) Do you understand that?

[minute H 02:14] **Dr. Assa'ad-Faltas:** May I ask you ---

[minute H 02:15] **B.J. Burns:** (interposing) In other words, do you understand what I'm saying?

[minute H 02:17] **Dr. Assa'ad-Faltas:** Yes, Your Honor, but ---

[minute H 02:20] **B.J. Burns:** If you go back there to live between now and January 25th, when your first appearance comes up, then your bond can be revoked and will be revoked.

[minute H 02:28] **Dr. Assa'ad-Faltas:** May I ask, though, that, that the, the landlady be enjoined from going into my apartment and taking my things or looking into them because all of ---

[minute H 02:41] **B.J. Burns:** (interposing) Yes, she's, she's, unless it's an inspection like what she was describing, no, she has no right to, to take your things.

[minute H 02:46] **Dr. Assa'ad-Faltas:** Not only that, Your Honor, Officer Blanton took my mother's credit cards. And I don't know what she did with them. In addition, in addition ---

[minute H 02:56] **B.J. Burns:** (interposing) Hold on, let me get this through and ---

[minute H 02:57] **Amanda Star Blanton:** (interposing) Your Honor, hmm, she was arrested and we immediately did a search warrant of the apartment. The items of evidence are in our property room.

[minute H 03:06] **B.J. Burns:** Okay, as what, evidence of what?

[minute H 03:09] **Amanda Star Blanton:** They did not belong to her. There are other names. There were several credit cards that were under different people's names. These were all put into evidence.

[minute H 03:16] **B.J. Burns:** Not in her family's name?

[minute H 03:17] **Dr. Assa'ad-Faltas:** No, both my mother's and my father's name, Your Honor, and ---

[minute H 03:20] **Orin G. Briggs:** Let her ask if she wants to ---

[minute H 03:21] **Dr. Assa'ad-Faltas:** And that's ---

[minute H 03:22] **B.J. Burns:** (interposing) Wait, wait, wait.

[minute H 03:24] **Dr. Assa'ad-Faltas:** Okay ---

[minute H 03:25] **Amanda Star Blanton:** Your Honor, I have no proof of that, simply from ---

[minute H 03:27] **Dr. Assa'ad-Faltas:** (interposing) Actually, Your Honor, see precisely that's why I need to be there: because I have power of attorney for my, from my mother ---

[minute H 03:36] **B.J. Burns:** (interposing and scolding) You may go to that apartment with a police escort. And you may get the essential and necessary papers, clothing, toiletries, whatever it is that you want to take with you. But right now, the condition of your getting out of jail after you have this evaluation is that.

[minute H 03:52] **Dr. Assa'ad-Faltas:** But may I ask ---

[minute H 03:54] **B.J. Burns:** (interposing and scolding) And if you violate that condition, your bond will be revoked

and you will be in jail until this first appearance.

[minute H 04:02] **Dr. Assa'ad-Faltas:** May, may I ask Your Honor that in the meanwhile, they also be enjoined to not enter my apartment because I have paid ---

[minute H 04:13] **B.J. Burns:** (interposing) Is there any inspection coming due on her apartment?

[minute H 04:14] **[receives a response in the negative; but it is not audible on the audio recording]**

[minute H 04:15] **B.J. Burns:** O.K. Then you are ordered not to go into her apartment, hmm, you, the only people who can go into her apartment right now, if she's paid up on her rent, is gonna be herself, her lawyer and a member of the Columbia Police Department.

[minute H 04:30] **Assistant Solicitor Weiss:** And obviously, Your Honor, unless there is an emergency of some sort.

[minute H 04:35] **B.J. Burns:** Unless there is an emergency, unless the building is on fire, you know.

[minute H 04:38] **Dr. Assa'ad-Faltas:** May I ask, though Your Honor, I was taken, I wasn't even allowed to put my eyeglasses on. The key, the keys are inside the apartment. And the keys to my car are inside ---

[minute H 04:51] **B.J. Burns:** (interposing) Okay, so, ---

[minute H 04:38] **Dr. Assa'ad-Faltas:** I ---

[minute H 04:51] **B.J. Burns:** (interposing) So, for the purpose of, for the purpose of letting you in your apartment because you don't have any way to get in, is that correct?

[minute H 04:56] **Dr. Assa'ad-Faltas:** Yes, Your Honor.

[minute H 04:57] **B.J. Burns:** Okay, hmm, then whoever has ---

http://sdrv.ms/10KMX41 [minute I 00:00] **B.J. Burns:** Ms. Mason,

[minute I 00:02] **Dinah Gail Steele:** Yes, ma'am.

[minute I 00:03] **B.J. Burns:** Hmm, provide that.

[minute I 00:04] **Amanda Star Blanton:** Her keys were also put into our property room along with her identification that way she'd be able to pick that stuff up from our property room.

[minute I 00:10] **B.J. Burns:** (interposing) All right. How about this: can you be the one that escorts her when she's done here at the jail maybe in a day or two?

[minute I 00:20] **Dr. Assa'ad-Faltas:** The other thing, Your Honor, ---

[minute I 00:21] **Amanda Star Blanton:** (interposing) With, with a uniformed officer, yes, ma'am.

[minute I 00:10] **B.J. Burns:** Okay, because you have the key, she has the keys to your apartment. That means Ms. Mason doesn't even have to go in.

[minute I 00:28] **Dr. Assa'ad-Faltas:** Your Honor, ---

[minute I 00:30] **B.J. Burns:** (interposing) She has the keys to your car. You need some papers. You need some clothes and that kind of thing.

[minute I 00:36] **Dr. Assa'ad-Faltas:** I need, I need, I need to ask another question.

[minute I 00:37] **B.J. Burns:** All right.

[minute I 00:38] **Dr. Assa'ad-Faltas:** Whether Ms., Ms. Steele or Mr. Mason have gone into my apartment while I was here. And I need to ---

[minute I 00:44] **B.J. Burns:** (interposing) Anybody been in her apartment since she was here? How long have you been here?

[minute I 00:50] **Dr. Assa'ad-Faltas:** How long have I been here?

[minute I 00:52] **B.J. Burns:** Uh-huh.

[minute I 00:53] **Dr. Assa'ad-Faltas:** I think from 10:30 in the morning already.

[minute I 00:56] **B.J. Burns:** (interposing) Okay. So, the investigator is the one that's been in your apartment.

[minute I 01:01] **Dr. Assa'ad-Faltas:** And ---

[minute I 01:01] **B.J. Burns:** (interposing) Have you, have you secured the apartment?

[minute I 01:02] **Amanda Star Blanton:** The apartment is secure.

[minute I 01:03] **B.J. Burns:** All right, we're done with that.

[minute I 01:05] **Dr. Assa'ad-Faltas:** I have one other question, Your Honor, one other question if it pleases the Court.

[minute I 01:09] **B.J. Burns:** What is it?

[minute I 01:10] **Dr. Assa'ad-Faltas:** As far as the eviction is concerned, I have to pay the rent, I, I, I, I, the eviction bond is I have to pay the rent by the third day of each month, which is tomorrow. **And yesterday, I was in court before the Honorable Judge Lee from ten in the morning, who's a circuit judge, until se, almost seven in the evening ---**

[minute I 01:40] **B.J. Burns:** (interposing) All right. I'll tell you what: I bet you, hmm, if I asked Ms. Mason could she go until Friday on, on getting the rent, that that would be acceptable.

[minute 1 01:50] **Dr. Assa'ad-Faltas:** It's, I have to pay it to the court, not to Ms. Mason. So, so that's a bond that is set by the magistrate's court ---

[minute 1 01:58] **B.J. Burns:** (interposing) Okay. Well then pay it. You can ---

[minute 1 02:01] **Dr. Assa'ad-Faltas:** I can't do anything because I don't even have my purse. I don't even ---

[minute 1 02:05] **B.J. Burns:** (interposing) Like I said, like I said, all you've got to do is, hmm, you know, and I don't know if Mr. Briggs may, if you appeal this, then you'll be in jail longer awaiting the results of that because my bond actually is, hmm, begins after that's, hmm, done.

[minute 1 02:26] **Dr. Assa'ad-Faltas:** So, so Your Honor ---

[minute 1 02:27] **B.J. Burns:** (interposing) Because I think, I think that's really the gravamen of this whole thing. I think that once we find out ---

[minute 1 02:32] **Dr. Assa'ad-Faltas:** May I ---

[minute 1 02:33] **B.J. Burns:** (interposing and scolding) I am not going to argue with you, ma'am. You have, I have ordered a mental health evaluation that be done, hmm, ASAP by Ms. BJ Preston. Hopefully that would be in the morning. Hmm, I will request that that be in the morning. Hmm. I don't know if there is a backlog; but, hmm, you can refuse that, I guess if you'd like to, hmm, but then you have ---

[minute 1 02:58] **Dr. Assa'ad-Faltas:** May I ---

[minute 1 03:02] **B.J. Burns:** (interposing) two thousand dollars each, a total of four thousand dollars to pay, hmm, as a bond. You may then go back to your residence with this investigator and a police escort when you will bring the keys and, and all of that. And that way Ms. Mason will not have to be involved at all.

[minute 1 03:18] **Dr. Assa'ad-Faltas:** Your Honor, ---

[minute 1 03:20] **B.J. Burns:** (interposing) Ms. Mason and, hmm, Mr. Mason, you're enjoined from going into that apartment during the time that she is still on the lease. Now, your problems with the magistrate's office and the eviction and your having to pay, hmm, since you don't have anything with you today, it's due tomorrow, hmm I will, hmm, if, if need be, you all have that judge call me.

[minute 1 03:48] **Dr. Assa'ad-Faltas:** Your Honor, ---

[minute 1 03:49] **B.J. Burns:** (interposing) Or do you know that judge's name that she's gonna be before.

[minute 1 03:51] **Orin G. Briggs:** You Honor, I don't think that's gonna be a problem with that, if she will tell me who it is, I will tell him that we're tied up in this matter.

[minute 1 03:59] **B.J. Burns:** All right.

[minute 1 04:01] **Orin G. Briggs:** And as soon, she will be out as soon as she posts bond.

[minute 1 04:01] **B.J. Burns:** Okay.

[minute 1 04:02] **Dr. Assa'ad-Faltas:** Your Honor, may I say something?

[minute 1 04:02] **B.J. Burns:** Thank you, ma'am. No. We're done here.

[minute 1 04:05] **Dr. Assa'ad-Faltas:** [] needed to reach [] in the interim

[minute 1 04:07] **B.J. Burns:** (interposing) I am done with your bond, ma'am. Thank you. You need to go this way.

[minute 1 04:10] **Orin G. Briggs:** I'll call your sister and tell her what happened.

[minute 1 04:15] **Dr. Assa'ad-Faltas:** I need to, I need to, could I tell, could I tell Mr. Briggs where to go pay that rent tomorrow please?

[minute 1 04:18] **Orin G. Briggs:** [indecipherable]

[minute 1 04:20] **B.J. Burns:** We need to get her out of this courtroom. You all can talk back there.

[minute 1 04:25] **Dr. Assa'ad-Faltas:** [indecipherable] Central Court.

[minute 1 04:30] **B.J. Burns:** Thank you Mr. Briggs.

[minute 1 04:35] **Male voice:** Matthew Alred.

[minute 1 04:40] **Male voice:** Mr. Alred, this is the bond setting for charges of auto break-in and petty larceny. You also have a City level charge. That charge is drunkenness. Your court date is 12-14-2009 at 8:00 am.

[minute 1 04:50] **B.J. Burns:** All right, now, Mr. Alred, you understand that means that you got two courts to report to.

[minute 1 04:52] **Male voice:** Yes, ma'am.

[minute 1 04:53] **B.J. Burns:** hmm, one coming **(end of recording)**

[page 1]

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
THE STATE OF SOUTH CAROLINA :
- VS - :
DR. MARIE ASSA'AD-FALTAS :

COURT OF GENERAL SESSIONS
2010-GS-40-11987

TRANSCRIPT OF RECORD

DECEMBER 17, 2009
COLUMBIA, SOUTH CAROLINA

BEFORE: THE HONORABLE GEORGE C. JAMES, JR., JUDGE.
APPEARANCES: HEATHER WEISS, ESQUIRE — ATTORNEY FOR THE STATE
DR. MARIE ASSA'AD-FALTAS, — PRO SE LITIGANT
ALSO PRESENT: MARK SAWYER, ESQUIRE
ORIN BRIGSS, ESQUIRE

DAPHNE D. HELMS
CIRCUIT COURT REPORTER

[Page 2, line 1] **Ms. Weiss:** May it please the Court, Your Honor?

[2] **The Court:** Yes, ma'am.

[3 – page 3, line 6] **Ms. Weiss:** [3-13] Thank you. Before you is Dr. Marie Assa'ad Faltas with Mark Sawyer of the public defender's office. **Dr. Faltas is charged with two counts of harassment in the first degree.** She filed a motion initially asking to have her bond reduced to an unconditional P.R. bond. **The state has filed a motion to revoke bond, and, Your Honor, before we even get started on those motions, it is my understanding when this case first -- when she was first arrested, she was represented at the initial bond hearing by attorney Orin Briggs.** After that bond hearing, Dave Farrell filed a letter of representation with our office and a discovery motion. [14-20] **Prior to that letter even being received by my office, I was contacted by David Farrell and he indicated to me that when he met with Dr. Faltas she refused to waive his conflict. *He has a conflict with every case in our office because he handles forfeiture procedures for our office, and she refused to waive that conflict and, therefore, he could not proceed as her attorney.*** [21 – page 3, line 1] **He asked me if I would consent because of that refusal to waive, which I did, to him being relieved.** He indicated on that motion that she wished to go *pro se*, but in the meantime while she was at the jail she was screened for a public defender and one was appointed, and Mark Sawyer was appointed by the public defender's office. [2-6] Your Honor, **Mr. Sawyer is a very capable attorney and has been appointed to this case and I think would be a fine attorney to handle this case,** and I would ask Your Honor to clarify how we're going to proceed with Dr. Faltas's motions and with her representation at this time.

[7-8] **The Court:** What's the General Sessions charge? There are two warrant numbers here.

[9-10] **Ms. Weiss:** Yes, Your Honor. They're both counts of harassment first degree.

[11-17] **The Court:** All right. What I have is an order from Judge Childs clocked in December 11, 2009, dated December 10. It states that Mr. Farrell is relieved from any further obligations, and it also says that it appears the defendant now wishes to proceed *pro se*. Mr. Sawyer, do you know how your office, first of all, just the office was appointed to represent the defendant?

[18 – page 4, line 1] **Mr. Sawyer:** Your Honor, the best I can figure is most every defendant when they're arrested get screened automatically by the jail. We received the screen sheet. Initially our boss generally opens up the file on most everyone who goes in the jail who is in there for more than a day or two. I can only assume either that screening sheet came over to our office at that point or simply because she was down in the jail for a couple of days he just opened a file as he does per policy.

[2] **The Court:** All right. Your name, please, ma'am?

[3-4] **Dr. Faltas:** Good afternoon, Your Honor. I'm Dr. Marie Assa'ad-Faltas.

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

[6] **Dr. Faltas:** And---

[7-8] **The Court:** Wait just a moment. I'm going to ask you some questions.

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

[10-11] **The Court:** Do you desire to represent yourself or do you want a lawyer?

[12] **Dr. Faltas:** May I give Your Honor the complete answer?

[13-14] **The Court:** Yes, ma'am, as long as it's direct and to the point.

[15-17] **Dr. Faltas:** I would like to represent myself with a back-up lawyer, with a stand-by lawyer. I've seen this arrangement permitted before.

[18-20] **The Court:** All right. Okay. All right. Wait just a second. Are you saying you want the court to appoint a stand-by lawyer or you want to retain a stand-by lawyer?

[21-22] **Dr. Faltas:** I'd like the court to appoint a stand-by lawyer.

[23 – page 5, line 5] **The Court:** All right. If that is -- if that is your desire, there are two things I have to talk to you about, one of which I can't take care of today. One of those is is [sic] you're not entitled to appointed counsel, stand-by or otherwise, unless you can't afford counsel with your own funds. Now, that will require you to apply for a public defender. Fill out a questionnaire. Pay a $40 -- $40 -- still $40?

[6] **Mr. Sawyer:** Yes, Your Honor.

[7-8] **The Court:** $40 application fee. You've got to do that, so I'm not going to appoint stand-by counsel for you today.

[9-11] **Dr. Faltas:** May I just ask -- apparently that was done through the jail, and the $40 were waived. Maybe that's the procedure.

[12-20] **The Court:** I don't -- well, I can only tell you what I know the procedure is where I come from. If you're in jail more than 15 days, you're automatically appointed a public defender, and when you get out, your application goes through its regular route. If it turns out you don't qualify financially for a public defender, then it's pretty much undone. I don't know what the procedure is here. I don't know how the counsel was appointed. Now, are you a medical doctor?

[21-22] **Dr. Faltas:** Yes, Your Honor. I've been -- I graduated With Honors in 1977---

[23-24] **The Court:** All right. Wait a minute, ma'am. My question was: are you a medical doctor?

[25] **Dr. Faltas:** Yes, Your Honor, I am.

[page 6, line 1] **The Court:** Okay. Do you have a practice?

[2] **Dr. Faltas:** No, Your Honor.

[3] **The Court:** All right. Do you have a source of income?

[4] **Dr. Faltas:** No, Your Honor. My family supports me---

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

[6] **Dr. Faltas:** But I live very frugally and...

[7-11] **The Court:** All right. So what you will have to do is if you want -- at least for the immediate purpose of now, you -- Mr. Sawyer is your lawyer until I tell him that he's not or some other judge tells him that he's not. Out of an abundance of caution, I may let both of you speak today.

[12] **Dr. Faltas:** Please.

[13-22] **The Court:** I just want to make sure we get to the point that we're here about. Now, you do have the right to a lawyer. If you can't afford a lawyer, one will be appointed to represent you free of charge, and you've said you want to represent yourself with stand-by counsel. That's done in certain situations, but it's not automatic that you get one appointed free. All right? If anybody here from the public defender's office or the clerk's office can correct me on any of that, I'd appreciate it because I certainly don't know all those rules that you may follow.

[23 – page 7, line 3] **Ms. Weiss:** The only thing I do know, Your Honor, if I may, is that the general practice - and I don't know if it's in the law - is that shadow counsel is appointed for trial purposes only I think from their office. Mr. Sawyer may be able to speak better to that. I think that has been the practice here.

[4-7] **Mr. Sawyer:** Yes, Your Honor. I discussed that with Ms. Faltas. Sorry. I discussed this with Dr. Faltas. Excuse me. I discussed this with Mr. Strickler, and he was of that same opinion that for the time being---

[8] **The Court:** It would be just for trial.

[9-10] **Mr. Sawyer:** I'm either her attorney or I'm not her attorney.

[11-14] **The Court:** And that's the way I took at it, too. Now, for today's purposes, ma'am, do you want Mr. Sawyer to represent you in these hearings today or do you want to represent yourself?

[15-16] **Dr. Faltas:** If it pleases the Court, I wish to represent myself.

[17-22] **The Court:** What I'm going to do is this: I'm going to ask -- I'm going to instruct Mr. Sawyer to remain here, and we can discuss these issues intelligently, concisely, and directly with no tangents. In other words, we'll get to the point, and I'll rule accordingly. Is that suitable to you, ma'am?

[23-25] **Dr. Faltas:** Thank you, Your Honor, very much. And may I say that it's a pleasure to see Your Honor again? I am sorry it's under these circumstances.

[page 8, lines 1-2] **The Court:** That's right. Nice to see you again. The last time I saw you, you brought me a stained glass picture.

[3-4] **Dr. Faltas:** It was a Coptic art replica of a Coptic icon, and I am very proud of my Coptic heritage---

[5] **The Court:** Yes, ma'am.

[6-9] **Dr. Faltas:** ---and I wanted to show you. And it was in a civil case. Your Honor was kind enough to try to move the motions hearing forward, and when that failed, Your Honor was kind enough to continue it.

[10] **The Court:** Yes, ma'am.

[11-14] **Dr. Faltas: And I was able - thank God and thank you -- to go be with my mother, and thank God miraculously she recovered. We almost lost her three times and, Your Honor, these charges---**

[15] **The Court:** Wait just a second---

[16] **Dr. Faltas:** Okay.

[17-18] **The Court:** ---because we're going to follow a particular order.

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

[20-21] **The Court:** And I understand, Ms. Weiss, that there are two motions. **One is your motion to revoke bond.**

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

[23-24] **The Court:** And the other is **a motion made by Dr. Faltas to convert a cash-posted bond to a P.R. bond.**

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

[page 9, lines 1-2] **The Court:** All right. Is Mr. Briggs present in the courtroom?

[3] **Ms. Weiss:** He is, Your Honor.

[4] **Mr. Briggs:** Yes, Your Honor.

[5] **The Court:** All right. Mr.---

[6-8] **Mr. Briggs:** I'd be glad to address the court only on the facts that I'm involved in, but I don't now and don't intend to in the future represent Dr. Faltas.

[9] **The Court:** All right. I---

[10-12] **Mr. Briggs:** But I'll be glad to help the court. I know I have been a friend and lawyer for her for more than 15 years.

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

[14-15] **Mr. Briggs:** So I know that she does not have any income and things like that.

[16-21] **The Court:** All right. Thank you, Mr. Briggs. All right. What we're going to do now -- I think the logical progression of this would be for me to, before I address the conversion of your bond, would be for me to hear from the state on whether or not the bond should be revoked, and I don't know if that's my ears or what but...

[22] **Ms. Weiss:** I think...

[23] **Dr. Faltas:** It's a necktie.

[24] **The Court:** It's a what?

[25] **Ms. Weiss:** Mr. Briggs' necktie.

[page 10, line 1] **The Court:** Somebody's tie is going off.

[2-3] **Mr. Briggs:** I'm sorry, Your Honor. When I move, my -- I apologize. I'll try to be still.

[4] **The Court:** That's all right.

[5-9] **Dr. Faltas:** Your Honor, may I say -- **and I just am making my record.** I'm not arguing with the Court or anything. **May I say that it's unfair that Your Honor hear from the state first because my motion predated the state's motion?**

[10-11] **The Court:** All right. You're on the record on that, but I'll hear from them first. Okay?

[12] **Dr. Faltas:** Would I be allowed to respond?

[13-16] **The Court:** You'll be able to respond; yes, ma'am. But I'm going to order right now that she goes first on her motion, and you're on the record as saying that's unfair, and that position is stated clearly.

[17] **Dr. Faltas:** And I object and take exceptions to it.

[18] **The Court:** Yes, ma'am, you certainly do.

[19] **Dr. Faltas:** Thank you, Your Honor.

[20] **The Court:** Okay. Ms. Weiss?

[21-25] **Ms. Weiss:** Thank you, Your Honor. May it please the Court? For the record, standing with me is Investigator Blanton with the City of Columbia police department. She is the investigator on this case, **and seated out in the gallery is Dinah Steele who is one of the two victims in this case.**

[page 11, line 1] **The Court:** Who is Ms. Steele? [2] ***(Ms. Steele raises her hand.)***

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

[4] **Dr. Faltas:** Your Honor, may I---

[5] **Ms. Weiss:** And---

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

[7] **Dr. Faltas:** Okay.

[8-10] **The Court:** No, ma'am, you may not. You may not interrupt, and you may not speak until I tell you that you can. That's the -- that's the rule. Okay?

[11-12] **Dr. Faltas:** I apologize. I only wanted to refer to her as---

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

[14] **Dr. Faltas:** All right.

[15] **The Court:** You can't---

[16] **Dr. Faltas:** All right.

[17-18] **The Court:** ---refer to something when I've told you not to refer to anything.

[19] **Dr. Faltas:** All right. I apologize.

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

[21 – page 12, line 16] **Ms. Weiss:** [21 – page 12, line 5] Thank you, Your Honor. And the other victim, Teresa Ingram, was notified of the hearing but due to an illness in the family was unable to be present today, Your Honor. I received -- I received Dr. Faltas's motion to reduce her bond to an unconditional P.R. bond as well – an unconditional P.R. bond and, Your Honor, I also received information actually just prior to that that Dr. Faltas was re-arrested this weekend for unlawful use of a telephone, Primarily because of her continued calling -- she called Dispatch for the City of Columbia. [6-10] She called numerous times, was told that law enforcement was on the way. She continued to call back, got louder, became -- used abusive language with dispatch, and then refused to relinquish the line. She was charged with a city level unlawful use of a telephone. [11-16] Based on her re-arrest as well as her actions, I filed a motion to revoke bond, and in the alternative, if Your Honor is not inclined to revoke a bond, I would ask that instead of reducing the bond to an unconditional P.R. bond that actually the bond restrictions be made clear so that we don't run into this situation again during the pendency of this case.

[17] **The Court:** Do you have a written bond form?

[18] **Ms. Weiss:** I do, Your Honor.

[19-20] **The Court:** And it was the summary court judge who issued the bond?

[21 - page 13, line 1] **Ms. Weiss:** It was, Your Honor. The bond was initially set by -- it's in here. I just pulled it out a minute ago. I just had it. Hold on. The initial bond was set by Judge Jean Burns of the City of Columbia. The papers are out of order; I apologize. She set a $20,000 surety bond with a 10 percent option on each charge. Okay.

[2] **The Court:** So that was combined 20,000 or...

[3-4] **Ms. Weiss:** It was 20,000 on each one with a 10 percent option. So it was $2,000 on---

[5] **The Court:** Times two?

[6-21] ***Ms. Weiss:*** [6-16] *Times two. So -- there it is. And, Your Honor, I'm handing up now what was given to me as the bond. There are several problems with this bond form. There's several things missing, but I'm going to hand this up now. It will show you it's the basic bond form with $2,000 cash in lieu of the surety bond that could be posted. As part of that bond, it was initially ordered that she -- that Dr. Faltas must receive an assessment from the mental health professionals at the jail, at Alvin S. Glenn Detention Center, and then once she did that and once that report was released, she could then be released.* [17-21] *Once she got that report, she actually went down to the jail. It said that Dr. Faltas was not a danger to herself or others but that it did appear there may be some neurological issues as well as high blood pressure, some medical issues and also---*

[22] **The Court:** Would those impact her mental state?

[23 – page 14, line 2] **Ms. Weiss:** That they could, Your Honor, and those were -- and there could possibly be growth of a tumor, something along those lines, that they were concerned about and they also -- so she added an order which is not on that form. She told me verbally she added this order and---

[3] **The Court:** The judge told you that?

[4 – page 15, line 12] ***Ms. Weiss:*** [4-10] *The judge told me this as she was leaving court that day. Mr. Briggs had telephoned me and said she wanted to talk to me to make sure he had -- he knew that it had -- the evaluation had taken place but just to make sure we were all on the same page, that that initial assessment had taken place and she was free to be released and not have any other way to contact Judge Burns.* [11-19] *I knew she was out there for court, and so actually I went to the jail because I didn't know how to reach her otherwise. She told me that she had added on there that she wanted Dr. Faltas to receive a full psychiatric evaluation as soon as possible as well as a neurological evaluation and that the evaluations -- the results should be sent to my office so we would know -- try to get an idea of what was going on with this case and, Your Honor, she was released on those.* [20 – page 15, line 3] *She was also told that once released she could not return to her apartment at 304 Byron Road, Apartment Number 3, that she could return with the investigator and an armed -- and a uniformed police officer to her apartment where she was to get whatever she needed for the next few months to be able to live. Mr. Briggs indicated that there were funds for her to be able to stay somewhere until he could get a house that she could move into and that it would not be a problem for her not to go back to that apartment.* [4-12] *The judge ordered that she not go back and that she only go back with a police escort. As you can see on the bond form, although she iterated in court very specifically that she go with the investigator and the officer and get as much -- you know, get her belongings, she put on there she could not return without a police escort. And I go into all that because after she was released -- approximately two days after her release, she started contact -- she went initially when she was released---*

[13-14] **The Court:** And to put it in perspective, this bond form is dated 12 -- 15 days ago.

[15 – page 16, line 2] **Ms. Weiss:** [15-25] Yes, Your Honor. And Dr. Faltas, Orin Briggs, Investigator Blanton, and two uniformed police officers went to her apartment and she was given the opportunity to go in and get what she needed, and as far as we were concerned, that was what was provided by the court. Dr. Faltas began calling law enforcement approximately two days later and continued calling on a regular basis asking for an escort to go back to her apartment. She would go back to her apartment, get one or two things and leave, and this went on -- and then she would call, and sometimes they would say, "We can't meet you now." Then she would call back. [page 16, lines 1-2] Sometimes she would call and say, "I need somebody to go with me." She would go and be waiting on her porch at 304---

[3] **(whereupon, Dr. Faltas gasps and/or sighs loudly.)**

[4-5] **Ms. Weiss:** Waiting at 304 Byron Road is my understanding.

[6-7] ***Investigator Blanton:*** *That was my understanding as well.*

[8-11] **Ms. Weiss:** This is what the officers have relayed, so I'm relaying what I have understood, that she'd be waiting for them to get there before she would go into her apartment. She would not go in ---

[12-13] **The Court:** She was at the premises, according to the officers?

[14] **Ms. Weiss:** According to the officers.

[15-16] ***Investigator Blanton:*** *Not inside of the apartment but standing outside waiting on them to get there.*

[17] **The Court:** She's not supposed to be doing that.

[18] **Ms. Weiss:** Right.

[19] ***Investigator Blanton:*** *Without a police escort.*

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

[21 – page 17, line 22] ***Ms. Weiss:*** [21 – page 17, line 5] *And then -- but then this escalated until the 12th when she was -- when -- the day that she was charged with the new offense where she started calling dispatch. They said they were on the way. They said there was a very heavy call volume that day. They just couldn't get to an escort call right away, and she continued calling back. The calls escalated into abusive language and then a refusal to relinquish the line until finally charges were filed for unlawful use of a telephone, and she was arrested that day for unlawful use of a telephone against dispatch.* [6-17] *So the motion to revoke bond is based on that. In lieu of that, I ask that you make some clarification of the bond conditions so we don't end up back in this same position. And, Your Honor, in the same vein of clarifying issues, I know Dr. Faltas is proceeding pro se at this moment. I would just like to put on the record that, you know, how ever the Court deems to continue with that representation, if she is to proceed pro se, I want to make it clear that as the prosecutor on this case I'm only comfortable in dealing with Dr. Faltas on the record and in a courtroom. I'm not comfortable in dealing with her as a contemporary, as an attorney.* [18-22] *She is not familiar with the criminal law or the criminal procedures, and I'm only comfortable kind of dealing in that realm because that's what I do. And I would deal with her on the record, but she has already made filings and threats---*

[23] **(whereupon, Dr. Faltas gasps and/or sighs loudly.)**

[24-25] **The Court:** What is that? Where is that noise coming from?

[page 18, lines 1-2] **Dr. Faltas:** I'm sorry. I just sighed because I didn't make any threats.

[3-4] **The Court:** Okay. You can't -- don't make any noise. Okay?

[5] **Dr. Faltas:** I'm sorry.

[6-7] **The Court:** All right. No reason to sigh unless you have a medical condition.

[8] **Dr. Faltas:** I'm sorry.

[9-11] **The Court:** Okay? So just control yourself. All right. The record will show that there was an abrupt intake of breath. All right. Go ahead.

[12-17] ***Ms. Weiss:*** *Thank you, Your Honor. Basically a veiled threat to turn me over to disciplinary counsel for things that haven't even occurred. Basically this case hasn't even begun.* ***We're 15 days into it. There have already been two things sent to the office of disciplinary counsel regarding this case.***

[18] **The Court:** On you?

[19 – page 19, line 1] **Ms. Weiss:** Well, they're on everyone involved. My name is listed in the report she is sending. There have not been specific allegations made at this point, but because the letters are already being sent, Your Honor, I feel like if she chooses to proceed *pro se*, the only way that I can competently deal with this case and protect my law license is to deal with things on the record with proper motions that are filed under the rules of criminal procedure.

[2-4] **The Court:** All right. Anything else as far as the motion to revoke or clarify the terms of the bond? Then we'll get into later her request about the conversion.

[5 – page 20, line 1] ***Ms. Weiss:*** [5-10] *And, Your Honor -- oh, there is one more thing.* ***The address that Dr. Faltas keeps providing is 304 Byron Road, Apartment number or Number 3. That was the apartment she's specifically prohibited from going back to without a police escort, but that is the only address that we have for her.*** [11-19] *As you noted on the -- as you may see on the bond form, there's no address listed. There's no signature acknowledging bond, and there's no address listed, and I don't have another copy, if there is one, of a bond form where she's acknowledging her bond. So I would ask Your Honor if we could have some sort of address to be able to communicate with her. It*

makes me a little bit uncomfortable, if she is receiving mail there, that obviously she's going there to get her mail. [20 – page 20, line 1] *I don't know if she's going with a police escort or if she's going on her own, but that's the only place we have to serve her. We have no way of serving her if there are any motions, and we have no way of reaching her. And as a defendant, I think we -- I would like to ask that as a part of her bond she actually give an address where she is residing or an address where we can communicate with her.*

[2-6] **The Court:** The one thing that obviously catches my eye is the fact that the acknowledgment that she'd be tried in her absence if she doesn't show up for court, she – there's no signature there. Let me ask you this first, ma'am. Where do you reside?

[7-8] **Dr. Faltas:** Your Honor, may I respond in the complete way? And I won't take long to do it.

[9-10] **The Court:** I want to ask you first: where do you live? Then you can respond fully to what she said.

[11-12] **Dr. Faltas:** well, Your Honor, I have paid rent for my apartment for December 2009. I never went there without---

[13] **The Court:** Ma'am?

[14] **Dr. Faltas:** Okay.

[15] **The Court:** Ma'am?

[16-17] **Dr. Faltas:** As far as the mail, it is being held for me at the post office, and I go pick it up from the post office.

[18-19] **The Court:** Ma'am, my question I think is very clear. Where do you live?

[20-21] **Dr. Faltas:** Your Honor, I'm in a temporary faith-based facility.

[22-25] **The Court:** Okay. Because, in essence, the court and the clerk's office will need your physical residence so you will know -- so they'll know where to find you if you don't appear.

[page 21, line 1] **Dr. Faltas:** Oh, yeah. That's fine.

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

[3-4] **Dr. Faltas:** Now, of course, if my motion to convert it to---

[5] **The Court:** P.R. bond.

[6-9] **Dr. Faltas:** ---an unconditional P.R. bond which is what I'm asking is to be able to return to my apartment for which I paid rent and I have already paid rent and, Your Honor, this is what this is about---

[10-11] **The Court:** I will again say that I will need your physical address.

[12-13] **Dr. Faltas:** All right. May I just say that depending on how Your Honor rules on my motion---

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

[15] **Dr. Faltas:** Okay.

[16-17] **The Court:** My question is: what is your physical address? Mr. Briggs, you're preparing to stand?

[18-21] **Mr. Briggs:** Your Honor, let me consult with her just a minute because I'm prepared to let her use my P.O. Box if she wants to. Dr. Faltas is I think genuinely concerned. Now, I'm going to only deal with facts now concerned about her---

[22-24] **The Court:** No, wait. Wait, sir. Wait, sir. My question and I want the question answered - I sincerely do - is where does she live?

[25 – page 22, line 1] **Dr. Faltas:** May I tell Your Honor not *ex parte* but *in camera* because---

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

[3-10] **Dr. Faltas:** All right. So then is it a question of my being picked up or is it the question of where the mail can come to me? I am in a situation -- I'm asking the question. I'm in a situation where I get permission day by day to stay there, and what I'm asking is: Does the court wish me to find another apartment? Does the court wish... I do not currently have a permanent guaranteed address. If it's a question of---

[11-13] **The Court:** All right. Round one goes to you. I will not make you answer that question yet, but you will by the time of this hearing answer that question.

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

[15-17] **The Court:** So, Mr. Briggs, is there anything you need to consult with her about? Now, you're not her lawyer, so

I'm a little confused about what your role is.

[18-19] **(whereupon, an off-the-record discussion takes place between Mr. Briggs and Dr. Faltas.)**

[20-21] **The Court:** All right. Now, let's talk about one thing at a time.

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

[23 – page 23, line 1] **The Court:** The solicitor, Ms. Weiss, I don't know where she went -- there she is. Ms. Weiss says that you are in violation of your bond because you continue to go back to your apartment.

[2] **Dr. Faltas:** Your Honor, and that's---

[3-7] **The Court:** And -- and -- and call the police and want an escort at your insistence each time you insist. So what is your position on whether or not I ought to revoke your bond and order you to be held in custody? Which I'm not inclined to do, to be quite frank.

[8-11] **Dr. Faltas:** Your Honor, may I say that my problem from since this case started -- and if I may hand Your Honor something I filed with the State Supreme Court and served Ms. Weiss with. May I -- may I -- may I show you?

[12-13] **The Court:** You can hand it to the clerk right down here, and she'll hand it to me.

[14] **Dr. Faltas:** Yes, Your Honor. All right.

[15] **The Court:** All right. Just a moment, please.

[16] **(The Court reviews the document.)**

[17-19] **The Court:** All right. You've handed me something I assume Ms. Weiss has not seen because it bears the date stamped today. You requested---

[20-21] **Ms. Weiss:** Your Honor, she did. She gave me a copy, Your Honor.

[22-23] **The Court:** Okay. You requested this matter to be considered by the Supreme Court in its original jurisdiction.

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

[25 – page 24, line 5] **The Court:** All right. Wait. You've also got the complaint that accompanies that request. You've got an affidavit in support of that complaint, and that document appears to be at least two dozen pages long. That petition, I assume, has not been granted, so I'm not going to consider that.

[6-8] **Dr. Faltas:** All I'm saying, Your Honor, is, if it pleases the court, that this court -- the arguments I wish to make about all of this and some of the evidence is in---

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

[10] **Dr. Faltas:** What I'm saying---

[11-16] **The Court:** Wait. Dr. Faltas, what we're here about are two relatively narrow issues. I am not going to talk about the facts except as they concern the motions that are before me. I've heard the state's position as to whether or not I should revoke the bond or at least clarify the conditions of the bond.

[17] **Dr. Faltas:** All right.

[18-21] **The Court:** Here's what my first question is to you: Do you understand that under that bond you are to have no contact with what the system refers to as the victims? If it suits you better, I will say the alleged victims.

[22] **Dr. Faltas:** That's what I was trying to interrupt---

[23 – page 25, line 1] **The Court:** Alleged victim. If I said the word victim, if Ms. Weiss says the word victim, it is the alleged victim. All right? So do you understand you're to have no contact with Ms. Steele?

[2] **Dr. Faltas:** I never did, Your Honor.

[3-5] **The Court:** All right. That's not my question. Do you understand that that is a condition of your bond? That's a yes-or-no answer.

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

[7-9] **The Court:** All right. You've answered that question. Do you understand that you are -- were not to return to the incident location without a police escort?

[10] **Dr. Faltas:** And that's---

[11] **The Court:** Yes or no? Do you understand that?

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

[13-15] **The Court:** Okay. Now, my next question is this: Do you construe that to mean that you can go to the apartment at any time as long as you have a police escort?

[16-23] **Dr. Faltas:** Your Honor, not only did I construe that, the police department construed it that way. In addition, I was in the magistrate's office and I was talking to the dispatch and he didn't understand it, and the Lykesland Magistrate spoke to him and they told me to go -- the way Judge Burns said it is, "do not enter the apartment." There is a difference between the location which you're reporting -- might include the whole City of Columbia.

[24] **The Court:** That's not what this says.

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

[page 26, lines 1-6] **The Court:** Now, it would not withstand any reason or any reasonable analysis to say if that you're not to return to the incident location, that being the inside of your apartment without a police escort, because none of this apparently occurred inside your apartment. So I will disagree with you there.

[7-22] ***Dr. Faltas:*** *[7-15] Well, I was only -- I can't read Judge Burns' mind, but she said not to enter the apartment except with police escort and, in fact, the police department, and may I say something, Your Honor? I've been -- when I first came to this country, I didn't like many things about it, but I loved the Constitution, and it seems two things in this case are way outside the window. Number one, the presumption of innocence. Number two, the protection -- actually three things are out the window. [16-22] Number one, the presumption of innocence to where people don't even say alleged victim; they just assume she's a victim. Number two, the protection against warrant except under oath or affirmation, and here is the problem. This statute which I'm trying to challenge as on unconstitutional allows someone without personal knowledge to take a warrant. That is a clear violation of---*

[23-24] **The Court:** All right. I'm going to stop you right there. That is not before me today.

[25 – page 27, line 1] **Dr. Faltas:** Well, may I ask that it be scheduled sometime?

[2-4] **The Court:** You can -- you can take care of that at a different time by filing a motion to suppress, but we're not going to discuss that today.

[5] **Dr. Faltas:** All right.

[6] **The Court:** And I might add---

[7] **Dr. Faltas:** Yes, sir.

[8-13] **The Court:** ---that you are enjoying the presumption of innocence because if you were in a country that did not employ that presumption, you'd be in jail right now. So we're not going to talk about anything and I caution you that we're not going to talk about anything except the motions before me now.

[14] **Dr. Faltas:** All right. All right.

[15-18] **The Court:** And that is why you should probably seriously entertain the thought of retaining counsel or applying for a public defender to serve you full-time instead of in a stand-by capacity.

[19-24] **Dr. Faltas:** Your Honor, so may I say Ms. Weiss said to Your Honor things that are factually untrue? And she – Counsel is not supposed to testify, and then she said she heard it from the police officer. Well, that's hearsay. It never happened that I went either in the apartment or in that location without police escort.

[25 – page 28, line 1] **The Court:** All right. Let me ask -- may I ask you a question?

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

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

[4-6] **Dr. Faltas:** There were two times, just to be complete and truthful. They specifically gave me the directions to go there and wait for them there.

[7-8] ***The Court:*** *Okay. That's fine. Okay. I'm with you there. All right. Let me -- here is my question to you.*

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

[10-12] **The Court:** Do you think that you're entitled to the police going with you every time you choose to call them

and get them to go?

[13-21] ***Dr. Faltas:*** *Your Honor, I am entitled to reasonable access because the Eighth Amendment to the Constitution prohibits excessive bail, number one, and prohibits cruel and unusual punishment. And may I say the apartment was ransacked? So the first time I went there I couldn't even get to anything because everything was -- my hand purse was opened. Everything had been opened, ransacked, thrown on the floor. I couldn't even progress. I couldn't even walk to where I need to get---*

[22-25] **The Court:** All right. Let's -- let's keep our focus on what my question was. Do you believe that you're entitled to a police escort to go over to this apartment any time you want?

[page 29, line 1] **Dr. Faltas:** No, Your Honor. At reasonable---

[2-3] **The Court:** All right. So you've answered that question.

[4-14] ***Dr. Faltas:*** *At reasonable times do, when reasonable needs arise. For example, when this happened -- and there is an affidavit from the Lykesland Magistrate attached to the package. It was going to be freezing this past weekend, and I needed to get a coat which I hadn't gotten the first two times and, in fact, the first two times -- the first time Investigator Blanton was there, but then her supervisor said she doesn't need to be there. Get someone from another – and that's fine with us. No, sir, it wasn't really needed. It was just -- that time it was relatively warm, but when it became risking freezing, I needed to get a coat.*

[15] **The Court:** All right. Now.

[16] **Dr. Faltas:** That's -- that's human. Human.

[17] **The Court:** All right. Stop right there.

[18] **Dr. Faltas:** Okay.

[19] **The Court:** What else do you need from your apartment?

[20] **Dr. Faltas:** I ---

[21-24] **The Court:** Wait. I'm not finished yet. What else do you need from your apartment to take with you to your current place of sleeping that will ensure your comfort needs are met?

[25 – page 30, line 2] ***Dr. Faltas:*** *may I say, Your Honor, it's not just my comfort needs? It's my needs to defend myself, and there is a lot of exculpatory material---*

[3-4] **The Court:** There's a lot of what? Exculpatory material?

[5] **Dr. Faltas:** In my apartment and---

[6-13] **The Court:** All right. What do you -- what do you need to get? Tell me what you need to get because what I'm going to do is this: You're under an order not to go back to the incident location without a police escort. They're not going to be there 24 hours a day, seven days a week. I'm going to leave that condition in place. What I'm asking you is – and I'm going to order the police to go with you one time to get everything that you need.

[14-19] **Dr. Faltas:** Well, could that one time be a day long? I can -- I can try to get storage facility set up to where – and I can even get a truck and maybe try to get as much out as I can so that -- because it's not just the needs to live, as I said. It's the exculpatory material, my mini law library.

[20] **The Court:** Your mini law library?

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

[22] **The Court:** That's exculpatory?

[23 – page 31, line 5] **Dr. Faltas:** Well -- well, that's not in itself exculpatory, but I need it if I am to defend myself. But there are things that -- that are exculpatory that I did not think about until they started making false allegations. For example, for example, in the -- before the Lykesland Magistrate, she claimed that I went and -- that the alleged victim who is the defendant in the civil lawsuit that I brought -- and may I give Your Honor the background?

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

[7-9] **Dr. Faltas:** All right. Fine. Fine. Fine. Fine. She claimed that I went and stalked her, and it turns out that I---

[10-11] **The Court:** You're giving me the background. I didn't want the background.

[12 – page 32, line 5] **Dr. Faltas:** [12-20] I'm sorry. I'm saying there are things that are exculpatory that I cannot think of now, but this is a moving target. They keep on adding -- adding charges or adding details. So if it is going to be one time, if it is going to be one time, may I ask that it be a full day and after I have had a chance to make arrangements? Because I don't think I can find rental with all of this facing me, that I can make arrangements to take my books, my papers, as much as possible, if not everything. [21 – page 32, line 5] And may I say if that is the case, this would have been exactly what I've been trying to say is being done? They are trying to achieve through the presentation of false criminal charges what they could not do in the civil case. The civil case is about rental discrimination, housing discrimination, in violation of South Carolina's Fair Housing Law and, Your Honor, I own land adjacent to Ms. Steele's building. I think it's a violation of my constitutional rights not to be able to build on my own land, and the reason this lawsuit started is that---

[6-7] **The Court:** I'm not going to hear the background of your civil suit.

[8] **Dr. Faltas:** All right.

[9] **The Court:** Not going to do it.

[10] **Dr. Faltas:** All right.

[11-13] **The Court:** I've asked you a series of very simple questions, and your answer to one is that you need a full day to get your goods -- your property out of that apartment.

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

[15-17] **The Court:** Now, what is a full day? Is that eight hours? Is that 24 hours or what is your impression of what a full day would be?

[18-19] **Dr. Faltas:** Well, it might be -- it may be three eight hour days.

[20] **The Court:** Ma'am?

[21-24] **Dr. Faltas:** I'm saying, yes, it's 24 hours, but it might be three 24-hour days because of the amount of books and there's papers that I have there. And may I add, Your Honor---

[25] **The Court:** No, ma'am, you may not add yet---

[page 33, line 1] **Dr. Faltas:** All right. I'm sorry.

[2] **The Court:** ---until you answer that question.

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

[4] **The Court:** All right. You need three eight-hour days.

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

[6-13] **The Court:** I cannot -- I cannot take law enforcement officers off of their responsibilities for three eight-hour time periods for you to retrieve information. I was – based on what the solicitor said in her presentation, I thought that Mr. Briggs had said at your bond hearing that you had a place to go and that you needed to get some essentials and necessaries and you'd be gone. Now, Mr. Briggs, is that not correct?

[14] **Dr. Faltas:** He may have said---

[15] **The Court:** Wait.

[16] **Dr. Faltas:** He misunderstood.

[17] **The Court:** Ma'am, you stop.

[18-20] **Mr. Briggs:** Your Honor, that is not what I said, and I don't want to argue about it but -- and I can talk about a couple of other things but---

[21-22] **The Court:** No, sir, I just want to know the answer to that.

[23 – page 34, line 4] **Mr. Briggs:** Here is the critical point: Dr. Faltas is involved in litigation. *I always felt like that she needed a time where she had at least two or four hours to go in there and inventory what's there.* The other problem that has not been mentioned, Your Honor: on a simple little allegation of harassment, the police confiscated more than 20 items from her apartment including a computer.

[5] **The Court:** We're not here about that.

[6-11] *Mr. Briggs: I understand that. I understand that, but I want you to know that it complicates her problem of trying to defend herself now and defend herself in the other thing. I'm just trying to give you the factual basis. So I'm not going to say how much time she needs, but she certainly needs more than 15 to 20 minutes---*

[12] The Court: I agree with you.

[13] Mr. Briggs: ---about two or three times.

[14 – page 35, line 4] The Court: [14-22] I agree with you. We've been in here for about 35 minutes, and she would certainly need longer than that. But what I'm trying to do is get a realistic – this is very simple, very simple. She's presumed innocent. She's charged with two crimes. A magistrate issued a bond with three conditions on it. One of those is she's not to go back over there without a police escort. It would defy reason to conclude that she's entitled to call the police every time she should want to go. [23 – page 35, line 4] What I want to do is this and put it all to rest and she can live and die by the terms of this bond: No contact with the victims, a mental evaluation which has already been done at least preliminarily, and she can't return to that location without a police escort. *I want her to tell me a reasonable construction of what time she needs to go over there and get her stuff. That's very simple.*

[5] Mr. Briggs: Your Honor---

[6-8] The Court: I could go -- I could go to my house right now and get what I need to live for a month somewhere else. I could do it in an hour.

[9-14] Mr. Briggs: Okay. Your Honor, let me just correct two other little misinformations, not that anybody said anything wrong, but I believe and I always interpreted the bond condition as Judge Burns saying that she could not go into the apartment. I don't have any problem with the court changing it---

[15] The Court: That's not---

[16] Mr. Briggs: ---but not---

[17-18] The Court: It says the incident location. The solicitor said these events occurred in the parking lot.

[19-21] Mr. Briggs: Yeah, but let me give you an illustration. Judge Burns also said that the landlord could not go in the apartment. So she said that about both of them.

[22 – page 36, line 2] The Court: The landlord is not subject to a bond. The landlord is subject to penalties under the lease which I don't have anything to do with. This piece of paper says, "incident location." I would venture to say that none of the alleged events against any of the alleged victims occurred inside the walls of her apartment.

[3-4] Mr. Briggs: All right. But that's not what the bond says though, Your Honor.

[5-6] The Court: It says -- it says, "Do not return to incident location."

[7] Mr. Briggs: You're reading from the---

[8] The Court: Reading from---

[9] Mr. Briggs: ---cash bond?

[10-11] The Court: "Do not return to incident location without police escort," and there's an exclamation point at the end.

[12-13] Mr. Briggs: **Okay.** Then I misunderstood. I stand corrected.

[14] The Court: So, Ms. Weiss, one question. Brief answer.

[15] Ms. Weiss: Yes, sir.

[16] The Court: Where did the alleged incident take place?

[17-18] ***Ms. Weiss:*** *The -- most of the incidents took place in the parking lot on the grounds of 300 and 304 Byron Road.*

[19-20] ***The Court:*** *Is there any allegation that it occurred within her apartment?*

[21] ***Ms. Weiss:*** *No, Your Honor.*

[22 – page 37, line 2] The Court: All right. So we've got that straight. So, ma'am, if I were to somehow try to fashion a time where you could go get your things, do an inventory, as Mr. Briggs indicated, and get your necessaries, clothing and so forth, so you can vacate that -- those premises until the bond is otherwise modified, how long will you need?

[3-5] Dr. Faltas: Eight hours but after I've had a chance to find a storage facility. So, I mean, it would be eight hours

but not today, not tomorrow.

[6] The Court: Yes, ma'am.

[7-10] Dr. Faltas: But then -- and may I once again, Your Honor -- and I think Your Honor alluded to it. I did have the mental examination. I am very insulted that I was asked for a mental examination.

[11-13] The Court: Well, that's -- that's not an issue before me, and I -- I -- I understand your feeling insulted, but that's legally and factually irrelevant right now.

[14-18] Dr. Faltas: Okay. Now, I don't think anyone interprets my land, 324 Byron Road, which belongs to mother and me as the incident location. Can we meet here on that? For example, if it turns out that I can put a trailer there and put my things in it -- I hope no one objects to it.

[19-20] The Court: I don't know what the address of the incident location is.

[21-22] Ms. Weiss: Your Honor, the address of the incident location is 300 and 304 Byron Road.

[23] The Court: 303?

[24] Ms. Weiss: 300 and 304 Byron.

[25] The Court: 300 and 304?

[page 38, line 1] Ms. Weiss: And 304. They're two apartment buildings.

[2] The Court: These are apartment complexes?

[3] Ms. Weiss: Apartment buildings, yes, Your Honor.

[4] The Court: All right. Is---

[5] Ms. Weiss: And then 324 she bought, she, Dr. Faltas.

[6] The Court: But 324 is not the incident location.

[7-9] Ms. Weiss: It is not. I did want to just make Your Honor aware of what she's saying. She bought adjacent property to 304---

[10-13] The Court: So she can put what she wants there and live as long as it meets the zoning restrictions employed by Richland County as long as she doesn't go to 300 and 304 and as long as she doesn't have contact with these victims.

[14-16] Ms. Weiss: And Your Honor, could we stipulate that contact would include standing on her property taking pictures and videos of them?

[17] Dr. Faltas: I have never done that. What---

[18-19] The Court: Well, if -- if she says she's never done that, I suppose you would not object to such a restriction.

[20-21] Dr. Faltas: Well, yes, Your Honor. What I would object to is---

[22] The Court: No. Do you object to---

[23-24] Dr. Faltas: Yes, for one reason, and may I say something?

[25 - page 39, line 2] The Court: No, ma'am. You can -- you can -- you can tell me the reason you object, and then you can say something.

[3-5] Dr. Faltas: Yes, is that there would be nothing to stop them from coming and telling a lie that I stood on my land and took a picture of them.

[6-11] The Court: They can take a picture of you taking a picture. They could take a picture of you taking a picture. I think we're -- we're now going in a downward spiral of minutia. Every adult in society is expected to behave himself and herself, and those include not harassing people. I'm not saying whether you're guilty or not.

[12] Dr. Faltas: See, the presumption of innocence of the---

[13] The Court: Ma'am, if you'll permit me to continue.

[14] Dr. Faltas: Thank you.

[15-25] The Court: All right. Everyone is expected to behave himself and herself and act accordingly in a civilized society. I don't have any problem with you putting whatever you want to put on 324 Byron Road as long as it doesn't

violate some type of law or restriction. What you're not permitted to do is have contact with the victims. Now, if she decides she wants to take pictures of them, if that's a new harassment offense in the eyes of the state, if you want to chase that, you can chase it, but I do not think that taking pictures from one's own property is a violation of this bond. I don't think that's contact.

[page 40, line 1] **Ms. Weiss:** Yes, Your Honor.

[2-5] ***The Court:*** *If the alleged victims feel threatened and it falls within the definition of harassment in the state's judgment, swear out new warrants and you can keep on doing this until the cows come home.*

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

[7-9] **The Court:** So, again, we get back to what I've asked 20 minutes ago. How long do you need to go to that apartment and get your things?

[10-24] ***Dr. Faltas:*** *[10-19] Your Honor, since you're not inclined to give me 24 hours on eight -- on three eight-hour increments, I would like to two eight-hour increments. There is also another -- another suggestion that* ***I had made which is I could, at my expense, install a motion-activated camera. So without police being there, they can see that I didn't do anything wrong.*** *And if someone says that I did something wrong, they can call the police and the camera would be there, and the police can come and take the tape out of the camera. [20-24] This whole thing has been very unreasonable.* ***It's not as if I injured anyone. It's not as if I'm even accused of having physically injured anyone. What they call harassment is my having called the fire department because there was an outdoor electric extension.***

[25] **The Court:** There was a what?

[page 41, lines 1-7] **Dr. Faltas:** An improper outdoor electric extension. Do you know how when you buy an electric cord there is the Underwriters Laboratory that says not to be used outdoors? There were wires like that running around that were safety hazards. There were trees with rotten limbs dropping branches and limbs as huge as this, and I called forestry because those trees belonged to the City of Columbia.

[8] **The Court:** Were they putting up Christmas lights?

[9] **Dr. Faltas:** What?

[10] **The Court:** Were they putting up Christmas lights?

[11-17] **Dr. Faltas:** No, no, no, no, no, no, no. These were tall oak trees. There are raccoons that come across the ditch, and I called animal control and paid for a cage to be put so the raccoon can be -- raccoons are dangerous animals. This is what they call harassment. Your Honor, please -- I mean, please don't start treating me as if I were insane or uncivilized or anything.

[18] **The Court:** How am I treating you like that?

[19-21] **Dr. Faltas:** When you're trying to lecture me about adults should know how to behave. You're presuming that I was behaving badly.

[22] **The Court:** I'm saying all adults ought to act that way.

[23 – page 42, line 5] **Dr. Faltas:** Well, yes, Your Honor, but I'm the one who is made to pay more than everyone else for an apartment I can't even live in, and I am the one who is a medical doctor with a Master's of Public Health degree and speak four languages, and yet my sanity has been questioned. And then, Your Honor, I totally -- and I hope Your Honor looks at the material that the Lykesland Magistrate himself put in an affidavit saying---

[6-7] **The Court:** I'm not going to consider any matters pertaining to the search warrant.

[8-12] ***Dr. Faltas:*** *It's not the search warrant. It's my having called the dispatcher, and the dispatcher said, "Yes, go there and wait for them," and the Lykesland Magistrate give -- may I show Your Honor?*

[13-14] **The Court:** No, ma'am, because I'm not going to revoke your bond.

[15] **Dr. Faltas:** All right. Thank you.

[16] **The Court:** I've already told you that.

[17-18] **Dr. Faltas:** Well, you said you were not inclined. So now that you've decided---

[19] The Court: Okay. I'm not going to revoke your bond.
[20] Dr. Faltas: Thank you, Your Honor. Thank you, Your Honor. So then---
[21-22] The Court: All right. We're getting back to the question again.
[23] Dr. Faltas: Okay.
[24 – page 43, line 1] The Court: And if you don't answer it, I'm going to order a window of time where you can get your things and not go back until further order of a court.
[2] Dr. Faltas: All right. So---
[3] The Court: Wait.
[4] Dr. Faltas: Uh-huh.
[5-6] *The Court: Okay. So you can give me an answer inside the space of 30 seconds or I will make a ruling.*
[7] Dr. Faltas: All right.
[8] The Court: Go ahead.
[9-10] Dr. Faltas: What is the answer? What is the question, I mean?
[11] The Court: How long do you need to get your stuff?
[12] Dr. Faltas: Two eight-hours. Two eight-hours.
[13] The Court: You need 16 hours.
[14-19] *Dr. Faltas: Yes, Your Honor, but spaced. Spaced. I mean, not -- not -- not after the other or maybe four times four because, you know, Your Honor, most people like have a huge bed, a huge couch, a huge something that can be taken, you know.* ***What I have is a great number of books, a great number of books.***
[20] The Court: **And you need all those books?**
[21-22] Dr. Faltas: **Well, Your Honor, some of those books are very valuable and since---**
[23] The Court: **Fair enough. I understand that.**
[24 – page 44, line 2] Dr. Faltas: Since Your Honor said that you will not enforce Judge Burns' order that they do not enter in my absence because I have reason to believe that they are, I would ---
[3-4] The Court: You think these alleged victims are entering your apartment?
[5-6] Dr. Faltas: Yes, Your Honor. They are the landlord, the landlady, and---
[7] The Court: Are you the landlady?
[8] ***Ms. Steele:*** *I am.*
[9] The Court: All right.
[10] Dr. Faltas: And since she---
[11-13] The Court: You're not permitted to go in her apartment outside the terms of the lease. I'm sure you understand that.
[14-15] ***Ms. Steele:*** *I did understand that, and we have been not been in there.*
[16-23] The Court: [16-20] Okay. That's fine. All right. She said she didn't, and you said she did. They say you did some things; you say you didn't. Were not here to resolve that today. I would assume she'll comply with the civil law in that regard. [21-23] I'm not going to give you 16 hours. This is beginning to boggle my mind. Would you please enlighten me on what the alleged harassment has been?
[25 – page 45, line 4] *Ms. Weiss: Yes, Your Honor, and Investigator Blanton may be able to tell you a little bit better than I could,* ***but basically the defendant is accused of following these people around. She's accused of blocking their cars in in the parking lot so they can't leave, to take photos of them.*** *She has---*
[5] The Court: And who are these people?
[6-7] Ms. Weiss: Teresa Ingram is a tenant at the apartment, And Dinah Steele is the landlady.
[8] The Court: These are the two alleged victims.
[9-12] Ms. Weiss: These are the two alleged victims in these two -- in these two warrants, Your Honor, and she has

called the police on them. Is that correct? I don't know. Your Honor, if I may just have---

[13] **The Court:** Sure. I'll be glad to hear from you.

[14-15] ***Ms. Weiss:*** *---Investigator Blanton...* ***I just have not had a chance to come fully up to speed.***

[16] **The Court:** Yes, ma'am.

[17] **Dr. Faltas:** Your Honor?

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

[19 – page 46, line 2] ***Investigator Blanton:*** *Your Honor, as the warrant states, she's allegedly followed both of the victims to numerous places from the incident location from the parking lot at the apartments. She's blocked their vehicles in. She's blocked their companies' vehicles in to take photos of them. She sat in her vehicle, snapped photos of them, their family, relatives. There are family and relatives of Ms. Ingram - she's a tenant - that refuse to come visit her because---*

[3] **The Court:** On the -- this is going on on the premises.

[4-21] ***Investigator Blanton:*** *[4-14] Yes, sir, from around February of this year. Possibly sooner, to my knowledge. No. But as of my knowledge, February of this year started all of this. Constantly, you know, "Who are you? Why are you here?" She's questioning their company, possible potential tenants that were coming to visit -- to come to meet Ms. Mason – Ms. Steele-mason to review a vacant apartment. She questioned the young man as far as why he was there, that there were no apartments available, presented herself as the owner or landlord; he wasn't exactly sure. He did submit a statement for that as well. [15-21] She is constantly doing these sort of things that are causing these people to stay in their homes, in their apartments, and not go anywhere because they're afraid she's going to follow them. They're afraid that she's going to – You know, they can't have company over because they're afraid she's going to intervene with their company and target them as well.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[23 – page 48, line 25] ***Ms. Steele:*** *[23 – page 48, line 5] She filed an appeal. So that's why she's been allowed to stay here. But during this time she just picked up the harassment. I mean, she is unlawfully detaining these renters. Where these people are leaving early in the morning, she's getting -- they're getting into their cars. She's pulling her vehicle directly behind their vehicle which they cannot leave. She will not move her vehicle. [6-11] So you can see they're looking in their rear-view mirror. As they're finally getting out of their car,*

she's still not moving. She's taking photographs of their vehicles, their tag numbers, anybody else that's in the car. Those -- the people that are getting out of the car – you can see how quickly this would escalate. [12-16] *We've got four restraining orders right now against this woman. Two are from tenants: myself and my husband. I mean, the harassment has just been horrendous. Every time we go over there, she calls the police on us, whether or not we're cutting the grass or doing any kind of maintenance.* [17-25] *The maintenance people that we have hired to go over there have been harassed by this -- the last person was an electrician about this particular cord that she's referring to. She made the complaint. We hired the electrician to fix it. She harassed this man while we stood out there from 10 in the morning until 1:30 in the afternoon until he completed it, and I know she took at least 50 to a hundred photographs of this man, you know, doing his work, just nonstop harassment.*

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

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

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

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

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

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

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

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

[25 – page 50, line 5] **The Court:** Ma'am, perhaps if I may educate you on a procedural matter now, and you may roll your eyes and the record will show that you've rolled your eyes repeatedly when I address you. The procedural posture in a bond hearing is that I can receive summaries of what the allegations are. You've not been sworn in either.

[6] **Dr. Faltas:** May I?

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

[8] **Dr. Faltas:** Okay.

[9-18] **The Court:** You've not been sworn either. So I'm entitled to have a factual summary of what they say you did, and you're entitled to respond, even though you do have the right to remain silent. The victim has a right – the alleged victim has a right to speak, and the law enforcement may give its position as well. All right. Here is my ruling on the first motion, and then we're going to very, very quickly move on to your motion. You are to have no contact with the alleged victims, and I want their names on the order.

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

[20] **The Court:** Give me their names.

[21] **Ms. Weiss:** Teresa Ingram and Dinah Steele-Mason.

[22 – page 51, line 8] **The Court:** All right. You're to have no contact, direct or indirect. You will at your peril take photographs of them. I would assume that you have no reason to do that. I'm not finished yet. If you want to move your trailer or any other abode to 324 Byron Road, you may do so as long as it complies with any zoning restriction or other regulation of the county or municipality where that might be. That's not an incident location. You are not to return to 300 or 304 Byron Road, which is the incident location, without a police escort. I'm going to order -- what department, ma'am?

[8] ***Investigator Blanton:*** *Columbia Police Department.*

[9-12] **The Court:** I'm going to order the Columbia Police Department to make itself available to you for two three-hour increments to get that done, to get your things. Otherwise, you're not to go there. All right? Is that clear?

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

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

[15] **Ms. Weiss:** Your Honor?

[16-17] **Dr. Faltas:** May I state -- may I ask a question? Something is not clear. Okay?

[18] **The Court:** Yes, ma'am.

[19-21] **Dr. Faltas:** What protection do I have -- you told me that I take pictures at my peril. What has been my peril is that I haven't been taking the pictures that---

[22] **The Court:** then you have nothing to worry about.

[23 – page 52, line 11] **Dr. Faltas:** [23 – page 52, line 7] **Yes, I have to worry about the lies they tell. What -- what proof will you accept by their coming and saying -- you see, I wasn't abusive to the dispatcher. I didn't do any of what was in the other order -- in the other arrest, and that was also a warrantless arrest to boot. I didn't do any of it, but I am at the mercy of people telling lies.** And the courts have not so far required either to issue a warrant or you told me in the bond condition, but the bond is different because the warrant has to be under oath or affirmation of personal knowledge. [8-11] I have been already arrested two times without warrant upon personal knowledge. If you look at the warrant here, it is signed by Investigator Blanton. It---

[12-13] **The Court:** Ma'am, I told you I was not going to get into that.

[14] **Dr. Faltas:** All right. Fine.

[15-17] **The Court:** And I'm not going to, so I'm going to stop you right there. Ms. Weiss, do you have any clarification that you need?

[18-21] **Ms. Weiss:** Yes, Your Honor. I just want to know if you have a recommendation on how we need to set up because three hours -- obviously we're going to need a special officer assigned---

[22-23] **The Court:** They're going to have to do that. I'm not going to prescribe that---

[23-25] **Ms. Weiss:** Well, I know. I'm just saying like sort of a when or how to set it up, if she's not represented. I can set it up with counsel; I know that.

[page 53, lines 1-2] **The Court:** I want you to -- the police can set it up with her.

[3-4] **Dr. Faltas:** And Your Honor said two three-hours. Right?

[5-6] **The Court:** Two three-hour increments which I think is more than enough.

[7] **Dr. Faltas:** Whatever Your Honor says.

[8] **The Court:** That's what I say.

[9-11] **Dr. Faltas:** But what I'm saying is: If they are going to pretend that I took pictures, they need to have a time and date that---

[12-22] ***The Court:*** *The State of South Carolina has the burden of proving you guilty beyond a reasonable doubt.* ***I would dare say that you can -- that all those issues can be explored.*** *I'm not going to educate you on how you may defend yourself. That's what a lawyer would be for. I've ruled on the matter pertaining to the bond. All right. We'll move on now, and the police department will confer with the defendant and set up those two three-hour increments. If there's any difficulty, you bring it in front of Judge Cooper here next week. He'll be here for a chambers week. All right? So what's next?*

[23-25] **Dr. Faltas:** May I ask that a designated person in the police department does that because I don't want to get the runaround for something---

[page 54, lines 1-2] **The Court:** Ma'am? Ma'am, they are under an order from me---

[3] **Dr. Faltas:** Okay.

[4] **The Court:** ---to deal with you in good faith.

[5] **Dr. Faltas:** Okay.

[6-7] The Court: If they don't do it, I'll hold them contempt.
[8] Dr. Faltas: Please.
[9-10] The Court: But whether or not they're dealing with you in good faith is not to be decided by you.
[11] Dr. Faltas: Absolutely.
[12] The Court: All right. We're finished with that point.
[13] Dr. Faltas: Yes, sir.
[14-17] Ms. Weiss: Your Honor, I just -- for the record, Investigator Blanton will be out of the state next week. So if she would just deal with Sergeant Drafts and if we'd just have a deadline---
[18-20] The Court: Sergeant Drafts better contact her. You better get him some contact information. I suggest that you---
[21] Dr. Faltas: He has my cell phone number.
[22-23] The Court: You deal with them in good faith; they deal with you in good faith.
[24] Dr. Faltas: Yes, sir.
[25] The Court: All right. We'll move on.
[page 55, lines 1-2] Ms. Weiss: And I'll have him set up two dates with her---
[3] The Court: All right.
[4-5] Ms. Weiss: ---by mon -- preferably by Monday I'll have those dates set.
[6-7] The Court: All right. Your motion, ma'am? Do you have a motion?
[8-10] Dr. Faltas: Yes, Your Honor. The bond was excessive. The warrant itself is improper because no other statute -- The warrant statute is unconstitutional---
[11] The Court: No, ma'am. Let's talk about your bond.
[12-21] Dr. Faltas: *All right. The bond is excessive monetary-wise. I am not a flight risk. I have applied and received a patent. I own property that I want to build on, and I am vigorously prosecuting pro se my civil lawsuit against them,* ***so I am not a flight risk. The other -- the other issue is that I am not a risk to others. All they have said is frankly silly stuff. There has not been any accusation of any violence. I do not have any history of any violence,*** *no history of any conviction whatsoever, not even a parking ticket.*
[22] The Court: All right. So you posted $4,000 in cash?
[23] Dr. Faltas: My sisters did, Your Honor.
[24] The Court: So---
[25 - page 56, line 2] Dr. Faltas: I'd like that refunded to use in my defense in those -- in those cases. There is no chance that I am a flight risk---
[3-4] The Court: So the money would go to them. Do you agree?
[5-6] Dr. Faltas: Yes, absolutely, but they might loan it back to me to...
[7] The Court: Mr. Briggs is noted as the surety.
[8-13] Mr. Briggs: Your Honor, I probably ought to correct that. I never heard the word surety mentioned. It was always a cash bond, and Dr. Faltas has raised that question to me. You know, lawyers aren't supposed to be sureties, so I probably ought to talk to the lady down at the clerk's court, but nobody -- nobody made me a surety.
[14] The Court: The money just came through you?
[15] Mr. Briggs: It came through my office.
[16] The Court: I understand that. I understand that.
[17-18] Mr. Briggs: And I guess I had an obligation to give a copy of that bond to my client, Your Honor.
[19-20] The Court: All right. Okay. But she's -- well, she's not your client.
[21] Mr. Briggs: Was at that time, Your Honor.
[22-24] The Court: Okay. I got you. All right. What's the state's position on her request to -- are you asking that these be converted to P.R. bonds?

[25 – page 57, line 1] **Dr. Faltas:** Yes, Your Honor, and so I wanted it unconditional, but since you're keeping the conditions---

[2] **The Court:** It's not going to be unconditional.

[3-5] **Dr. Faltas:** No. Okay. But -- but -- but – but I understand that you kept those conditions, but I'd like the money refunded because that money doesn't do anything.

[6] **The Court:** Okay. Yes, ma'am. Ms. Weiss?

[7-15] **Ms. Weiss:** Your Honor, I would submit that this is a reasonable bond. The bond -- the defendant was able to make the bond. She is currently out on bond. It is $4,000 there to show that she will act in good faith to the conditions of the bond as well as that she's not a flight risk or a danger to the community. I think it is very appropriate -- the 10 percent I thought was a very appropriate option that the judge gave. I would ask Your Honor to deny that motion and just leave the bond in place as is.

[16-20] **The Court:** All right. Based on the circumstances, I would assume that she is certainly not a risk of flight. She seems to be very willing to come to court any time the call is made; that's apparent today. Do you have any response to what Ms. Weiss said?

[21 – page 58, line 2] **Dr. Faltas:** Yes, Your Honor. Of course, as Your Honor said that I am willing to come to court any and every time the case is called. I need to get transcripts and things for my defense, and I do need that money. And as I said, that money doesn't do anything that I wouldn't do on my own personal recognizance and for my own interest. May I just say -- ask one thing Your Honor to clarify?

[3] **The Court:** Yes, ma'am.

[4-7] **Dr. Faltas:** In the civil lawsuit the defendants might be taking my deposition, and they would, of course, be entitled to attend. So I assume that wouldn't violate the conditions of my bond.

[8-10] **The Court:** If you're summoned by a court order which would include a deposition notice, I don't think you're violating the conditions of your bond.

[11-12] **Dr. Faltas:** But if there are other hearings during -- in the civil lawsuit that---

[13-14] **The Court:** I would not construe that in a legitimate sense as being any impermissible contact.

[15] **Dr. Faltas:** That's all I needed to clarify.

[16] **The Court:** All right. Here is---

[17-18] **Dr. Faltas:** Please refund the money, please. I need it.

[19-20] **The Court:** Here is my ruling: the bonds are – I'm going to -- I'm going to create one bond.

[21] **Ms. Weiss:** Okay.

[22 – page 59, line 1] **The Court:** It's $15,000 personal recognizance – excuse me - surety or 10 percent option. That way the other $2500 can be refunded through the appropriate channels. Where it might end up, I don't know, but right now it's going to go to Mr. Briggs. All right? Okay.

[2] **Ms. Weiss:** Thank you, Your Honor.

[3-7] **The Court:** The conditions are the same, and I can tell you: I might not be around. I don't come here much. Maybe everybody is glad I don't, but I assume that a judge would look at these -- any alleged violation very seriously. Okay. We're---

[8-10] **Dr. Faltas:** I thank Your Honor for having reduced it some, but may I also reserve my right to give a notice of appeal from your partial denial of my motion?

[11-12] **The Court:** Yes, ma'am, and that's not for me to consider whether or not your appeal is interlocutory or not.

[13] **Dr. Faltas:** All right. Thank you, Your Honor.

[14] **The Court:** Ms. Steele, thank you for coming and---

[15] ***Ms. Steele:*** *Thank you.*

[16-18] **The Court:** ---officer, thank you for coming. We'll take a break for five minutes, and then we'll deal with the other business.

[19] **(pause in proceedings.)**

[20-22] **The Court:** All right. Dr. Faltas, for the bond form it will be necessary for you to put your address on there. Okay?

[23] **Dr. Faltas:** May I put Mr. Briggs' address?

[24] **Court reporter: I can't hear her. I can't hear her.**

[25] **The Court:** You Said Mr. Briggs' address?

[page 60, line 1] **Dr. Faltas:** (nodded head up and down.)

[2] **The Court:** If that's where you reside, that's fine.

[3] **Dr. Faltas:** Okay.

[4-5] **The Court:** It needs your -- we need your residence address. All right?

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

[7] **The Court:** All right. Thank you.

[8-9] **(Whereupon, the proceedings were concluded. There were no exhibits introduced.)**

[page 61] 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 the 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 17th of December, 2009.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 21, 2010

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Marie Assa'ad Faltas, MD, MPH, Plaintiff, vs. Dinah Steele, Steele Enterprises and/or AAA Investments, a business; Larry Roe; Sharon B. Koon; Eugene W. (Buddy) Koon, Jr.; Eugene W. (Trip) Koon III; Evers-Koon and/or EKG of South Carolina, a business; Jane Doe; and other unknown-named persons and entities who injured Plaintiff. Defendants,	Docket No.: 2009-CP-40-2219 **ORDER FOR PRELIMINARY INJUNCTION**

RICHLAND COUNTY
FILED
2009 DEC 22 PM 4:18
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter comes before me on motion of Plaintiff for an injunction preventing Defendants Larry Mason and Dinah Steele from engaging in harassment. She also seeks to require Defendants to move sewer lines off of her property. The motion was heard on December 1, 2009. Defendants, Larry Mason and Dinah Steele, were represented by J. Andrew Delaney, Esquire. Plaintiff was pro se. Also present were counsel for Sharon Koon and Buddy Koon, Robert McKenzie, Esquire, and counsel for Trip Koon and Evers-Koon, Alice Adams, Esquire. Based upon the evidence presented, this court grants the injunction enjoining the defendants from engaging in harassing activities and denies the injunction regarding the moving of the sewer lines because Plaintiff has an adequate remedy at law. No injunctive relief is sought against any of the remaining defendants.

DISCUSSION

The granting of an injunction is within the sound discretion of the trial court. In order for the court to grant a preliminary injunction, Plaintiff must establish that: (1) she would suffer irreparable harm if the injunction is not granted; (2) she will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 51, 674 S.E.2d 505, 508 (Ct. App. 2009). An injunction is a drastic remedy issued by the court to preserve the status quo and prevent irreparable injury to a party pending the litigation. *Id.*, 382 S.C. at 50, 674 S.E.2d at 508.

Agency is the fiduciary relationship resulting from the manifestation of consent by one person to another that the other shall act on behalf of and subject to the control of the first, and of consent by the other so to act. Peoples Fed. Sav. & Loan Ass'n v. Myrtle Beach Golf & Yacht Club, 310 S.C. 132, 425 S.E.2d 764 (Ct. App. 1992). Therefore, in order for agency to exist, the principal must intend that the agent act on his behalf, the agent must intend to accept the authority of the principal and act on it, and the intention of each must be manifest either in words or conduct between them. Id. Under the doctrine of respondeat superior,

> "[a] principal may be held liable to a third person in a civil lawsuit for the fraud, deceit, concealment, misrepresentation, negligence, and other omissions of duty of his agent which occur in the scope of the agent's employment, even when the principal did not authorize, participate in, or know of such misconduct or even when the principal forbade or disapproved of the act in question."

Spence v. Spence, 368 S.C. 106, 628 S.E.2d 869 (2006); West v. Service Life & Health Ins. Co., 220 S.C. 198, 66 S.E.2d 816 (1951). However, vicarious liability does not eliminate the primary liability of the tortfeasor. Gilbert v. Mid-South Mach. Co. Inc., 267 S.C. 211, 227 S.E.2d 189 (1976). "An agent's liability for his own tortious acts is unaffected by the fact that he acted in his representative capacity." Thomas v. Delta Enter., Inc., 302 S.C. 351, 352, 396 S.E.2d 122, 123 (Ct. App. 1990). Therefore, both principal and agent, may be held liable for an agent's tortious conduct toward a third party.

Plaintiff asserts that the Defendants, Dinah Steele and Larry Mason, are engaging in a course of conduct to harass her and to gain an unfair advantage in the pending litigation. Specifically, she claims that she is fearful for life and the threat of criminal prosecution.

A hearing was conducted on December 1, 2009 during which several witnesses testified. Of particular interest to the court is the testimony of Plaintiff and Defendant Mason. Also of significance to the court are certain events which occurred the day after the hearing of which the court takes judicial notice.

A brief factual background is instructive in this case. Plaintiff is a tenant of Defendant Steele. She lives at 304 Byron Road, Apt. 3 in Columbia. Defendant Mason testified that the apartment buildings were purchased by his wife and that he assists her in the management of the units. He is her agent. Steele and Mason initiated eviction proceedings against Faltas in magistrate court. The magistrate ordered eviction which was appealed by Plaintiff and she

continued to live on the premises. In March 2009, Plaintiff filed the current lawsuit alleging several causes of action against several defendants including Steele and Mason. During the course of the current litigation, Defendants Mason and Steele obtained a restraining order against Plaintiff Faltas (Magistrate Civil Action No. 2009CV401063496) to prevent her from "taking photo's, stalking" and "no trespassing of 300 building." This order was issued on November 10, 2009. According to the testimony presented in the December 1 hearing, Faltas also requested a restraining order from the magistrate in April 2009 which was denied. A copy of the transcript from that hearing is Exhibit 1 (Magistrate Civil Case No. 2009CV401100887).

The testimony reveals that Defendant Mason sought the restraining order because Faltas engaged in a pattern of conduct of using her vehicle to block other tenants in the parking lot for the purpose of taking pictures of the residents and of the defendants. Additionally, Mason testified that Faltas followed them to work and to their home on Trenholm Road and that conduct constituted stalking.

Mason's testimony further revealed that he has made numerous inquiries of various governmental officials regarding the immigration status of Plaintiff and her mother. For example, requests have been made of South Carolina congressional representatives to determine Plaintiff's immigration status. Evidence was also produced by Plaintiff that the Department of Motor Vehicles contacted Plaintiff regarding her driving privileges. The Department intended to revoke her privileges unless she furnished information about her immigrant status. Additionally, Plaintiff was required to meet with Social Security Administration to answer questions about her mother including her status in the United States. Plaintiff claims all of these matters resulted from inquiries initiated by Defendant Mason. Although he denies initiating any contact with these agencies, Mason's attorney attempted to cross examine Plaintiff about the personal banking accounts of Plaintiff and her mother and asked specific questions about Plaintiff's mother's health and well being. These questions by counsel for Defendants reveals the ongoing conflict between the parties about Plaintiff's immigration status, the status of Plaintiff's mother (who co-owns the property adjacent to the Defendants' rental units), and other personal information not relevant to the pending lawsuits between the parties. Both Plaintiff and her mother appear to be residing in this country legally.

It was also obvious to the Court during Mason's testimony that he uses his former law enforcement credentials with the military or SLED to make inquiries about the Plaintiff and to engage in activities that Plaintiff finds threatening. On one occasion, Plaintiff alleges when she advised Defendant Mason that she was going to call the police, he reached into her car in an attempt to take her cell phone and showed her a law enforcement badge. His disdain for her is quite apparent. It is also equally clear that the exercise by Plaintiff of her rights to appeal the eviction and to institute litigation to remedy any perceived alleged wrongs is not well taken by Mason. Certainly, Defendant Mason has availed himself of legal counsel to defend against the allegations made by Plaintiff, but the court is also aware that Defendant's actions outside of court are simply adding fuel to the fire in the course of this litigation.

Plaintiff testified about the repeated taunting not only by Defendant but also by the other tenants in the apartment building. She claims that Defendants actions demeaning her ancestry and immigration status in the presence of the other tenants have prompted the tenants to also engage in similar behavior. As support for this, Plaintiff presented photographs of the neighbors displaying offensive signs to her. Defendant counters that it is Plaintiff's conduct of repeatedly photographing them and invading their privacy that have prompted such a response. This court finds that the behavior is extreme by all parties involved. Defendant is quite aware of the sensitivities of the Plaintiff and engages in conduct to excite and incite her and to goad her into committing the very behavior that has resulted in the restraining order issued by the magistrate.

Because of Plaintiff's extreme litigious behavior, the Defendant seeks to obtain some advantage in the situation by also engaging in extreme behavior to annoy and harass the Plaintiff in retaliation. None of the activities by the Defendants are illegal, but based upon the ongoing history between the parties, Defendants conduct is designed to harass her to the point of frustration with the hope that she will abandon her appeal, vacate the rented apartment, and abandon any plans to develop the property she purchased next door. The transcript of the hearing before the magistrate in April 2009 reveals the nature of the ongoing dispute which is clearly the subject of the current lawsuit. The allegations cited at that hearing are the same as those raised before this court.

Plaintiff expressed fear that the Defendants were seeking to criminally prosecute her to the point that she would be subject to possible life imprisonment. It was clear that based upon

her previous encounters with immigration and law enforcement, Plaintiff was fearful of imprisonment. Her fear of criminal prosecution is very real in light of the restraining order and the activities that occurred the day after the hearing.

The day after the hearing, the court was informed that Plaintiff had been arrested on harassment warrants initiated by Defendant and one of the tenants (Teresa Ingram) of the apartment complex. The allegations in the warrant are the same as those in this case. Specifically, the warrants state that the conduct by Plaintiff has occurred between February 2009 and November 2009, the same time period involved in the lawsuit. Additionally, the warrants were presented to the magistrate by Investigator Blanton whom Faltas subpoenaed for the December 1 hearing. The City of Columbia appeared to quash the subpoena as not being properly served, among other grounds. In addition, a search warrant was executed to obtain photographs, computer, car keys and documents from Plaintiff's apartment. Of particular interest to the Court is the fact that the warrants were issued on the date of the hearing before this court.

Plaintiff appeared in bond court on December 2, 2009. At that time a mutual order enjoining Faltas, Steele and Mason from contact was issued. Faltas cannot return to her apartment without a police escort to retrieve her belongings pending the resolution of the criminal matter. Steele and Mason are prohibited from entering the apartment except in case of emergency such as fire or flood.

While the activities complained of by the Plaintiff do not appear to warrant the issuance of an injunction, when combined with the additional actions of the Defendant of instituting criminal proceedings against Plaintiff, this court has no doubt that such conduct is done solely for the purpose of harassing the Plaintiff. The landlord-tenant relationship has only further complicated the situation. It is also evident that Plaintiff has exceeded reasonable bounds of privacy in an effort to document the alleged wrongful conduct she claims to endure.

Based upon the evidence presented, Plaintiff will suffer irreparable harm in the form of continued criminal prosecution and undue mental stress and anguish if the injunction is not granted. There is a real question to be determined before this court relating to the conduct of the parties in the causes of action brought by Plaintiff. Plaintiff is not required to prove an absolute legal right when seeking a preliminary injunction, but the Plaintiff must present a reasonable

question as to the existence of such a right. *AJG Holdings, LLC v. Dunn, supra.* Additionally, there is no adequate remedy at law to redress the immediacy of this conduct except an injunction. S.C. Rules of Civil Procedure Rule 65(c) requires the giving of security by the applicant in such sum as the court deems proper. In this case, security in the amount of $100 must be deposited with the Clerk of Court before the injunction is effective. Proof of payment of the security shall be filed with the Clerk and in the public file of this case. The parties may view the proof of payment at the office of the Clerk of Court.

ORDER

Based upon the foregoing, **IT IS ORDERED**, that Plaintiff is entitled to a preliminary injunction preventing Defendants Larry Mason and Dinah Steele from engaging in any conduct that may be construed as harassing, threatening, or intimidating by a court of law or equity. This injunction remains in effect until final orders are issued in this litigation or any other litigation, civil or criminal, between these parties, or until further order of the court.

IT IS FURTHER ORDERED that Larry Mason and Dinah Steele shall not have any direct or indirect contact with Plaintiff Maria Faltas except through their counsel of record during the course of this litigation. This prohibition extends to any other litigation, criminal or civil, involving these three parties. Larry Mason and Dinah Steele shall not cause or encourage any tenant to have any contact, directly or indirectly, with Plaintiff during the pending of this litigation or any other litigation between the Defendants and Plaintiff.

IT IS FURTHER ORDERED that Larry Mason and Dinah Steele shall not enter the premises at 304 Byron Road, Apt. 3 in Columbia, except for emergencies such as fire or flood.

IT IS FURTHER ORDERED that Plaintiff Maria Faltas shall not have any contact, directly or indirectly, with the Defendants Larry Mason and Dinah Steele during the pendency of this litigation or any other litigation, civil or criminal, between the parties. Any communication must be directed through the Defendants' counsel of record in this litigation.

IT IS FURTHER ORDERED that Plaintiff provide proof of payment of the security to counsel of the Defendants and counsel of Defendants shall immediately inform the Defendants without further proof by the Plaintiff.

AND IT IS SO ORDERED.

ALISON RENEE LEE
Presiding Judge

December 22, 2009
Columbia, South Carolina

alf
#7

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Marie Assa'ad Faltas, MD, MPH, Plaintiff, vs. Dinah Steele, Steele Enterprises and/or AAA Investments, a business; Larry Roe; Sharon B. Koon; Eugene W. (Buddy) Koon, Jr.; Eugene W. (Trip) Koon III; Evers-Koon and/or EKG of South Carolina, a business; Jane Doe; and other unknown-named persons and entities who injured Plaintiff. Defendants,	Docket No.: 2009-CP-40-2219 **ORDER**

RICHLAND COUNTY FILED
2010 JAN -4 PM 4:46
JEANETTE W. McBRIDE C.C.P. & G.S.

This matter comes before the Court by way of a motion filed by Plaintiff for partial reconsideration and/or clarification of this Court's Order entered on December 22, 2009. Plaintiff asks that this Court reconsider its denial of the injunction concerning the sewer lines. However, after careful consideration of the record in this case and the submissions of counsel, this Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or facts not appropriately considered. Furthermore, Plaintiff's motion for reconsideration fails to set forth any material fact or principle of law, which she claims the Court failed to consider.

Plaintiff also asks that this Court clarify two portions of the December 22, 2009 order. Specifically, Plaintiff requests that the Court clarify a statement on page 4 of the order that "none of the activities by the Defendants are illegal" and that this Court made no finding as to Plaintiff's culpability for taking photographs of her neighbors. The Court's statement that "none of the activities by the Defendants are illegal," should only be interpreted to include the activities addressed within the context of the Court's discussion concerning the preliminary injunction. Lastly, in reference to Plaintiff's culpability for taking photographs of her neighbors, the Court finds no statements within the December 22, 2009 order where it makes any finding concerning Plaintiff's culpability. Whether Plaintiff is culpable for taking photographs of her neighbors was not a matter before the Court in consideration of Plaintiff's motion for preliminary injunction;

therefore, the Court's order cannot be interpreted to make any findings with regard to those accusations.

Accordingly, this Court hereby **DENIES** Plaintiff's Motion pursuant to Rule 59(e) SCRCP to Alter or Amend Judgment of this Court's Order entered on December 22, 2009 in reference to the sewer lines. In the alternative, the Court has clarified statements within the order as requested by Plaintiff. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

AND IT IS SO ORDERED.

Alison Renee Lee

ALISON RENEE LEE
Presiding Judge

December 31, 2009
Columbia, South Carolina

[page 1]

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	Warrant #s: K613792
State of South Carolina	)	K613793
PLAINTIFF,	)	TRANSCRIPT OF RECORD
v.	)	
Marie Asa'ad Faltas,	)	SUMTER COUNTY COURTHOUSE
DEFENDANT.	)	January 7, 2010

BEFORE:

HONORABLE GEORGE C. JAMES, JR., PRESIDING JUDGE.

APPEARANCES:
Assistant Solicitor Heather Weiss
Mark Sawyer, Public Defender
DR. Marie Asa'ad Faltas

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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EXHIBITS

(There were no Exhibits marked during this hearing)

[page 3, line 1] **The Court:** Dr. Faltas, come on up.

[2-5] **Ms. Weiss:** I do want to say, Mark Sawyer with the Public Defender's office, he was present last, who's been appointed. We can go ahead and begin if you'd like, Your Honor. If you'd like wait until he is here. He got lost.

[6] **The Court:** Who appointed him?

[7] **Ms. Weiss:** Dr. Faltas did apply for a Public Defender.

[8-15] **The Court:** Wait, this is a case I heard a matter in --- well, I've got the warrant numbers, I'm sorry. I was in Columbia just a few weeks ago. The warrant numbers are K613792 and K613793. It is the State of South Carolina versus Marie Asa'ad Faltas and that is A-S-A'-A-D - F-A-L-T-A-S. She is the Defendant. Dr. Faltas is present and Ms. Weiss or Heather Weiss represents the State, W-E-I-S-S, is that right?

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

[17-19] **The Court:** And Mark Sawyer from the Richland County Public Defender's office has been appointed in what capacity?

[20] **Ms. Weiss:** Your Honor, that was ... Your Honor he's here now.

[22] **Dr. Faltas:** No, no I'm not ...

[23-25] **The Court:** I'm not speaking to you yet ma'am. I'm asking Ms. Weiss these questions. Mr. Sawyer have you been appointed in any capacity?

[page 4, lines 1-5] **Mr. Sawyer:** Your Honor from what my understanding is Ms. Strickler talked with Judge Cooper yesterday and he's going to make a decision as to what capacity we are going to be in. I think Dr. Faltas motion is on Monday. I think he was going to decide then.

[6-7] **The Court:** All right, here Dr. Faltas, have you applied for the appointment of stand by counsel?

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

[9] **The Court:** Somebody pull that microphone down for her.

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

[11] **The Court:** There you go.

[12] **Dr. Faltas:** Thank you, Your Honor.

[13] **The Court:** You've applied for ...

[14-16] **Dr. Faltas:** Only stand by, only stand by. I specifically put that in the application and I remember Your Honor relieving ...

[17-18] **The Court:** Okay, so you've answered that question. The answer is yes, you have applied.

[19] **Dr. Faltas:** Stand by.

[20] **The Court:** Stand by?

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

[22-23] **The Court:** So, Mr. Sawyer is here conditionally, based on that application. Is that correct?

[24] **Mr. Sawyer:** Correct Your Honor.

[25 – page 5, line 6] **The Court:** All right. Here are the ground rules we are going to follow in light of the hearing that we had two weeks ago, which to my recollection was that it took an hour and a half on a bond modification motion. Nobody talks unless a direct question is asked or a request is made for a direst response. Do you understand that Ms. Weiss?

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

[8] **The Court:** And Dr. Faltas, do you understand that?

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

[10-21] **The Court:** Do not interrupt anybody and if you have any questions about anything, they will be answered at the appropriate time, but this is not going to be an examination of this case on the merits at all. If I refer to the folks at the apartment complex as victims, you objected to that last time, if I say the word victim, I mean alleged victims. You have all the rights under the Constitution that you are entitled to have and this hearing is not going to deprive you of anything. But if I mis-speak in your mind in any way and call these folks victims, you understand what I'm talking about is that correct?

[22-23] **Dr. Faltas:** Yes, Your Honor. May I say two things however if --- with your permission?

[24] **The Court:** Speak clearly and speak loudly.

[25 – page 6, line 3] **Dr. Faltas:** Yes, Your Honor. First, I think I remember clearly that Your Honor had allowed Ms. Weiss until the end of the day Tuesday to file a response to my motion.

[4] **The Court:** If she wanted to.

[5-10] **Dr. Faltas:** She --- yeah. She didn't. I believe that she --- I ---Your Honor should treat my motion as uncontested. In the alternative, I pray the Court to not allow her to introduce any new matter, because I wasn't given notice of it and I didn't have a chance to reply.

[11-17] **The Court:** Those requests are noted and they are denied. What I've told her on the phone during our conference call was that if she wanted to respond in writing, if, she would have to do it by yesterday, excuse me Tuesday. She chose not to file anything and she can do it verbally today. So your requests are denied.

[18-20] **Dr. Faltas:** The other thing, Your Honor, is that I had attached to my motion, an order by the Honorable, very courageous, Judge Lee and ...

[21] **The Court:** The Honorable what?

[22] **Dr. Faltas:** Very courageous.

[23] **The Court:** Honorable, very courageous Judge Lee.

[24 – page 7, line 5] **Dr. Faltas:** Yes, Your Honor, and of course that was served on Ms. Weiss. I had subsequently filed a motion for partial reconsideration and Her Honor issued an order on that and I give it to Ms. Weiss yesterday in open Court, so if it pleases the Court, may I give it to the Court personnel to pass it up to you?

[6] **The Court:** Yes ma'am.

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

[8-10] **The Court:** All right. And here's the next ground rule. Since --- I'm going to start a timer. We've got fifteen minutes.

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

[12-14] **The Court:** As soon as I finish reading this order, this new order, which is a page, we're going to start and you've got fifteen minutes.

[15] **Dr. Faltas:** Yes, Your Honor, it's two ...

[16] **The Court:** That's fifteen minutes total.

[17-18] **Dr. Faltas:** Sure, sure. The order is two pages however, if ...

[19] **The Court:** No, it's not. It's a page and four lines.

[20] **Dr. Faltas:** I'm sorry. I apolo --- I was just ...

[21-23] The Court: And you're wasting time, so we are not going to dwell like we did last time, so we'll, if you'll just be quiet for just a minute.

[24-25] Ms. Weiss: Your Honor, I did not receive a copy of that order, if she has another copy?

[page 8, line 1] The Court: I'll give it to you as soon as I read it.

[2] Ms. Weiss: Okay, thank you. That's fine.

[3] (Court reads order)

[4-9] The Court: All right. Dr. Faltas, is there anything that you would like to say in support of your motion that I reconsider the bond condition that I actually modified to allow you two to three hours windows to go to your apartment in Columbia to remove your personal items?

[10-17] Dr. Faltas: Your Honor, the understanding is that I wasn't able to, that I wasn't suppose to remove everything and that was something that was the Sergeant said he'd check with Ms. Weiss and she confirmed it. Mr. Sawyer's office says that they are getting the transcript. But may I say Your Honor and, of course, Ms. Weiss I'm sure will bring this up, is that the Chief Justice is very upset with me.

[18-19] The Court: And that has nothing to do with what I'm doing now so ...

[20] Dr. Faltas: Excalty.

[21] The Court: So I ...

[22] Dr. Faltas: Exactly.

[23-25] The Court: I know that you have filed numerous documents with the Supreme Court. I have nothing to do with that.

[page 9, line 1] Dr. Faltas: Excalty.

[2] The Court: So, you want to use your time wisely ...

[3] Dr. Faltas: Yes.

[4] The Court: ... tell me what you want me to do.

[5 – page 10, line 5] Dr. Faltas: Yes, Your Honor. I wanted to say that when Your Honor assumed the independent judiciary chair, your oath wasn't to the Chief Justice or to representatives, but to the Constitution of the United States and the Constitution of South Carolina secondarily and of course the Constitution of the United States under the supremacy clause trumps any laws in South Carolina and even the Constitution of South Carolina. Your Honor, the presumption of innocence is so ingrained, it's almost the crown jewel of the Bill of Rights of the Constitution of the United States. Additionally, the Writ of Habeas Corpus is part of the Constitution itself, before the Bill of Rights. And so, the Eighth Amendment prohibits excessive bail and cruel and unusual punishment. I should be presumed innocent. I have been out of my apartment and without access to many things for more than months now. That sometimes gets to be punitive. Then yesterday we had a probably cause hearing and I was shocked, shocked at the certain hearsay and that the Municipal Judge, who is --- doesn't at all satisfy the Constitution requirement of a neutral magistrate and there were several cases where the U.S. Supreme Court said that a neutral magistrate cannot have any connection with ...

[6-8] The Court: I caution you that what happened yesterday has nothing to do with today, so you need to get to your ...

[9-16] Dr. Faltas: All right, all right, All right. So, so, all they said and they said she claimed that yelling and screaming is not protected by the First Amendment. Well, Your Honor, if the First Amendment only protects whispers and pleasant speech, then this wouldn't be a free society at all. The First Amendment protects offensive speech, protects vigorous assertions of one's rights ...

[17-20] The Court: This is not a First Amendment case. You are charged with harassment in the First Degree. Part of the charge against you, well the facts are what the facts are. The bond is what we're here to talk about.

[21] Dr. Faltas: Yes, Your Honor ...

[22-23] The Court: You're contesting that I did not modify the bond enough.

[24] Dr. Faltas: Yes.

[25] The Court: So tell me what you want you want me to do.

[page 11, line 1] Dr. Faltas: Yes, Your Honor, yes.

[2-3] **The Court:** I know the law, that you've expressed to me, but tell me what you want me to do.

[4 – page 12, line 14] **Dr. Faltas:** Well, first of all, the statute makes exception for speech and conduct protected by the First Amendment, so that the fact that somebody, because they have an interest especially to get advantage in a civil litigation, claims that my speech wasn't protected by the First Amendment is wrong, but what we're --- twenty-four hour video surveillance. The whole country of England has vigil cameras for surveillance in the street. Many home I'm asking Your Honor, as I stand before you, I am innocent and I'm asking this horrendous deprivation of my property and my liberty to return to my apartment. What is --- what is the risk to the alleged victims? They claim that I blocked their car long enough to take a photograph. Well a photograph is taken in a fraction of second. In addition, in addition, there is a restraining order issued by the Magistrate that I'm not supposed to take photographs of those people. But if, and, Your Honor, in the first hearing, said that last you knew it wasn't illegal to take photographs. In fact, most Courts, the office of the Supreme Court, Richland County, the Magistrate's courts, they have twenty-four hour video surveillance. The whole country of England has vigil cameras for surveillance in the street. Many home owner's install video surveillance outside, so the only complaint they have is that while they were out, visible to the public, that I took photographs of them to document something wrong they were doing to me. Even if it weren't, people who have neighborhood watch associations, they either post somebody to watch when people walk on the street, prowlers, anything. So, in balance of that, in balance of that, that people don't want me to even look at them when they are in public, and there hasn't been any allegation that I broke into someone's house or wire tapped their telephone or did anything that's really an invasion, an invasion of their private space. Just for that, and I'm presumed innocent.

[15-18] **The Court:** All right, I'm going to have to give her a chance to respond, so I want you to tell me what you want me to do. Then I'm going to hear from the State and then you'll be the last one to talk.

[19 – page 13, line 1] **Dr. Faltas:** Thank you Your Honor, so all I'm saying is that at this point the imposition on my health, on my liberty, on my access to the things I need, my books, my papers, my everything. The financial horrendousness of my having to be out of my apartment and my being unable to get another apartment because I have no references. All of that is totally disproportionate to whatever harm they claim I cause them. In fact ...

[2] **The Court:** So you want me to lift that restriction?

[3-5] **Dr. Faltas:** If it pleases the Court, yes and again, I would also like Your Honor to completely make it a personal recognizance bond. I ...

[6] **The Court:** I'm not going to do that.

[7] **Dr. Faltas:** All right.

[8] **The Court:** I can tell you right now, I've lowered ...

[9] **Dr. Faltas:** Okay, that's fine.

[10-11] **The Court:** ... the bond sufficiently. I'm not going to lower the ...

[12-13] **Dr. Faltas:** That's fine, but, and I also offered long ago ... about the bond. To install motion detect ... motion activated cameras, they would be subject to the police supervision so

[14] **The Court:** No I'm ...

[15-19] **Dr. Faltas:** No, I've got you about the part about the bond. To install motion detect ... motion activated cameras, they would be subject to the police supervision so that everybody knows that I'm not blocking anyone. I'm doing ...

[20] **The Court:** Are you going to install those?

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

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

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

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

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

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

[17] **The Court:** With who?

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

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

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

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

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

[14-17] **The Court:** There was some confusion in some people's minds as to what that meant and she took it to mean that anytime she wanted to go, the police would just have to go with her.

[18] **Ms. Weiss:** Right.

[19-21] **The Court:** For whatever reason. Then I made it more definitive. She has two three hour increments to go get her things.

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

[**23 – page 17, line 6**] **The Court:** She's asking me now to just do away with all of that and let her have her possessory rights to her apartment, with the restraining orders in place. That nobody bothers anybody, nobody blocks anybody, nobody takes pictures of anybody and just nobody messes with anybody. What I can't understand is why a group of adults, I'm not finding fault with anybody, just can't leave each other alone? And I know it's the State's position is she, Dr. Faltas won't leave anybody alone.

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

[8-9] **The Court:** So, do you think I should lift that restriction?

[10-18] **Ms. Weiss:** No, Your Honor, I do not think you should lift that restriction. The discovery will show that, in fact, when this all started, as far as this case is concerned back in February the landlord/land-lady, as well as the tenants in the apartment sent letters, sent numerous letters, numerous personal requests, you know as adults, please do not harass us, do not block us in, do not take pictures, just as Your Honor is asking.

[19-20] **The Court:** I can't ask her about all that because she has the right to remain silent.

[**21 – page 19, line 15**] **Ms. Weiss:** No, Your Honor. I understand, I'm just saying, as far as Your Honor is saying. They did try that avenue. That was not adhered to. She continued to do these things, causing people to --- the question obviously before us today is whether she is a flight risk or whether she's a danger to the community. Her

actions cause people to be late for work, late for appointments and cause people mental and emotional distress. Most recently evidenced by Ms. Mason's medical treatment that she had to seek, in relation to the stress being caused by some of this. So, Your Honor, I feel that this is not causing her a hardship. Actually, at her initial bond hearing, she was represented by Attorney Briggs of the private bar. He spoke to Judge Burns, who was the presiding Judge and said, Your Honor, this is no problem. She does not need to go back, we do not want her to go back. Her family has provided sufficient funds for her to get a house for her to stay in. She will not have a landlord, she can live there. Her family is providing all this. Her family as the Defendant has stated, provides all of her income. So this is not some extraordinary remedy. This is, her family is the one who provides for everything. Provide for her clothes, her shopping, her living day to day. So for this apartment or for this house, her family provides for that. They provided money for that. She refused to do that Your Honor. That was what was given to Judge Burns and Judge Burns even spoke on the record and said, I'm sure if they provided money for a house until you could find that house, they will provide money for her to stay in a hotel until that time. Her attorney represented to the Court that was no problem. They had provided that money, they will provide that money. Her apartment does not have any special set up for any of her disabilities as provided in her motion. Her apartment does not have food, it does not have drinks, it does not have anything extraordinary outside of what would be even in a normal hotel room. Much less a home that she could live in. It actually, you know, there are actually problems with that apartment that, were the landlords allowed to go in, they could probably fix, but they haven't been allowed to go in very recently, that would not be in a hotel room or in a home that she could buy for herself.

[16-17] **The Court:** So you think the conditions should stay the same?

[**18 – page 20, line 5**] **Ms. Weiss:** Absolutely Your Honor for the safety of the community. We have complaints from everybody in that community that this is a problem. They have all tried civilly, outside of criminal charges, to proceed with this. So Your Honor, I feel that this is an appropriate order in this matter and I will do everything in my power as an Assistant Solicitor to expedite this case, to set this case for trial and try to get this adjudicated. Her first appearance is January 25th. I'm not intending to extraordinarily prolong it to prolong her being out of that apartment, if that, depending on the way this case goes one way or the other.

[6] **The Court:** Where are you living now ma'am?

[7] **Dr. Faltas:** Your Honor, I'm staying in a hotel.

[8] **The Court:** Ma'am?

[9-10] **Dr. Faltas:** I am staying in an hotel. That's one thing. The other thing ...

[11-12] **The Court:** Wait a minute, I just asked you where you were staying.

[13] **Dr. Faltas:** Yes sir.

[14-15] **The Court:** Okay, all right. When is the civil appeal going to be heard?

[16] **Dr. Faltas:** What civil appeal?

[17] **The Court:** You appealed the eviction.

[18] **Dr. Faltas:** Oh and Your Honor ...

[19] **The Court:** When is it going to be heard?

[20] **Dr. Faltas:** I have no idea.

[21-22] **The Court:** That would take care --- Because if the eviction is affirmed.

[23] **Ms. Weiss:** Yes Your Honor.

[**24 – page 21, line 1**] **The Court:** She's out. No matter what the bond condition is. If the eviction is overturned then we're right back and this still is a question.

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

[3-8] **The Court:** This, I guess in layman's terms, is I may have said at the last hearing, this blows my mind. That we have devoted all this time and the Magistrate devoted several hours to a hearing on why people can't get along. It's like a playground fight. What's your response ma'am to what the Prosecutor said?

[9-10] **Dr. Faltas:** Well Your Honor, I hope you have read Judge Lee's order.

[11] **The Court:** I read it.

[12-16] **Dr. Faltas:** Yes, first of all, it's not at all, and please realize, at one time I was falsely accused of something else and I argued my own case to the State Court of Appeals and won and that's not published, but it does have a reference.

[17] **The Court:** Not in front of me.

[18 – page 22, line 6] **Dr. Faltas:** No, I understand, I understand. But I was asking if the Honorable Municipal Judge Dennis would expunge it. He said I cannot make you anymore not guilty than not guilty. I could not have not done those things anymore than not having done them. Your Honor, in our very recent lives, we have seen that the Duke Lacrosse players were falsely accused of rape; we have seen that Joseph --- was accused of sexually molesting somebody; we have seen that the late Michael Jackson was sexually accused of somebody. Judge, people tell lies for reasons and the Honorable Judge Lee found that they are trying to get advantage in a civil litigation. Please, the presumption of innocence means that my accusers aren't telling the truth.

[7-8] **The Court:** Were you were evicted from three other places you said?

[9-10] **Dr. Faltas:** No, Your Honor. I didn't say that at all. I said I couldn't get a current apartment.

[11-12] **The Court:** Okay, have you ever been evicted from other apartments in Columbia?

[13-25] **Dr. Faltas:** Your Honor, the answer is one house and the woman defaulted on the mortgage the next day and claimed it as her primary residence. That was --- the other thing is they claimed that this eviction was because of harassment. Actually the return was made and the Magistrate said that her only finding is that I did not get at all to present that the notice was in bad faith, but that just that the fact that they filed a lawsuit constitutes a notice. I think that's legal error and I'm very hopeful in prevailing. So no, it wasn't three other apartments Your Honor, and it was never, never because of harassment and not this time either. And then ...

[page 23, line 1] **The Court:** Let me ask you this question.

[2] **Dr. Faltas:** Okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[10-19] **Ms. Ingram:** Prostitute, everybody in Columbia, from the Sheriff's Department to the Commissioner of HUD, the Fire Department, everyone in Columbia has been dispatched to that particular address, comes with the intentions of meeting a prostitute. She said that in court several times, to the point where I had to personally ask the Judge or Ms. Steele personally asked the Judge to not allow her to continuously say that. She blocks my entrance and exits from leaving the apartment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[18] **Dr. Faltas:** Yes Your Honor.

[19-20] **The Court:** All right, how am I going to get this to you?

[21-22] **Dr. Faltas:** If it pleases the Court, you have my cell number.

[23] **The Court:** I need to know where I can send it.

[24-25] **Dr. Faltas:** Would it be possible to fax it to Mr. Briggs and he will advise me?

[page 28, line 1] **The Court:** What is his number?

[2] **Dr. Faltas:** It's area code 803-957-5763.

[3] **The Court:** That's the fax number?

[4] **Dr. Faltas:** Yes, Your Honor, or to Mr. Sawyer as well.

[6] **The Court:** All right Mr. Sawyer your fax number?

[6-7] **Mr. Sawyer:** Your Honor I don't know it off the top of my head.

[8] **The Court:** I don't know mine either.

[9] **Dr. Faltas:** May I ...

[10] **The Court:** You may not say anything else.

[11-12] **Dr. Faltas:** I was wanting to offer the pictures for the record.

[13-14] **The Court:** You should have done that at the beginning. Yes sir Mr. Sawyer?

[15] **Mr. Sawyer:** 803-748-5018.

[16] **The Court:** 5018. All right.

[17-19] **Dr. Faltas:** Well then may I ask that you can take judicial notice of the pictures that have been presented to Judge Lee?

[20-22] **The Court:** You can leave them here, but I'm not going to look at them now. I've got other business to conduct in Sumter county.

[23-25] **Dr. Faltas:** May I go copy them and bring them back because I have the original that's stamped by the Magistrate's office certified copy.

[page 29, lines 1-2] **The Court:** However you feel compelled to do it, but you're not going to have any conversation.

[3-4] **Dr. Faltas:** No, that's fine. So I'll go do that and then bring them to the court.

[5] **The Court:** That will be fine.

[6-10] **Dr. Faltas:** And certainly Ms. Weiss can look at them before I copy them. Your Honor, it's always a pleasure to appear before Your Honor and I hope Your Honor doesn't take any offense in my zealous advocacy of myself.

[11] **The Court:** No, ma'am. You did fine. Thank you.

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

[13] **The Court:** I need your address too Dr. Faltas.

[14-16] **Dr. Faltas:** Well, what's been happening is that the post office is holding my mail and I go pick it up, so the apartment address is good.

[17] **The Court:** The apartment address is good?

[18] **Dr. Faltas:** Yes Your Honor.

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

CERTIFICATE

This is to certify that the hearing in the matter of State of South Carolina vs. Marie Asa'ad Faltas, consisting of twenty-nine (29) pages is a true and correct transcript; said hearing was reported by the method of Stenomask with Backup.
I further certify that I am not employed by any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.
IN WITNESS WHEREOF I have hereunto set my hand and seal this 1st day of July, 2010.

[s/] Melissa R. Singletary
Certified Court Reporter
Notary Public for South Carolina
THIRD JUDICIAL CIRCUIT (803) 436-2150

CITY OF COLUMBIA
SOUTH CAROLINA
MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

January 12, 2010

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FEB 23 2010
LEGAL DEPARTMENT

Mr. David A. Fernandez, Esq.
Assistant City Attorney
Legal Department
P. O. Box 667
Columbia, SC 29202

Dr. Marie Assa'ad Faltas, MD, Phd.
304 Byron Road, Apt. 3
Columbia, South Carolina 29209

CERTIFIED MAIL

Re: Motions Concerning Jury Trial Cases

Dear Mr. Fernandez and Dr. Faltas:

Please be advised that the Municipal Court has scheduled a motions hearing on March 3, 2010 to resolve motions filed by Dr. Marie Assa'ad Faltas on January 20, 2010. A copy of the motions filed with the Court on that date is attached hereto. Please be advised that a hearing on these matters will be held on Wednesday, March 3, 2010 at 9:00 a.m. in Courtroom 2, 811 Washington Street, Columbia, South Carolina before The Honorable De Andrea G. Benjamin.

Please call me with any questions or concerns.

Sincerely,

Dana D. Turner

Dana D. Turner
Chief Administrative Judge

page 1 of 2

Maxie Assaad-Faltas, MD, MPH
304 Byron Road, Apt # 3, Columbia, SC 29209
Phone and on-demand-fax (803) 783-4536 (temporarily unavailable)
Cell: (330) 232-4164 (Please use)

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JAN 28 2010
MUNICIPAL COURT

28 January 2010

Re: Motions Concerning Jury Trial Cases in Which I am either a Witness or a Defendant.

To the Municipal Court and the Municipal Prosecutor for the City of Columbia:

(1) This series of motions and requests does not supersede; but by reference incorporates and reiterates all matters in my previous written submissions to this court and all my FOIA requests to the City of Columbia.

(2) As to the case against me for alleged front yard parking, I move that it be dismissed because the ordinance is unconstitutional, because I was selectively prosecuted, and because my speedy trial rights have been violated as it has been more than six months since the remittitur from the appeal but the City did nothing to prosecute me.

(3) As to the alleged assault charge against me by Dinah Steele, I move that it be dismissed because, on 17 November 2009 the prosecutor did make full disclosure but withheld at least two very significant exculpatory items:

(a) The driving record of alleged witness Charlene Crouch, which record had been obtained by Investigator Blanton on 4 Nov. 2009. That record shows a history of substance abuse by Crouch that resulted in the suspension of her driver's license for at least 6 months at least once.

(b) The 911 call by alleged victim Dinah Steele where she does not mention assault at all but complains only of trespass.

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(4) As to the alleged tresspass charge against me, I move that it be dismissed as a matter of law as I cannot possibly tresspass where I live.

(5) As to the alleged unlawful-use-of-telephone against me, I move that the charges be dismissed because the arrest was by an officer who did not witness the alleged misdemeanor and because the City has refused to produce the recordings of the calls to dispatch on 12 Dec 2009. Those tapes show that I did not use abusive language. And, in any event, the statute does not criminalize abusive language and is unconstitutional any way.

(6) I request that all the above motions be scheduled expeditiously... but not before Municipal Judges Turner, Benjamin or Burns because of conflicts of interests.

(7) I request a copy of the tapes of each and every time I appeared in Columbia Municipal Court from and including September 2009 to January 2010.

Submitted and served on Assistant City Attorney Fernandez either by hand-delivery to his office location or hand-delivery in the Municipal Court Building at 811 Washington Street, Columbia, SC 29209, all on 28 January 2010.

Marie Assaad-Faltas, MD, MPH
Defendant pro se

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE MUNICIPAL COURT
OF THE CITY OF COLUMBIA

CITY OF COLUMBIA
v.
MARIE ASSA'AD-FALTAS, MD, MPH

MOTIONS TO DISMISS THE CHARGE
AND ENTER A FORMAL ACQUITTAL IN THIS CASE
Or, in the alternative, for a continuance of this case

Defendant *pro se* hereby moves this Honorable Court to dismiss the charge of trespass after notice because Defendant cannot possibly trespass in her own front yard, parking lot, or near her mail box, which is in the right of way anyway and not subject to trespass. Additionally, no valid trespass notice was, or could have been, given to her prior to, on, or even after, the date of the allegation since the alleged trespass occurred in the very area where Defendant rents, her rent was fully paid on the date of the allegations, and no final order of eviction had then been, or is yet, issued against her on the date of the allegations. The charge of simple assault should be dismissed because of the Prosecution's failure to check the veracity of its witnesses and to admonish the police to include exculpatory facts in the report. Indeed, the Prosecution plans to use false witnesses and fabricated evidence as it had done before against this very defendant. Further, it appears the Prosecution conspired with its witnesses to prevent Defendant from receiving timely notification of the trial date.

Even if the charges are not dismissed, the case should be continued until Defendant has had a chance to receive and study all exculpatory material from the Prosecution.

Respectfully submitted on 4 November 2009.

Marie-Thérèse Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*
304 Byron Road, Apt 3, Columbia, S.C. 29209
Telephone and on-demand fax-receive only: (803) 783 - 4536.

Certificate of Service

I served this document by hand-delivery to Mr. Fernandez in open court or by hand-delivery to the designated person at the location of the City of Columbia legal department on 4 November 2009.

Marie Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*

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DEPARTMENT

[page 1, line 1] STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
[2-3] COUNTY OF RICHLAND) 2010-GS-40-11980 2010-GS-40-11987
[4] STATE OF SOUTH CAROLINA,) K-613792 K-613793
[5] Plaintiff,)
[6] vs.)
[7] MARIE ASSA'AD-FALTAS,) TRANSCRIPT OF RECORD
[8] Defendant.)
[9-10] February 11, 2010
Columbia, South Carolina

[13-14] BEFORE: THE HONORABLE CLIFTON B. NEWMAN, JUDGE.
[17 -19] APPEARANCES: HEATHER S. WEISS, ASSISTANT SOLICITOR Appearing for the Plaintiff
[20] MARIE ASSA'AD-FALTAS, PRO SE
[21-22] MARK A. SAWYER, JR., ASSISTANT PUBLIC DEFENDER
Appearing as Standby Counsel for the Defendant
[24] DEBORAH M. McCURDY, RPR
[25] Official Court Reporter

[page 2, line 1] INDEX OF WITNESSES
[3-4] (WHEREUPON, no witnesses were called during these proceedings.)
[10] EXHIBITS
[13-14] (WHEREUPON, no exhibits were introduced during these proceedings.)

[page 3, line 1] FEBRUARY 11, 2010
[2-3] The Court: Okay, the lady in the back has something. Yes, ma'am, tell us who you are.
[4-13] *Dr. Faltas:* Good afternoon, Your Honor. I'm Dr. Marie-Therese Assa'ad-Faltas. I am the *Pro Se* Defendant I heard Your Honor say that is scheduled for the week of the 22nd for several days. And actually through Mr. Strickler, who spoke with Judge Cooper, there are several many pending pretrial motions, of which a motion to compel discovery and a motion to recuse Ms. Heather Weiss because she has already made herself a witness in the case.
[14-18] The Court: Ma'am, before I hear anything further, let me find out if Ms. Weiss or the opposing side is here since you represent yourself. Can you find out if Ms. Weiss is at the Solicitor's Office?
[19-20] *Assistant Solicitor:* Certainly. I will be glad to, Your Honor.
[21 - page 4, line 5] *Dr. Faltas:* [21 - page 4, line 2] Certainly. I would like to wait. And I wouldn't have addressed Your Honor until two things happened, that Judge Cooper said he will not address any motions, and that I heard Your Honor say that is on your schedule. So now Your Honor is assigned trial judge, everything is up to Your Honor. [3-5] And of course there is one other substantive matter that I will wait for Ms. Weiss, or whoever from the Solicitor's Office, to come here.
[6] The Court: We'll see if we can locate her.
[7] *Dr. Faltas:* Thank you very much.
[8-10] The Court: You're welcome. We will be at ease for a few minutes as we wait for Ms. Weiss to come.
[11] (Pause.)
[12-17] The Court: Ms. Weiss and Dr. Faltas. Ms. Weiss, Dr. Faltas said she discovered that I'm scheduled to hear her case on the 22nd, and she proceeded to -- she began to talk about certain matters regarding the case, and I told her that I could not discuss anything on an *ex parte* basis.
[18 - page 5, line 18] *Dr. Faltas:* [18-22] And I wasn't trying to, Your Honor. I was just trying to bring to Your Honor's attention that Judge Cooper said he would not hear anything and that he named Your Honor as trial udge. It is all up to Your Honor. [23 - page 5, line 2] The threshold matter which needs to be discussed, very respectfully, and that is out of respect for any judge before whom I am to appear, is to look at the biography. And Your Honor's wife's maiden name is Blanton. [3-5] The investigator who, along with Ms. Weiss, signed the affidavit for the search warrant and the arrest warrants is Blanton. [6-13] So I need to ask as a threshold matter, because this is something we need to determine now, not at the last minute before trial, if there is a relationship. Or even if there isn't, in my right to zealously cross-examine my accusers and confront them, I will be stating that investigators who many times -- and of course I have reason to believe that she lied at a trial and everything. [14-15] So, Number 1, is there a relationship between Your Honor's wife and Investigator Amanda Blanton. [16-18] Number 2, even if there weren't, would that be emotionally hard on Your Honor to hear the similar name disparaged.
[19-21] The Court: Okay. My wife has no relatives in South Carolina by the name of Blanton that she or I am aware of.
[22-23] *Dr. Faltas:* The second part about the name of Blanton being disparaged.
[24-25] *The Court Reporter:* I'm sorry, you need to speak up.
[page 6, lines 1-4] *Dr. Faltas:* I said the second part about the Blanton name that would just happen to – would that offend Your Honor if I were to be zealously examining --
[5] The Court: No, it would not.
[6-22] *Dr. Faltas:* [6-11] All right, thank you. The other thing is, does Your Honor have any other reason – and in *Liteky versus U.S.*,

that is a U.S. Supreme Court case where Justice Scalia wrote for the Court that there is no such thing as the Extrajudicial Source Doctrine. [12-16] There is the -- there is -- the law requires a judge to recuse him or herself even if within the trial, intra-judicially, the judge develops antipathy towards the parties -- a party or a party's lawyer. [17-22] And I ask this question because actually, Your Honor, judges are the only profession that have a book named after them in the Bible. But before judges are judges, they were lawyers. **And would Your Honor have any antipathy towards me, for instance, on my representing myself?**

[23-24] The Court: **No. You have a constitutional right to represent yourself.**

[25 – page 7, line 1] *Dr. Faltas:* That -- I agree with that, but some people develop antipathy towards --

[2-3] The Court: No, I have no antipathy towards you for representing yourself.

[4-6] *Dr. Faltas:* Thank you, Your Honor. Do you have any antipathy against me for any other reason? Or do you think some may develop?

[7-8] The Court: I can't anticipate what might develop, but I'm not aware of any.

[9 – page 12, line 19] *Dr. Faltas:* [9-12] Thank you, Your Honor. The other thing is I do not look good, and part of that is the I have been exiled from my own apartment for more than two months now. [13-14] I have -- that was a condition of the bond. And I have requested Judge James to reconsider it. [15-17] And in his order he said that that is all he has to do, anything else would be addressed by the chief administrative judge or his designee. [18 – page 8, line 1] There was an issue about Judge G. Thomas Cooper's recusal because on other matters he had ruled unfavorably against me and I appealed. And I argued myself orally. I did my own oral argument *pro se* before then Judge Beatty, who is now Justice Beatty, Judge Huff, and now retired Judge Ralph King Anderson, and I prevailed unanimously. So there was an issue of whether Judge G. Thomas Cooper should recuse himself. [2-5] So in any event, he assigned the case to Your Honor. So for practical purposes Your Honor is not only the trial judge, but the administrative judge for the purpose of this case. [6-12] So I appealed Judge James' ruling that I cannot go back to my apartment. I think it is a horrendous violation of the Eighth Amendment prohibition against excessive bail. It also violates the constitutional presumption of innocence, and, again, the Eighth Amendment prohibition against cruel and unusual punishment. [13-16] So while it is on appeal, that ruling of Judge ames, I can ask the Court of Appeals to lift those conditions, but I need to first make that motion at the trial court level. [17 – page 9, line 2] And what I'm asking, if it pleases the Court, is both in order for me to properly present the motion in conjunction with that appeal and also for me to have a fair trial for no other reason than that I would look presentable to the jury, and I'm sure I don't look presentable to Your Honor now, but do look beyond my outer appearance and focus on the quality of my legal argument and the quality of my character that will come through the evidence and also in the arguments I am going to make to Your Honor. [3-7] So I would like Your Honor to lift the condition of the bond that says that I cannot return to my apartment at least from now until the trial so that I may have access to what I need to get a fair trial. [8-11] And that condition is so very unreasonable and totally violative of the Eighth Amendment prohibition and the Eighth Amendment to the United States Constitution. [12-18] The other thing I would like to say, Your Honor, is that I have been very disappointed so far with what I have seen in the South Carolina Criminal Justice System, at least at the General Sessions level. The bond hearings and all of that, they really amount to deprivation of property and liberty without a rudiment of due process of law. [19-23] There was a bond hearing before Municipal Judge Burns. I was not informed of her conflict of interest, and my false accusers spoke falsely without oath or affirmation, and I was not allowed to cross-examine them. [24 – page 10, line 2] And, again, before Judge James two hearings, again my false accusers came and spoke, and spoke falsely, without any oath or affirmation, and I was not allowed to cross-examine them. [3-9] The only judicial officer who heard anything under oath with an opportunity for cross-examination so far is the Honorable Alison Renee Lee. And that is in the civil case for housing discrimination and interference with my civil rights to live where I want and to build on my own land. [10-13] I attached the Honorable Judge Lee's order to motions. And that's why I asked that the file be brought to Your Honor directly from the Clerk of Court so there is no break in the chain of custody. [14-18] The only judicial officer who heard testimony under oath with the opportunity to cross-examine, Her Honor found basically that those criminal charges were brought for the Defendant in the civil litigation to gain an unfair advantage situation. [19-21] Her Honor found as a matter of fact that they were -- the landlady and her husband set me out of my residence and disparaged my national origin. [22-24] I testified. And I have tapes if the Court will listen. These are their words, not mine. "Go back to where you came from, you Egyptian bitch." [25 – page 11, line 5] These are the tapes that I have as evidence – or had as evidence in my civil rights case against them and that Ms. Weiss and Investigator Blanton went and swore false arrest warrants and search warrants against me in order to deprive me of that evidence. [6-10] They took from my home, Your Honor, and my car -- and that is in the Honorable Judge Lee's order -- everything, that is the tape, a camera, film, a picture, a computer, a video, a video player. [11-18] To show Your Honor the cruelty, it is as if Stalin and Saddam Hussein and the Taliban rolled into one. It is not as if -- and throw King George into the mix. It is not as if I were living in America, it is as if I were living under the colonial rule of King George or under Joseph Stalin. I don't think even there and then it was so bad. [19] And what are they accusing me of, Your Honor? [20-25] They are accusing me -- and that is something they themselves produced -- that once I overheard my neighbor verbally abuse another neighbor across the street and I later told the abusive neighbor that if she loved God she should go and apologize to the other neighbor that she abused. [page 12, lines 1-4] For that, Your Honor, I was arrested. I was required to undergo mental examination. I was not allowed to leave the prison until the mental examination take place. [5-10] And just so Your Honor knows, I'm a medical doctor. I also hold a master of public health degree from the other Carolina, the blue one, Chapel Hill, which I got on a Fullbright Scholarship. I speak four languages. And I'm a Coptic Orthodox Christian.

[11-12] The Court: I didn't hear the last part of what you said.
[13-24] *Dr. Faltas:* [13] I am a Coptic Orthodox Christian. [14-18] The oldest continuing church in the world is the Coptic Orthodox Church. Saint Mark preached his gospel in Egypt and he was martyred in Egypt. And his martyrdom was the foundation of the Coptic Orthodox Church. [19-23] So when people in jokes say, is the Pope Catholic? Not necessarily. There is a Coptic Orthodox Pope. The Pope in Rome is a successor to Saint Peter. The Pope in Alexandria, Egypt is a successor to Saint Mark. [24] But I go back to the motion.
[25] The Court: Okay.
[page 13, line 1] *Dr. Faltas:* They have taken --
[2-5] The Court: Just in the interest of equal time and economy of time, I need you to quickly come to a close so that I can hear what Ms. Weiss has to say in response to what you have been saying.
[6-17] *Dr. Faltas:* [6-11] Okay. I have initially filed a motion to suppress the arrest and search warrant, not because they uncovered anything inculpatory, but because everything they took from me is either irrelevant or exculpatory, and they refuse to give it back to me. [12-13] Number 2, once the case was indicted, I filed a motion to quash the indictment on several bases. [14-15] Number 1, that the statute is unconstitutional from top to bottom. [16-17] Number 2, that there is a horrendous irregularity possibly --
[18] The Court: Horrendous?
[19 – page 15, line 2] *Dr. Faltas:* [19-20] Irregularity possibly in the composition of the Grand Jury. [21-24] It appears the Grand Jury foreperson is a tenant of the very landlady whom I'm suing for housing discrimination and who pretends that she is a victim of my harassment. [25] So that is like no, no, no, no. [page 14, lines 1-7] The two other bases are that the very notes from Investigator Blanton show that she knew her witnesses were lying and she suppressed that, both to the City Ministerial Recorder, who is not really a neutral magistrate, to get the search and arrest warrant. She again testified falsely about it to the municipal judge who heard the probable cause. [8-10] And of course I do not have access to the Grand Jury proceedings, but it is very likely that she perjured herself to the Grand Jury. [11-13] And of course we know that people shouldn't do that. We have seen President Clinton do it in our lifetime. [14-18] The other prong of my challenge to the indictment, that it is totally non-specific, it is a fill-in-the blank. "Or other acts." I do not know what I am supposed to be defending against. So it is totally void for vagueness. [19-20] And then in addition to that, Ms. Weiss should be recused for several reasons. [21] Number 1, she is a witness. [22-25] Number 2, she is rushing me in order to acquire for herself absolute immunity. The law as it stands now, a prosecutor enjoys only qualified immunity until the trial stage.
[page 15, lines 1-2] There was an important case of Pottawattamie County of Iowa.
[3] The Court: Can you spell that word?
[4 *Dr. Faltas:* [4] Yes, Your Honor. [5-6] P-O-T-T-A-W-A-T-T-A-M-I-E County of Iowa versus McGhee, M-c-G-H-E-E. [7-11] That was argued before the United States Supreme Court on November 4th, 2009. The transcript of the oral argument is available at the U.S. Supreme Court website, and that is SupremeCourtUS, one word, dot gov. [12-18] After the case was argued, the case was settled, it was dismissed pursuant to U.S. Supreme Court Rule 46. The case number is 08-1065. So we may never know, at least from that case, whether the United States Supreme Court will approve absolute immunity for prosecutors who framed a man for murder. That is what that case was about. [19-21] In our own lifetime, we have seen people framed. We have seen Mike Nifong of North Carolina--
[22-23] *The Court Reporter:* I'm sorry, I didn't understand that.
[24] The Court: Mike Nifong of North Carolina.
[25 – page 16, line 8] *Dr. Faltas:* [25 – page 16, line 3] Yes. Thank you, Your Honor. He framed a Duke lacrosse player for rape and continued to press the charges even after the DNA was not from them. [4-5] We have seen the late singer Michael Jackson falsely accused of child molestation. [6-8] Even in South Carolina Cardinal Joseph Bernardin was also falsely accused of child abuse or something.
[9-10] The Court: Are you still wrapping it up to a close so I can give Ms. Weiss a chance to respond?
[11-13] *Dr. Faltas:* Yes. So I am saying that I have a right to a Franks versus Delaware hearing before the trial starts.
[14] The Court: What kind of hearing?
[15-16] *Dr. Faltas:* Under the U.S. Supreme Court case of *Jerome Frank versus Delaware*.
[17] The Court: Delaware. *Franks versus Delaware*.
[18 – page 17, line 25] *Dr. Faltas:* [18 – page 17, line 2] Yes, Your Honor. Yes, Your Honor. When I make a prima facie showing – and that is why you have this thick file, it is thick with a bit of my prima facie showing that the arrest and search warrants were obtained, Number 1, with outright perjury; Number 2, with suppression from the issuing City Recorder of information that, a neutral magistrate here, if she had it before her, would not have issued the search and arrest warrants. [3-7] **So, as I said, I'm entitled to challenge all of that before the trial starts and before absolute immunity under current rule attaches to the same prosecutor who was party to the fraud and deprivation and framing of me.** [8-19] **I discovered what interest Ms. Weiss would have in framing me, and that is because her father is one of the 200 or so select lawyers at law firms who profit from South Carolina's Insurance Reserve Fund here, and I have had occasion to try to challenge that scheme before. That scheme cost our state about $30 million each year.** And it is like if you select a private firm -- every other – in every other state the Attorney General does the State's work, but in South Carolina he farms it out to private lawyers who in turn give him campaign contributions, and it is a grand scheme. [20-24] **Ms. Heather Savitz is the daughter of Stephen Savitz. He is one of the lead firms that profit from that scheme. And that is why she has a vendetta against me. So I intend to challenge all of that before trial.**
[25] Thank you.

[page 18, line 1] The Court: All right. Thank you.

[2-10] *Dr. Faltas:* Oh, I'm sorry. **I also didn't get complete discovery.** And then she gives me stuff like this, and I try to play it. Sometimes it doesn't play. I want to be able to play it without breaking the chain of custody because I'm sure she will contend she gave it to me in playable condition, and if it doesn't play, then she will say that Dr. Faltas tampered with it. **So I want to have court supervision –**

[11-12] The Court: What is that? Is it a DVD or a CD or --

[13 – page 19, line 18] *Dr. Faltas:* [13-18] I have no idea. I think it is a CD with calls to dispatch, but they have previously given me things that were unplayable and when I went back and said they aren't playable, they said, "oh, but they were playable when we gave them to you." [19-20] That is why I want everything under court supervision without the break of the chain of custody. [22-24] So if they give me tapes, I want some procedure where we open them and play them without my breaking the chain of custody. [25 – page 19, line 6] And then there is a whole lot of normal discovery which was timely sought, like the criminal records of her alleged witnesses and alleged victims. They gave me things with missing pages. A whole lots of things which I enumerated in my motion to compel discovery. None of it helped me. [7-10] Just a few minutes ago she sprung this on me, but I have no idea if any of this is playable. And it definitely is a minute portion of what she owes me. [11-17] So I cannot get a fair trial, if there is going to be a trial, because I am very, very hopeful that if Your Honor listens to an open – with an open mind at my challenge to the constitutionality of the statute, Your Honor will find that the statute is totally unconstitutional both on its face and applied to. [18] And I very much thank you.

[19] The Court: All right. Ms. Weiss?

[20 – page 24, line 21] Ms. Weiss: [21-23] Thank you. Your Honor, may it please the Court? First of all, obviously I had no idea that this motion or this hearing was going to take place, so there are no victims notified. [24 – page 20, line 4] Some of the requests for relief that Dr. Faltas is asking for, such as a reconsideration of Judge James' order to return to her residence, I would ask that Your Honor not consider it at this time. That was an appropriately made motion. It was made before Judge James. [5-12] Judge James also -- that was before the holidays -- after the holidays he heard a reconsideration in Sumter. We all went to Sumter for that. The victims were notified and were present for that. I would ask that Your Honor not entertain that at this time because the victims have not been properly notified, as well as myself, that that was going to be heard today. [13-20] Secondly, my understanding is -- and this was in my office or given to me from my office that Judge Cooper has made a notice of the trial, it is scheduled to be heard, notice of hearing for Dr. Faltas on February 22nd, and it indicates that all motions related to these indictments will be heard at that time. I would ask Your Honor to do that at that time on February 22nd. [21 – page 21, line 3] **We have attempted to expedite this trial.** As Your Honor is well aware, we have a tracking system. Typically this would have gone under the tracking system. Dr. Faltas has currently only had a first appearance. She was arrested on December 2nd. She came to her first appearance in January and we did go on through the appearance system. [4-9] We have tried to expedite this. Due to the number of motions that Dr. Faltas is filing, and those motions seem to be most appropriately heard pretrial, and it would make the most sense to be heard by the trial judge prior to the trial starting. [10-15] **So, Your Honor, in agreement with Judge Cooper, as well as Dr. Faltas on the record, we have attempted to find a court date where we could go ahead and hear this case. And that date now has been set as February 22nd, and Your Honor has agreed to hear that case.** [16-20] So that is why we're going forward in such a quick manner, not because of anything -- any ideas that I have or anything anybody is trying to do anything to Dr. Faltas. In fact, we are trying to accommodate Dr. Faltas in all of her motions. [21 – page 22, line 2] As far as the evidence, Dr. Faltas has been – they did do a search warrant. I did not do the search warrant, Your Honor, but there was a search warrant done by the City. Lots of things were taken from her apartment that could have been involved in a harassment suit, in a harassment case. [3-7] A lot of those items the investigator has had the opportunity to go through and has tried to return them to Dr. Faltas, and she has refused to take them. They have been signed off to her. She has gone down there and refused to take them. [8-13] **The two computers she talked of, the camera she spoke of, as well as numerous cassette tapes, VHS tapes, numerous things that were believed to possibly have contained evidence of harassment have now been found not to contain that evidence and have been attempted to be released back to her.** [14] She has refused to take custody of those. [15-25] When Your Honor called me, I actually was at the City of Columbia going through the evidence. I am trying to prepare for this trial, which is now just over a week away. So I was actually down there trying to go through that evidence. **The more evidence we go through, we may even have more things to return to Dr. Faltas, but at this point I need the opportunity to go through and decide what is going to be evidence in my case in chief once I go to try this case on February 22nd.** And that is where we stand as far as that. [page 23, lines 11-13] As far as discovery, I turned over everything in my file. We have turned over -- we have released numerous things back to Dr. Faltas, and I'm not sure -- she will have the opportunity – Mark Sawyer is her standby counsel. I had talked with him about hopefully on Tuesday being able to go to the City and giving her the opportunity to look through everything that was down there, but that was with the understanding that I would have the opportunity to go through it before then, so that she could go through all the evidence that is down there that I intend to use in my case in chief. [14-24] And as far as the -- she did state that she had some incomplete discovery, that she has first pages, and not second or third. Your Honor, without anything more descript I cannot know what she is referring to. Of course I would attempt to make her whole on any discovery that she feels she is missing. We have asked her numerous times to put in writing what those things are, I have asked her three other standby counsel to put those things in writing and I would try to figure those out at the time. [25 – page 24, line 6] As of this moment I still have not received a complete list of anything she thinks she is missing as far as discovery is concerned. I did receive a motion that she filed and it has some broad explanation of what she believes she is missing, but nothing

specific that I could actually respond to. [7-18] The tapes that she has there were copied. They were copied with the other discovery. They actually are not relevant to the case that we are going forward on on February 22nd. Those are calls that occurred after that case. But I'm turning them over to her just because they are in my case file and I believe in having an open case file, and our office has an open case file policy, so I believe in turning it all over to her, but they are not actually relevant to the case we are planning to hear from the incidents that occurred prior to the December 2nd arrest. [19-21] If is there anything further -- I know there was a lot discussed -- that I'm leaving out that Your Honor would like me to speak to?

[22] The Court: No.

[23 - page 25, line 1] Ms. Weiss: Okay. Thank you. And I would just ask that you deny making any -- not make any rulings at this time, withhold everything for February 22nd, Your Honor.

[2 - page 28, line 15] *Dr. Faltas:* [2-9] Your Honor, first of all, I think I explained clearly that what I'm asking is not that you would reconsider Judge James' ruling, but that you -- that I am making the motion to lift it pending appeal, which I'm required to make at the trial court before I go to the Court of Appeals and tell them, "lift it." They will say, "well, did you ask the trial court?" [10-16] **So of course I'd like Your Honor to grant it, but if you don't, I need, not that you refused to rule, but that you make your ruling so I can go to the Court of Appeals and say on this narrow issue of the excessive bail and the deprivation of my property without due process, I tried at the trial court level first.** So that is one thing. [17-20] **The other thing is, she doesn't get to give my property, which is exculpatory, to me and return it to me at the morning of the trial and say, I am – you are going to have a fair trial.** [21 - page 26, line 1] **First off all, she took things that cannot possibly be evidence of any crime. Some of them were recordings of court hearings where the alleged victims testified, and I need them to prepare to cross-examine them to -- with prior inconsistent statements.** [2-10] Frankly, I think they took all of this from my house in order to damage them. The reason I refused to pick up things is that these are things that I cannot -- just the same way here. Can I tell whether this tape is playable? Can anyone tell whether this tape is playable, whether it is audible, or even if there is a tape in it? And the moment I open it I would have broken the chain of custody. [11-20] So all I ask is a procedure under which whatever it is they are offering to return to me I can test without breaking the chain of custody whether they are damaged, because that search warrant was a general warrant which was what the King's men used to do before the American Revolution. It was -- and also the U.S. Supreme Court in the case of *Stanford versus Texas* addressed exactly that same issue and said it was a general warrant. [21 - page 27, line 6] **They don't get to take everything in my apartment and then say, we'll hold on to it and then we'll give it to you on the morning of the trial. They don't get to do that.** And I am very suspicious that they have -- in fact, **I visually saw what they damaged my computer keyboard. *I visually saw that.*** I don't know if they damaged the two computers they took from me. **And there was nothing in the search warrant that was particularized or gave any probable cause that those computers contained evidence of any crime.** [7-10] But in any event, they took my things to damage them and now they want to return them to me or pretend to return them to me. I have no idea if they have damaged all the things they took from me. [11-13] I cannot tell from this video that -- there was not a video, but if you have a video you cannot tell what is on it. [14 - page 28, line 2] I need conditions well before trial where I can test every single thing. For example, they took two cameras from my house. They have film in them. They got the film processed. There was nothing in the film -- in the film. It was a picture, Number 1. That is damaged. But that is not important. **What is important is the exculpatory material that they have withheld from me and that they may be damaging,** and yes, I will not accept anything that I cannot test without breaking the chain of custody, because they will – **as they have lied so much about me so far, they will say, "we gave it to her in good condition and she damaged it."** [3-6] So all I'm asking is for a process, starting with these three whatever that she just gave to me, that they can be played without breaking the chain of custody. [7-15] **And definitely that that be done long before the trial date because I cannot have a trial if they turn over my -- the evidence. I don't even know who the witnesses are. They have not turned over the alleged witnesses' rap sheets.** They have not turned over the driving records of some of the alleged witnesses. These are things that are supposed to be there, and they have not turned them over.

[16-17] The Court: **Have you provided discovery to Dr. Faltas?**

[18-19] Ms. Weiss: **Yes, Your Honor, we provided all available discovery to Dr. Faltas.**

[20] The Court: **Including witnesses' rap sheets?**

[21] Ms. Weiss: **No, Your Honor.**

[22] The Court: **And a list of witnesses?**

[23-24] Ms. Weiss: **She's got discovery. She knows who the witnesses are ---**

[25 - page 29, line 1] *Dr. Faltas:* **No, I don't! You need to give me the list and ---**

[2] *FEMALE DEPUTY:* **Ma'am!**

[3] *Dr. Faltas:* **I'm sorry.**

[4] *FEMALE DEPUTY:* **You can't do that.**

[5-7] *Dr. Faltas:* **Well, I'm sorry, I am talking to the judge, not to you, okay? If the judge wants to stop me, he will stop me, not you!**

[8] The Court: Ma'am ---

[9] *Dr. Faltas:* Okay.
[10] The Court: --- the judge is stopping you.
[11-12] *Dr. Faltas:* All right, thank you, Your Honor. And I will abide by Your Honor's ruling.
[13-14] The Court: Do not interrupt counsel when she is speaking.
[15-18] *Dr. Faltas:* **I will abide by Your Honor, but I would like also Your Honor to admonish the court staff, who are not judicial officers, to not make rulings. Only Your Honor makes rulings.**
[19] The Court: All right, thank you.
[20] *Dr. Faltas:* Thank you.
[21] The Court: Proceed.
[22 – page 30, line 7] Ms. Weiss: [22 – page 30, line 3]Thank you, Your Honor. At first the rap sheets -- I'm still obviously preparing for trial, **I don't have a full witness list. By the morning of trial I will have all of the witnesses' rap sheets prior to the trial, and definitely prior to any of them taking the stand.** So I'll have those prior to trial. [4-7] As far as driving records, I don't see how that is relevant to this case. I would have no – **I have no intention of running a driving record on my witnesses at this point.**
[8] *Dr. Faltas:* Well, may I respond, please?
[9] The Court: After she is finished.
[10] *Dr. Faltas:* I thought she was done.
[11-17] Ms. Weiss: Your Honor, that is as far as the rap sheets and the witness list. She does have – you know, everything I have in my file about who my witnesses might be she has. **I'm still meeting with witnesses to determine my full witness list. I don't anticipate it will be very long, though, Your Honor.**
[18] The Court: All right. Yes, ma'am?
[19 – page 31, line 15] *Dr. Faltas:* [19-22] **Whatever the witness list is I'm entitled to have it before the trial date. And I'm entitled to have the rap sheet before the trial date.** [23 – page 31, line 1] In addition, the driving records are very, very relevant because one of the exotic charges that they put against me is that I was blocking them with my car. [2-6] And that is one thing that I would also tell **Your Honor, if there is going to be a trial, I request that Your Honor make preparation for the jury to view this site. The place has two very wide exits.** [7-15] And part of the harassment that they were perpetrating against me, Your Honor, I know the Bible well. Potiphar's wife propositioned Joseph, and when he turned her down, she went to her husband and falsely accused Joseph of propositioning her. And I think of myself as Joseph. Joseph was a Hebrew in Egypt, I am an Egyptian in America. And I'm exactly going through what he's going through. [16-22] They harassed me. They called me the "B" word several times. They would all the time flip a finger at me. In fact, one of the reasons I took photographs is of them flipping a finger at me. And all I would do is cross myself and say the Lord's Prayer or say Hail Mary, and not respond to them. [23] And yet they falsely accuse me of doing those things. [24 – page 32, line 2] So the driving record is important. **Those people were very dangerous drivers, have accidents, have substance abuse, have driver's license suspended. And they wanted to broadside my car.** [3-7] All of this -- Judge, it is no different – and I say the Civil Rights Era never ended. It is just different people. Back then it was African-Americans, now it is first generation immigrants. [8-11] And they keep on telling me, why don't you move from my apartment -- from your apartment; why don't you abandon the land that you want to build on. [12-17] Well, why didn't Rosa Parks get off the bus. Judge, a few days ago we were celebrating the events of a lunch counter sit-in. Why didn't the students get off the lunch counter. Because if they had, there would have never been equal rights for African-Americans. [18-21] And if I were to abandon my apartment and abandon my land and not build anything, there will never be equal rights for first generation immigrants. [22 – page 33, line 7] In fact, Your Honor, in the proposed -- in the proposed edition of the South Carolina Rules of Criminal Procedure, someone from the death penalty -- from the death penalty project got a transcript where one of the jurors on the death penalty case was a first generation immigrant. And because he wanted to make sure before voting for a death penalty the other jurors told him, you either vote with us or we will have you sent back where you came from. And that was in the transcript, and that is on the State Supreme Court's website. [8-11] So this, why don't you go back where you came from, this is not something that I am imagining, this is something that is going on. And I am insisting to stand up for my civil rights. [12-14] And in researching the constitutionality of the statute, of the harassment statute, I so – would Your Honor like me to stop while you read it?
[15] The Court: Proceed, ma'am.
[16 – page 34, line 25] *Dr. Faltas:* [16-20] Thank you, Your Honor. Back then it was a nebulous and amorphous trespass or breach of the peace statute. These are nebulous, amorphous statutes that are classically used to suppress minorities who stand up for their rights. [21-25] So I am entitled to have specific – specific names, specific charges, specific evidence well ahead of trial, or I'm entitled for the whole thing to be dismissed because there is absolutely no competent evidence. [page 34, lines 1-5] **And I am also entitled to ask that Ms. Weiss be recused because, Number 1, she has made herself a witness.** The alleged victim is I believe her hairdresser and has been her hairdresser for a while. [6-8] And in any event, **Ms. Weiss made herself a witness by swearing in the search warrant and the arrest warrant.** [9 And if Your Honor wants to see all the details on February 22nd, **I would say that it would be too late for me to receive that on the morning of the 22nd and then get a fair trial that day.**
[13-14] The Court: All right, under the Victim's Bill of Rights -- you may be seated, ma'am.

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

[16 – page 35, line 17] The Court: [16-23] Under the Victim's Bill of Rights, the victims have a right to be informed of and present at any criminal proceedings which are dispositive of the charges where the Defendant has the right to be present. They have a right to be heard at any proceeding involving a post arrest release decision and to be reasonably protected during -- throughout the criminal justice process. [24 – page 35, line 2] I am not going to proceed with hearing any matters, making any decisions concerning anything in this case, other than perhaps regarding discovery on this date. [3-4] This case will come up on the 22nd, at which time the pretrial motions will be discussed. [5-8] Concerning the matters ruled on by Judge James, I do not have the authority to change or modify any decisions made by another Circuit Court Judge. [9-12] **Regarding the issue of discovery and the witness list, the Defendant has the right to receive discovery from the State concerning witnesses who are expected to testify in the trial.** [13-17] It appears that the Defendant was fully engaged and perhaps already knows all of the parties and the possible witnesses, **but a list must be given to the Defendant. Have you given her a list already, Ms. Weiss?**

[18-23] Ms. Weiss: [18-19] **Your Honor, I have not given her a list because I'm still preparing that at this time.** [20-23] I still have -- I have a meeting that will be a major contributor to that tomorrow afternoon, **so it will be next week before I would have any sort of real list to give her.**

[24-25] The Court: **The State must produce a list of witnesses by 5:00 p.m. on Monday.**

[page 36, lines 1-2] Ms. Weiss: Your Honor, I will not be here on Monday, it is a state holiday.

[3-4] The Court: Monday is a state holiday. It is a state holiday.

[5] Ms. Weiss: Yes, Your Honor.

[6] The Court: **Tuesday at 5:00 p.m.**

[7] Ms. Weiss: Thank you, Your Honor.

[8-9] The Court: The courts are closed Monday, I guess.

[10] Ms. Weiss: Yes, Your Honor.

[11] The Court: State holiday. Tuesday at 5:00.

[12] *Dr. Faltas:* **And if she doesn't?**

[13-15] The Court: **If she doesn't we'll address that at -- if she doesn't. I don't give anticipatory rulings.**

[16-18] *Dr. Faltas:* **Well, then what I am also saying is the other material that they took is exculpatory, and I need it.**

[19-23] The Court: The State must provide the Defendant with all exculpatory materials, whatever that might be, but that involves a subjective determination by the State as to what is exculpatory.

[24 – page 37, line 2] *Dr. Faltas:* **And I am saying everything that they took from my house and my car is exculpatory, and they have to return it. They can copy it if they want.**

[3-4] The Court: **I am not going to address that issue today.**

[5-8] *Dr. Faltas:* Well, then if it pleases the Court, I'm going to say that if it gets addressed only at the morning of the trial, then already my fair trial rights would have been --

[9-10] The Court: You'll need to address that at that time.

[11-15] *Dr. Faltas:* All right. Now, will there be an order or may I ask -- I have qualified for indigent defense and Judge Cooper has already allowed – of course, he didn't know that you were going to have this hearing.

[16] The Court: We haven't had a hearing.

[17] *Dr. Faltas:* What are we having?

[18-23] The Court: [18-20] I'm hearing -- you are requesting a hearing. She's objecting to that. We're not – I'm listening to you talk more than anything. [21-23] We're not having a hearing because I'm not going to entertain anything without the victims being present.

[24 – page 38, line 1] *Dr. Faltas:* Well, the alleged victim, Your Honor. There is a presumption of innocence. And I don't think they are victims at all, but --

[2-4] The Court: They are defined by law as being victims, and you are correct, they are alleged victims, but we are not here before the jury.

[5] *Dr. Faltas:* Your Honor --

[6-7] The Court: In two minutes we are going to recess this hearing.

[8] *Dr. Faltas:* Yes, yes, but --

[9] The Court: Because I have a jury out.

[10] *Dr. Faltas:* Oh. Oh.

[11-15] The Court: And you all have miraculously appeared out of nowhere, in the middle of my trial, concerning this matter that I know nothing about. In two more minutes I am going to not discuss it any further.

[16-18] *Dr. Faltas:* Yes. I just need Your Honor to order the transcript -- not to order, but to allow me to have the transcript, or whatever you call it.

[19-20] The Court: I'm not going to order a transcript of today's hearing.

[21-22] *Dr. Faltas:* Not order, I mean to allow me to have it.

[23] The Court: Not without paying the cost of it.

[24] *Dr. Faltas:* Yes, I am allowed to do that.

[25 – page 39, line 2] The Court: I am not going to require the court reporter to provide a free transcript of what was stated in court.

[3-5] *Dr. Faltas:* Not free. It is not free. It is -- Judge Cooper allowed it to be a state expense, but it is not ---

[6-9] The Court: Well, whatever Judge Cooper has ordered, that is Judge Cooper's order. And you are asking me for an order, which I am not going to do.

[9-10] *Dr. Faltas:* All right, then I am going to. I thank you, Your Honor, then.

[11] The Court: Thank you.

[12-13] Ms. Weiss: I just have one clarification, very briefly.

[14] The Court: Yes.

[15-24] Ms. Weiss: [15-20] **I just ask that any witness list I provide on Tuesday I may amend as my investigation continues through the Monday of trial. And I will just keep putting witness lists -- making them available to Mr. Sawyer and Dr. Faltas if anybody gets added.** [21-24] And, finally, as far as the evidence, all I can do is make it available, the DVD's, if we decide anything should be turned back over, but that is the extent of what I can do, Your Honor.

[25 – page 40, line 3] *Dr. Faltas:* Your Honor, Mr. Sawyer is only my standby counsel, I am Pro Se. She needs to tell me -- she needs to give me things, not give them to him to give to me.

[4-5] The Court: **Service of documents must be made on the Defendant, not on standby counsel.**

[6-7] Ms. Weiss: Yes, Your Honor, I do it on both, just to be covered.

[8] The Court: All right.

[9] Ms. Weiss: Thank you, Your Honor.

[10] *MR. SAWYER:* Thank you, Your Honor.

[11] The Court: You're welcome.

[12-13] *Dr. Faltas:* It hasn't been decided, how do I test these?

[14-18] The Court: If there is a problem, then the problem is brought to the Court at the appropriate time, but I will not supervise your listening or watching or reading anything the State provides – gives you.

[19-21] *Dr. Faltas:* Will Your Honor be at all available, of course not *ex parte* but with Ms. Weiss --

[22] The Court: I'll be available on the 22nd.

[23] *Dr. Faltas:* But not during chambers?

[24] The Court: Not before then.

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

[page 41, line 1] The Court: All right, thank you.

[2] Ms. Weiss: Thank you, Your Honor.

[3] **(WHEREUPON, the proceedings were concluded.**

[page 42, line 1] **CERTIFICATE OF REPORTER**

[4-5] STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

[8-15] 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 General Sessions for Richland County, South Carolina, on the 11th day of February, 2010.

[16-17] I do further certify that I am neither of kin, counsel nor interest to any party hereto.

[18-19] **February 19, 2010**

[22-23] [s/] **Deborah M. McCurdy, RPR**
Fifth Circuit Court Reporter

CITY OF COLUMBIA
SOUTH CAROLINA
MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

January 12, 2010

RECEIVED
FEB 23 2010
LEGAL DEPARTMENT

Mr. David A. Fernandez, Esq.
Assistant City Attorney
Legal Department
P. O. Box 667
Columbia, SC 29202

Dr. Marie Assa'ad Faltas, MD, Phd.
304 Byron Road, Apt. 3
Columbia, South Carolina 29209

CERTIFIED MAIL

Re: Motions Concerning Jury Trial Cases

Dear Mr. Fernandez and Dr. Faltas:

Please be advised that the Municipal Court has scheduled a motions hearing on March 3, 2010 to resolve motions filed by Dr. Marie Assa'ad Faltas on January 20, 2010. A copy of the motions filed with the Court on that date is attached hereto. Please be advised that a hearing on these matters will be held on Wednesday, March 3, 2010 at 9:00 a.m. in Courtroom 2, 811 Washington Street, Columbia, South Carolina before The Honorable De Andrea G. Benjamin.

Please call me with any questions or concerns.

Sincerely,

Dana D. Turner

Dana D. Turner
Chief Administrative Judge

page 1 of 2

Maxie Assa'ad-Faltas, MD, MPH
304 Byron Road, Apt #3, Columbia, SC 29209
Phone and on-demand-fax (803) 783-4536 (temporarily unavailable)
Cell: (330) 232-4164 (Please use)

RECEIVED
JAN 28 2010
MUNICIPAL COURT

28 January 2010

Re: Motions Concerning Jury Trial Cases in Which I am either a Witness or a Defendant

To the Municipal Court and the Municipal Prosecutor for the City of Columbia:

(1) This series of motions and requests does not supersede; but by reference incorporates and reiterates all matters in my previous written submissions to this court and all my FOIA requests to the City of Columbia.

(2) As to the case against me for alleged front-yard parking, I move that it be dismissed because the ordinance is unconstitutional, because I was selectively prosecuted, and because my speedy trial rights have been violated as it has been more than six months since the remittitur from the appeal but the City did nothing to prosecute me.

(3) As to the alleged assault charge against me by Dinah Steele, I move that it be dismissed because, on 17 November 2009 the prosecutor did make full disclosure but withheld at least two very significant exculpatory items:

(a) The driving record of alleged witness Charlene Crouch, which record had been obtained by Investigator Blanton on 4 Nov. 2009. That record shows a history of substance abuse by Crouch that resulted in the suspension of her driver's license for at least 6 months at least once.

(b) The 911 call by alleged victim Dinah Steele where she does not mention assault at all but complains only of trespass.

RECEIVED
JAN 28 2010
MUNICIPAL COURT

(4) As to the alleged tresspass charge against me, I move that it be dismissed as a matter of law as I cannot possibly tresspass where I live.

(5) As to the alleged unlawful-use-of-telephone against me, I move that the charges be dismissed because the arrest was by an officer who did not witness the alleged misdemeanor and because the City has refused to produce the recordings of the calls to dispatch on 8 Dec 2009. Those tapes show that I did not use abusive language. And, in any event, the statute does not criminalize abusive language and is unconstitutional any way.

(6) I request that all the above motions be scheduled expeditiously but not before Municipal Judges Turner, Benjamin or Burns because of conflicts of interests.

(7) I request a copy of the tapes of each and every time I appeared in Columbia Municipal Court from and including September 2009 to January 2010.

Submitted and served on Assistant City Attorney Fernandez either by hand-delivery to his office location or hand-delivery in the Municipal Court Building at 811 Washington Street, Columbia, SC 29209, all on 28 January 2010.

Marie Assaad-Faltas, MD, MPH
Defendant pro se

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE MUNICIPAL COURT
OF THE CITY OF COLUMBIA

CITY OF COLUMBIA
v.
MARIE ASSA'AD-FALTAS, MD, MPH

MOTIONS TO DISMISS THE CHARGE AND ENTER A FORMAL ACQUITTAL IN THIS CASE
Or, in the alternative, for a continuance of this case

Defendant *pro se* hereby moves this Honorable Court to dismiss the charge of trespass after notice because Defendant cannot possibly trespass in her own front yard, parking lot, or near her mail box, which is in the right of way anyway and not subject to trespass. Additionally, no valid trespass notice was, or could have been, given to her prior to, on, or even after, the date of the allegation since the alleged trespass occurred in the very area where Defendant rents, her rent was fully paid on the date of the allegations, and no final order of eviction had then been, or is yet, issued against her on the date of the allegations. The charge of simple assault should be dismissed because of the Prosecution's failure to check the veracity of its witnesses and to admonish the police to include exculpatory facts in the report. Indeed, the Prosecution plans to use false witnesses and fabricated evidence as it had done before against this very defendant. Further, it appears the Prosecution conspired with its witnesses to prevent Defendant from receiving timely notification of the trial date.

Even if the charges are not dismissed, the case should be continued until Defendant has had a chance to receive and study all exculpatory material from the Prosecution.

Respectfully submitted on 4 November 2009.

Marie-Thérèse Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*
304 Byron Road, Apt 3, Columbia, S.C. 29209
Telephone and on-demand fax-receive only: (803) 783 - 4536.

Certificate of Service

I served this document by hand-delivery to Mr. Fernandez in open court or by hand-delivery to the designated person at the location of the City of Columbia legal department on 4 November 2009.

Marie Assa'ad-Faltas, M.D., M.P.H., Defendant *pro se*

RECEIVED
NOV 04 2009
LEGAL
DEPARTMENT

CITY OF COLUMBIA
SOUTH CAROLINA

OFFICE OF THE CITY ATTORNEY * POST OFFICE BOX 667 * COLUMBIA, SC 29202
* (803) 737-4242 * FAX (803) 737-4250

FAX TRANSMITTAL SHEET

FAX #: (803) 748-5018

DATE: March 1, 2010

TO: J. Clarke Newton, Esquire – Richland Co. Public Defender's Office

FROM: Shirlean L. Streater, Legal Assistant to David A. Fernandez

RE: City vs.

4 page(s), including cover. Please call Shirlean L. Streater @ 737-4242 if all are not received.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL ATTORNEY INFORMATION INTENDED ONLY FOR THE USE OF THE ADDRESSEE. PERSONS RESPONSIBLE FOR DELIVERING THIS COMMUNICATION TO THE INTENDED RECIPIENT ARE HEREBY NOTIFIED NOT TO READ THE ATTACHED AND THAT ANY DISSEMINATION, DISTURBANCE OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND PLEASE RETURN THE ORIGINAL MESSAGE TO US VIA THE U.S. POSTAL SERVICE.

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March 1, 2010

J. Clarke Newton, Esquire
Richland County Public Defender's Office
P. O. Box 192
Columbia, SC 29202

Re: City of Columbia v. Marie Assa'ad-Faltas
Ticket No(s): 31891-EQ

Dear Clarke:

A municipal court hearing has been scheduled regarding the enclosed motion submitted by the defendant for 9:00 a.m. on Wednesday, March 3, 2001.

Please let me know if you have any questions or if I can be of any further assistance to you.

Sincerely,

David A. Fernandez

David A. Fernandez
Assistant City Attorney

DAF/sls

[page 1] City of Columbia) TRANSCRIPT OF RECORD March 3, 2010 Jury Trials
vs.) Judge DeAndrea G. Benjamin
Marie-Therese Assa'ad-Faltas,) ACA David A. Fernandez
Defendant)

[lines 1-6] Mr. Newton: Yes, Your Honor, Clarke Newton as standby counsel for Dr. Faltas. She conveyed to me that she had come to court and then needed to stop and run an errand so if we could please continue until she was going to get back. I don't know when it's going to be. If we can just give it another -- until we go through Ms. Holloway's docket and come back to that, please.

[7] The Court: Mr. Fernandez.

[8-10] Mr. Fernandez: Did she give you any -- is there any estimate of time when she's supposed to be back? Did she give you a range?

[11-17] Mr. Newton: Your Honor, she did not. She had said originally 9:30. She, however, said it could take longer than that. I don't know exactly what she was doing. I was not going to be present but I was able to come back and I believe she had tried to go down to the public defender's office and find another attorney to be here as standby counsel. I believe that's what she was doing but I don't know if that's exactly what she was doing.

[18] The Court: Now which case -- is this involving a case?

[19 - page 2, line 1] Mr. Fernandez: Not a case in particular, Your Honor. It involves I think four different pending charges. She's here apparently, Your Honor.

[2] The Court: Do you need to speak with her?

[3-5] Mr. Newton: Your Honor, no, I do not. Although as she has just (inaudible), I would request at least one case go before us so that she can --

[6-7] The Court: Okay. We'll go ahead and get some of these folks back on the street.

[8] (case recess) [9] (case resumes)

[10] The Court: Is this on the docket?

[11] Mr. Fernandez: I don't believe so, Your Honor.

[12] The Court: All right.

[13-16] Mr. Fernandez: This is a motion hearing that was scheduled by Judge Turner. I believe Your Honor has a copy of the motion. Before -- I'd just ask before Your Honor heard anything from Ms. Faltas who is the one who--

[17] Defendant Faltas: Dr. Faltas.

[18-20] Mr. Fernandez: Who submitted the motion and I'd just say that -- I don't know if Your Honor has had a chance to review the grounds that Ms. Faltas lays out--

[21] Defendant Faltas: Dr. Faltas.

[22] Mr. Fernandez: But--

[23-24] The Court: Dr. Faltas, please do not interrupt. You'll have an opportunity to speak. Yes, sir.

[25 - page 3, line 11] Mr. Fernandez: In an appeal to judicial economy I would ask Your Honor that nothing be decided today. Everything that is laid out in this motion has to do with cases that are not before the court today. Anything that Your Honor -- if Your Honor were to decide would certainly be appealed as interlocutory as it may be it would likely be appealed. That will cause unnecessary paperwork in other courts. My request would be that certainly these motions should be heard at some point but when the case is called for trial it could be handled prior to trial, we could have the trial and then any appeal would be valid at that point. So I move to have these matters continued until the appropriate time in an appeal to judicial economy.

[12] The Court: All right. Dr. Faltas.
[13] Defendant Faltas: Good morning.
[14] The Court: Good morning.
[15 - page 4, line 25] Defendant Faltas: It's nice to see you again. And, ma'am, I want to say that I've had very recently a very trying experience but the more I go through extreme hardships in life, the more I'm grateful to God and the more I know who I am. And who I am I find out is a child of God and (inaudible) and the daughter of my father who was a saint. I'm a Coptic Orthodox Christian, very proud of it, very proud of being Egyptian and a physician. But I have been through an experience where a solicitor who is supposed to be a minister of justice had not only told lies about me herself, but had been putting witnesses on the stand knowing that they would tell lies. I have called the chief of police of this city and he told lies. I have called the solicitor, called the woman, called the investigator Blanton and basically they have admitted that they framed me. I'm say basically. They didn't choose that word but from all of it I think the City of Columbia is operating a group of thugs armed with side guns paid by the taxpayers. They came to my home when I wasn't doing anything and falsely arrested me on two (inaudible) misdemeanor charges not witnessed by the police officers. They took from my home and my car things that belonged to me and belonged to my mother. They still are keeping many of them. They put a woman who pretend that she's my alleged victim who has three felony convictions for stealing credit cards. They put a man who claims I harassed him by taking his photographs who had threatened to force me to perform a sexual act on him. And he has a burglary conviction. He has two convictions of possession of marijuana, one conviction of possession of a dangerous animal, three or four arrests of possession with intent to distribute. And they were trying to say that I am the criminal. In addition, ma'am, in addition I've run into your husband not knowing that he was your husband but in any event I would have said the same thing had I - and he had mentioned your name and I said that you are not a good judge and that you have no judicial independence. And I'm sure that was reported to you. I am sure that everyone deserves a chance to rise above all of this. I doubt that you would be fair and impartial to me but if you think you can and you are going to assure me that you can --
[page 5, lines 1-11] The Court: Dr. Faltas, I have always been fair and impartial (inaudible) but do you understand what the prosecutor is asking for a continuance so -- I don't know when your cases are going to come up on the -- he's saying that he thinks that your motions should be heard when the cases are on the docket. And he's asking for a continuance. So if you are saying that you don't want me to hear the case today then that might work for both of you all. He's asking for a continuance, I think you are asking that I grant your motion that I recuse myself so I have no problem continuing the case today if that is what you -- I think that's what you are asking for, I think that's what he's asking for.
[12-13] Defendant Faltas: I'm asking that another judge be brought today.
[14-16] The Court: Well, no one else will be here today but me. The only other judge is Judge Turner and I believe that you've asked that she recuse herself also.
[17] Defendant Faltas: Yes, ma'am.
[18] The Court: So it's going to have to be continued.
[19] Defendant Faltas: How--
[20-24] The Court: I don't handle -- and I don't know. I don't handle the administrative part of it but I will continue it. I'm not sure when your cases have come on the docket but he's asking that the motions be heard by the judge that's going to hear the case and I don't know who that will be.
[25 - page 6, line 10] Defendant Faltas: These are four separate cases. And I'd like the motions to be heard before the cases are called for trial because these prosecutors are supposed to be ministers of justice.

They are the only lawyers in the adversary system who have a duty by law and by the ethics of the legal profession to explore the evidence both on their side and on the opposite side. They have a duty to do that and I am asking the judicial officer to hold Mr. Fernandez to that standard so he cannot just keep charges hanging over my head without doing his duty which I have presented in the motion and in others that there is fully exculpatory evidence of me. He's supposed to explore everything on his own.

[11-15] The Court: Well, this is what I'm going to do. I'm going to continue the case. I'm not sure when they are coming up on the docket but I will direct the prosecutor to get Dr. Faltas any evidence or anything that you intend on using in the trial against her on any of these cases --

[16] Defendant Faltas: No--

[17-18] The Court: Hold on one second. Within the next month. Okay.

[19-20] Defendant Faltas: Not only anything that he's trying to use against me, he needs himself to get all exculpatory evidence.

[21-23] The Court: He understands the rules of evidence and he understands under *Brady* she needs to get everything that she's supposed to get.

[24 - page 7, line 3] Mr. Fernandez: Your Honor, the issue becomes -- and I'm not sure if Your Honor wants to even delve into it but the documentation that the defendant is referring to would be stuff that goes beyond the scope of discovery. I think that's where the issue--

[4-5] The Court: Well, I'm just -- I'm ordering you to give her whatever is under *Brady* that she's entitled to.

[6-7] Defendant Faltas: Actually, it doesn't go beyond the scope--

[8-10] The Court: Okay. Well, you all will have to argue about that on the jury trial date whenever that is. I'm not sure when that is but I will grant the City's motion for a continuance.

[11-12] Defendant Faltas: But he's supposed to give me that within the thirty days and this I s--

[13] The Court: Yes.

[14-18] Mr. Fernandez: We've had no specific hearing on discovery. I will provide everything that's in my possession under Brady that she's entitled to. As to requested items that go beyond the scope of Brady or discovery I will not be providing that unless the judge --

[19-20] The Court: The judge who is trying the case will -- if she has any objection will have to rule on that at that time.

[21-23] Defendant Faltas: Your Honor, there are four cases and I want for the record to enter my new address and that is post office box 9115.

[24 - page 8, line 1] The Court: Can you get her new address? And see we don't even have your file. I can't really get into the details because I don't have it. What is your address?

[2-3] Defendant Faltas: Post Office Box 9115, Columbia, South Carolina 29209. There are four files.

[4-7] Mr. Fernandez: And, Your Honor, actually the one we could take care of so that the defendant doesn't believe that there's something pending, there's a charge of front yard parking and actually I believe Your Honor heard the original trial.

[8] The Court: I began to hear it.

[9-20] Mr. Fernandez: That is actually -- this municipal court at this time has no jurisdiction over that charge. There was a trial, there was -- I believe the defendant got ill during the middle of the trial. It was mistried. There was an appeal of the mistrial, went all the way to the Supreme Court. ***The Supreme Court remitted it back to the Circuit Court which is where I believe the case is still pending is in the Circuit Court.*** What Circuit Court is going to do with it, if they are going to remit it back to municipal court remains to be seen. ***But for these purposes there is no jurisdiction for this court to handle***

the front yard parking case. The three other charges are pending I believe in our system, pending jury trial, but as to the front yard parking that is not before us.

[21] The Court: Okay. All right. Thank you.

[22] Mr. Fernandez: Thank you.

[23-24] The Court: And just for the record I believe Mr. Clarke Newton is the standby?

[25 - page 9, line 3] Mr. Newton: Yes. And, Your Honor, so Dr. Faltas would like for the public defender's office to represent her, we only represent her currently on the unlawful communication charge. So there are three pending and we represent her on the one.

[4-5] Defendant Faltas: They are standby. They are standby on the unlawful communication.

[6] The Court: All right.

[7-14] Defendant Faltas: But I was hoping that since Mr. Newton is here and Mr. Fernandez is here and I'm here and the court has finished or about to finish its business for the day, I'd like to be able to speak to Mr. Fernandez. You know, I don't bite. I'm a very educated and very pleasant person and I believe I always contribute to whoever speaks to me so I'd like for Mr. Fernandez to speak to me in Mr. Newton's presence to see how we can resolve these matters.

[15-18] Mr. Fernandez: Your Honor, it's always been the policy of our office that any communications would be either on the record, in writing or were the defendant to have an attorney we could certainly talk through her attorney.

[19-20] The Court: Have you got any problem talking with her and Mr. Newton?

[21-23] Mr. Fernandez: I do. If it's on the record, I'm fine with that but I don't know if Your Honor wants to sit through a discussion about who knows what.

[24 - page 10, line 1] Defendant Faltas: Well, I want to tell him the exculpatory evidence that he should -- I want to put him on notice of -

[2-3] The Court: Well, can you do this? Can you send him a letter? Can you send him a letter with the evidence?

[4] Defendant Faltas: No.

[5-17] The Court: That's what I'm going -- we are not going to sit here and do it on -- can you send him a letter saying that - well, what you need to do is after thirty days if he has not disclosed something you need to send him a letter saying, Mr. Fernandez, these are the things that you have not disclosed and ask him for an explanation as to why they were not disclosed. And then when y'all come back before the judge for a motion hearing then at that time a judge can take up whether or not he did not disclose proper information. That is what I would suggest be done. We are not going -- he doesn't want to talk to you. You are saying this is your standby attorney so Mr. Newton cannot make any decisions on your behalf so I would suggest that it be done in writing to the City Attorney's office.

[18 - page 11, line 2] Defendant Faltas: May I just -- if you could please hear me, ma'am, please. The reason I don't want to put this in writing is, number one, they never respond. I write until I'm blue in the face. Second, second, as I said, you know, they've been trying to take my property but the one thing I cannot let them take is my soul and even though I am going, God willing, if I have to I'm going to zealously represent myself. I don't want to embarrass people. The claimed witnesses that he has against me have horrendous criminal records which they previously actively concealed. I don't want to embarrass people unnecessarily.

[3] The Court: Well, Dr. Faltas --

[4-6] Defendant Faltas: That is why I want to talk to him not on the record, not on paper for the sake -- my compassion, my forgiveness.

[7–10] The Court: We are not going to do it on the record and I can't force him to talk to you so you'll have to do it in writing or you'll have to do it when it comes back before the court whenever it comes up on the docket.

[11–13] Defendant Faltas: Well, fine. But if he doesn't do his duty as a prosecutor to explore the exculpatory evidence I'm going to file a grievance with the ethics –-

[14–15] The Court: Well, I think you should send him something in writing.

[16–17] Defendant Faltas: No. He knows who his witnesses are and he knows how to get the criminal records.

[18] The Court: Okay.

[19–20] Defendant Faltas: I don't think this is something I should educate them about.

[21] The Court: Okay.

[22] Defendant Faltas: And he cannot plead ignorance.

[23–25] The Court: You can bring that out with the judge that hears the case on the date if he does not provide something he's supposed to provide. Thank you all.

[page 12, line 1] Mr. Fernandez: Thank you, Your Honor.

[2] The Court: Thank you.

[6] (adjourned)

[page 13] State of South Carolina — In The Municipal Court for the City of Columbia

County of Richland

City of Columbia,)

vs.) CERTIFICATE

Marie-Therese Assa'ad-Faltas,)

Defendant.)

This is to certify that the within motions, consisting of twelve (12) pages, is a true and correct transcript of record for the motions on March 3, 2010, said transcript being prepared to the best of my ability from a tape recording provided to me without the benefit of my being present at the proceeding. I further certify that I am not related to any of the parties in this matter or their counsel, nor do I have any interest, financial or otherwise, in the outcome of the same.

In witness whereof I have hereunto set my hand and seal on the 27th day of May, 2010.

[s/] Nancy S. Ahrens

Notary Public for South Carolina

My commission expires: 03-29-19

RICHLAND COUNTY
FILED
2010 MAR -3 AM 8:34
JEANETTE W. McBRIDE
C.C.&R.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN GENERAL SESSIONS COURT
K-613792 AND K-613793

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

Indictments Nos. 2010-GS-40-11980 and 11987

DEFENDANT'S *URUGENT* MOTION TO CONVERT HER BOND TO AN UNCONDITIONAL PERSONAL RECOGNIZANCE BOND IN LIGHT OF THE NULLITY OF PREVIOUS RULINGS AND OF THE FRAUD UPON THE COURTS PREPETRATED BY DEFENDANT'S FALSE ACCUSERS

Defendant *pro se* prays the Honorable Judge Lee, hearing motions in General Sessions Court this week, to immediately convert Dr. Assa'ad-Faltas' bond to an unconditional personal recognizance bond until an expedited *evidentiary* hearing is held on the fraud upon the courts perpetrated by her false accusers as revealed in her 22-26 February 2010 criminal trial. Said trial ended in mistrial. So, all rulings of law made by any and all judges before, and in the course of, said trial are nullity at law. Please see *State v. Woods*, 676 S.E.2d 126, 131 (S.C. 2009) ["A mistrial is the equivalent of no trial and leaves the cause pending in the circuit court. *State v. Smith*, 336 S.C. 39, 518 S.E.2d 294 (Ct. App. 1999). It leaves the parties 'as though no trial had taken place.' *Grooms v. Zander*, 246 S.C. 512, 514, 144 S.E.2d 909, 910 (1965) (rulings of trial judge in proceeding ending in mistrial represent no binding adjudication upon the parties as the mistrial leaves the parties in *status quo ante*). A court ruling as to admissibility and competency of testimony during a trial which is later declared a mistrial results 'in no binding adjudication of the rights of the parties.' *Keels v. Powell*, 213 S.C. 570, 572, 50 S.E.2d 704, 705 (1948)."] The restrictions set by the biased Municipal Judge Burns were specified to end with Dr. Faltas' 25 January 2010 "first appearance," which already occurred.

So, there are no restrictions on Defendant's return to her apartment which have force of law. But her 22-26 February 2010 trial revealed fraud upon the courts with knowledge of, and possible encouragement by, the Fifth Circuit's Solicitor's office whose head, Giese, has not recently proved himself a model of virtue.

As few of the thirty-plus examples of fraud revealed, Larry Mason and Dinah Steele had falsely claimed Dr. Assa'ad-Faltas "harasses" them by representing herself as the owner of the 300 and 304 Byron Road quadriplexes and "runs off" potential tenants and "guest" of Teresa Ingram (a twice-convicted felon and one of Dr. Assa'ad-Faltas' two false accusers herein). Mason and Steele filed purported written statements to that effect from a Rodney Ingram, allegedly Teresa's brother, and an Eldon Wheeler, allegedly a passer-by who saw the "FOR RENT" sign. While the statements are obviously self-contradictory and incoherent, Rodney Ingram testified and denied the signature over Rodney Ingram's name is his. Also, Larry Mason testified and first insisted that Eldon Wheeler is a stranger to him. But SLED reports show Eldon Wheeler is/was employed by Mason's private detective agency. Mason and Steele procure false statements from their employees and tenants. Dinah Steele admitted that she has no name change to Steele-Mason and no marriage license from South Carolina but files income taxes as single. Her only proof of any relationship to Larry Mason is a "military dependent card" the authenticity of which was not verified. Steele claimed to have a marriage license "from Las Vegas" but there is no marriage certificate of her and Larry mason from any state, at least none that has not been retro-actively forged. And Teresa Ingram had, during an eviction trial brought by Dinah Steele against Dr. Assa'ad-Faltas, claimed Ingram's father was in intensive care so she had to leave before being cross-examined by Dr. Assa'ad-Faltas. In the 22-26 February 2010 trial, Ingram's claimed father was called by the State and testified on cross-examination that he was not hospitalized at all in the past two years, much less in Richland Intensive Care as Steele and Ingram had represented to Richland County Magistrate Stroman-Boyd in the eviction trial. These are all matters of public record and do not depend on Dr. Assa'ad-Faltas' credibility but were also used in the civil cases.

Most disturbing and terrifying was the testimony of Columbia Police Department Investigator Amanda Blanton and Police Chief Tandy Carter. Blanton admitted she obtained the Social Security number of Dr. Assa'ad-Faltas' *mother* **from a program accessible only to law enforcement personnel** and then called the Columbia Social Security Office obviously with a suggestion that Dr. Assa'ad-Faltas' mother was deceased and Dr. Assa'ad-Faltas had been receiving her mother's Social Security *retirement* checks fraudulently as specifically testified twice by Larry Mason: "your mother does not exist." After Dr. Assa'ad-Faltas proved to the Social Security Administration that her mother is alive but convalescing and that there is a durable power of attorney for Dr. Assa'ad-Faltas from her mother, Blanton still took from Dr. Assa'ad-Faltas' car and apartment all bankcards with Dr. Assa'ad-Faltas' mother's name on them even though that was not in the search warrant. **That was theft by Blanton under force of the guns at the police's side.** The numbers on those bankcards are now public record as they have been photographed in the search. Some photos of that search taken by Blanton's collaborators and showing Dr. Assa'ad-Faltas' underwear hanging from her closets were admitted to the jury. **Blanton admitted contacts long before the arrest and search warrants with J. Andrew Delaney, the lawyer for Steele and Mason in the civil action brought by Dr. Assa'ad-Faltas and in which action the Honorable Judge Lee issued a preliminary injunction in part as sought by Dr. Assa'ad-Faltas.** J. Andrew Delaney testified, unaware of Blanton's testimony, and tried to deny any contact with Blanton then provaricated. **Mason admitted being on the scene of Dr. Assa'ad-Faltas' 2 December 2009 arrest and search of her apartment and car.** Chief Carter admitted having has a meeting with Blanton and others to ensure that Assistant Solicitor Weiss was "on board" and that they had "all the elements of the crime." Although Blanton admitted she witnessed nothing, City of Columbia Ministerial Recorder Angela Ladsen, who serves at the peasure of City Council, admitted she asked no questions as to the reliability or veracity of Blanton's alleged informants and was given no oral testimony to that effect. Carter also testified he gives his officers unfettered discretion to arrest even on alleged misdemeanors not witnessed by the police officer or freshly committed in the officer's presence. **The clincher came in a discussion between David Ross and Dr. Assa'ad-Faltas witnessed by Richland County Captain White. The essence of it is that the Fifth Circuit Solicitor's office wants Dr. Assa'ad-Faltas to abandon her land and vacate her apartment "because they don't like you."** This is exactly as the Honorable judge Lee had found in her ORDER FOR PRELIMINARY INJUNCTION and exactly what Dr. Assa'ad-Faltas has been trying to prove: that these false criminal charges were brought for Steele and Mason to achieve what they could not in the civil litigation. **It is a shame and a crime for any prosecutor to so side with a party in a civil case as to bring criminal charges against the opposing party without examining the credibility and motivation of the latter party's accusers. No minutia about who schedules what should stop the Honorable and incomparable Judge Lee from ending this on-going desecration of the courts as the temple of truth.** This desecration is perpetrated by persons who contribute nothing to Society but in the process are trying to kill the person and works of a potential useful inventor.

Respectfully submitted, and served on the Solicitor through the Clerk on 3 March 2010.

Marie Assa'ad- Faltas, MD, MPH, Defendant *pro se*
304 Byron Road, Apt. #3, Columbia, SC 29209 (presently unavailable)
P.O. Box 9115, Columbia, SC 29209 (please use until further notice)
Phone and on-demand fax (presently unavailable): (803) 783-4536
Cell Phone: (330) 232 – 4164 (please use until further notice)

CITY OF COLUMBIA
SOUTH CAROLINA
OFFICE OF THE CITY ATTORNEY • POST OFFICE BOX 667 • COLUMBIA, SC 29202 • (803) 737-4242 • FAX (803) 737-4250

April 15, 2010

Ms. Marie A. Faltas
P.O. Box 9115
Columbia, SC 29290

RE: City of Columbia v. Marie A. Faltas

Dear Ms. Faltas:

I write with regards to your pending charges in the City of Columbia Municipal Court. Specifically, as was discussed on the record in an unrelated matter, it was brought to both my and the Court's attention that you seek a transcript and/or discovery relating to an alleged hearing in front of Judge Benjamin that you indicated occurred sometime in either February or March of this year.

I do not recall any such hearing. I have searched my old dockets for any indication of a hearing in front of Judge Benjamin or any notes indicating such, and have thus far found nothing. By copy of this letter I am asking Judge Turner if she is able to locate any evidence of such a hearing with Judge Benjamin or look into identifying when or if it occurred.

Please feel free to write if you have any questions or concerns.

Sincerely,

David A. Fernandez
Assistant City Attorney

DAF/sls

cc: The Honorable Dana D. Turner

CITY OF COLUMBIA
SOUTH CAROLINA
OFFICE OF THE CITY ATTORNEY • POST OFFICE BOX 667 • COLUMBIA, SC 29202 • (803) 737-4242 • FAX (803) 737-4250

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Please feel free to write if you have any questions or concerns.

Sincerely,

David A. Fernandez
Assistant City Attorney

DAF/sls

cc: The Honorable Dana D. Turner

556 Heron Glen Drive
Columbia, SC 29229
April 26, 2010

Dr. Maria Faltas
Post Office Box 9115
Columbia, SC 29209

Dear Dr. Faltas,

I received your letter requesting the entire trial transcript of the trial that took place before the Honorable Judge Newman on February 22 through February 26, 2010. As you know, Assistant Solicitor Heather Weiss has ordered the testimonial portion of the trial only and not the colloquy portions of the trial.

According to your letter, you desire to order the entire trial transcript which would mean you would be paying $3.25 per page for the colloquy portions of the transcript and 75 cents per page for the testimonial portions of the transcript, since the original of the testimony has been ordered by Ms. Weiss.

It is extremely difficult to break down a week-long trial into EXACT segments as to how long each portion will be and, thus, the following numbers are estimates because I will not have the exact count on the page numbers until I have completed the transcript in its entirety. I have estimated the colloquy portion of the trial to be 500 pages and the testimonial portion of the trial to be 710 pages. The total cost for the transcript for you would be $2157.50, with the breakdown as follows:

500 pages @ $3.25 = $1625.00
710 pages @ 75 cents = 532.50

Because you are a pro se litigant, I require payment in full before I will produce the transcript for you. I realize that I will be typing the testimony for Ms. Weiss, but that does not negate the fact that I require payment in full from you for the entire transcript.

I am currently on extended leave per the FMLA guidelines and will be returning to work in June. However, I will be doing some typing while on this extended leave, though I am not required to. If I have not received the $2157.50 from you by May 31, I will begin typing the testimony portion only that was requested by Ms. Weiss. If you change your mind and decide that you only desire a copy of the testimonial portion, then you will not need to send any monies now but, rather, I would send you an invoice upon the completion of this portion of the trial.

Please submit either a check for the $2157.50 to cover the above-mentioned costs OR send me a letter letting me know that you have changed your mind and only desire a copy of the testimony. This way it will be clear to me what your desire is with regard to the transcript. If you send any monies to me, please send a cashier's check or money order only (no cash or personal checks) made out to me, Daphne Helms, and sent to the address you have on file for me.

If the Office of Indigent Defense is going to be paying for this transcript in its entirety, please write me and let me know and I will confirm this with Mr. Hugh Ryan of that office.

I look forward to hearing from you.

Sincerely,

Daphne Helms

Daphne Helms
Circuit Court Reporter

CC: Desiree Allen, S.C. Court Administration

CITY OF COLUMBIA
SOUTH CAROLINA
MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

May 28, 2010

Dr. Marie Assa'ad Faltas, MD, Phd.
Post Office Box 9115
Columbia, South Carolina 29209

Re: transcripts

Dear Dr. Faltas:

Please be advised that transcripts of the November 17, 2009 motion hearing before The Honorable Marion Hanna and the March 3, 2010 motion hearing before The Honorable DeAndrea Benjamin are available for you to pick up. Although we would normally charge $3.50 per page and require a deposit, I told you in court that we would provide these transcripts for $1.00 per page. Therefore, we will provide them to you for $1.00 per page. The November 17th transcript is 14 pages and the March 3rd transcript is 13 pages.

The transcripts will be available in the Violations area of the Municipal Court, 811 Washington Street, Columbia, South Carolina and may be picked up after proper payment during normal business hours.

Sincerely,

Dana D. Turner

Dana D. Turner
Chief Administrative Judge

cc: David Fernandez, Assistant City Attorney

Demand for a copy of the written transcript order from the Solicitor, if any.
From: **Marie Faltas** (marie_faltas@hotmail.com)
Sent: Sun 6/27/10 2:57 PM
To: Desiree Allen (dallen@sccourts.org); Mark A. Sawyer (sawyerm@rcgov.us); Hugh Ryan (hryan@sccid.sc.gov); ogb-atty@sc.rr.com (ogb-atty@sc.rr.com); Herbert Buhl (hbuhl@bellsouth.net)

To Ms. Daphne Helms, Court Reporter, with copies as indicated above:
I am specifically requesting that you e-mail me forthwith a copy of the written transcript order for the 22-26 February 2010 jury trial in *State v. Marie Assa'ad-Faltas* before Circuit Judge Newman, which you trancribed, (and at the beginning of which I asked Judge Newman if he could have another court reporter assigned to the case. His response was that the court reporter assignment is not within his authority) which written transcript order you may have received from Assistant Fifth Circuit Solicitor Heather Weiss or from any member of the Fifth Judicial Circuit's Solicitor's Office regarding the said trial.
I specifically certify to you, and to all the recipients of this e-mail, that I was never copied with any written transcript order from Ms. Weiss or anyone else in her office to you about that trial. Mr. David Ross had once, in the presence of Captain White, suggested that his office had ordered the transcript but did not indicate to me that it was a selective order. Later, I tried to determine from him and from John Meadors (to whom I had fortutiously run in the courthouse as he was hurrying to a photo-op to take credit for the supposed solution of a murder where he and Columbia Police Department had bungled the investigation for three months) and he again was evasive. Thereafter, he ran *ex parte* crying to Judge Cooper that I "harassed" John Meadors by having tried to explain to him that the *State's* witnesses lied in my trial and that I can prove that by comparing their testimony in my trial with their testimony in other proceedings.
Later, I ran into you in the courthouse and you finally confirmed to me that the Solicitor had ordered what you called "bits and pieces" of that trial. I was never informed what "bits and pieces" they specified. You later wrote to me that your estimate of what they ordered is 700 pages and of the balance of the transcript is 500 pages.
If you never received a written transcript order but only received an oral order from the Solicitor's office, I hereby DEMAND that you so specify to me.
As to your suggestion that you would gladly type separately for me those parts which you admit deleting from the transcript you are preparing for the Solicitor, I wish to ask you **seriously:** exactly what would the transcript you now propose to prepare for me look like? Will it have its own serial page numbers? Or will it reference the page and line numbers of the transcript you would have prepared for Assistant Fifth Circuit Solicitor Weiss and say, for example, "insert this passage here" and "insert that passage there."
I am **seriously** asking: are you now proposing that there would be two separate collections of "bits and pieces" of the trial transcript, one collection for the Solicitor and another for me; and then the Solicitor and I are supposed to splice them together like a jigsaw puzzle and argue about what fits where?
I am **seriously** asking that question to know whether what you have deleted is lost forever or you are now requiring me to order the entire 1200 pages because you undertook to delete things a court reporter should never delete.
This is NOT a transcript order, which you asked me to not submit by e-mail. These are specific questions about what it is that you suppose I could be ordering from you. It is also a specific request for a copy of the written transcript order from the Solicitor or an admission that the order was only oral.
Thanks and God bless./Marie
RE: P.S. to email
From: **Marie Faltas** (marie_faltas@hotmail.com)
Sent: Sun 6/27/10 1:58 PM
To: Daphne Helms (dhelms@sccourts.org); ogb-atty@sc.rr.com (ogb-atty@sc.rr.com); Mark A. Sawyer (sawyerm@rcgov.us); Herbert Buhl (hbuhl@bellsouth.net); Desiree Allen (dallen@sccourts.org); Hugh Ryan (hryan@sccid.sc.gov)

Ms. Helms:
I did not ask from you or anyone else anything other than fairness, whether you were a Christian or an atheist. The reason I sent you an e-mail that I asked you to keep private (which you are fully free to publish if you wish) is that the New Testament is very clear about how Christians should handle grievances among each other: first, talk to your brother (or sister) who wronged you in private. If (s)he does not relent, take members of the church with you to talk to him/her in private. It that does not work, consider him/her like the gentile or idolater.
I have to omit the church members part because that may look inappropriate here.
Let me now be clear: I CONSIDER YOUR ADMITTING TO DELETION OF COLLOQUIES THAT OCCUR IN THE MIDDLE OF TESTIMONY A FORM OF FALSIFICATION OF THE TRANSCRIPT. You cannot in good conscience attest that a transcript is accurate and complete if you delete passages willy nilly from the middle.
I do not think you are qualified or authorized to decide what is testimony and what is colloquy.
Sometimes the line is not that clear. Moreover, it is possible for you (because you are not infallible) to have made

errors in the deletions. You could inadvertently delete inarguable testimony thinking it was colloquy. Or you could inadvertently delete the wrong line when you meant to delete the correct line.
A court reporter with integrity would have refused to take a transcript order that required her to delete parts of the proceedings from the middle of the proceedings. Sometimes *all* **sides to the proceeding can stipulate that only certain portions be transcribed for the purpose of an appeal. But** *I was never party or privy to any agreement you made with the Solicitor.* That selectiveness is almost analogous to one party or the other giving you a transcript order for only the parts favorable to him/her. If you were given a transcript order specifying which parts to "delete" you should have rejected it as requiring you to produce an inaccurate transcript. If the transcript order left it to your judgment as to which parts to delete, you still should have rejected it as requiring you to deviate from your oath and duties as a court reporter. I would have had no problem is the Solicitor's transcript order required you to transcribe only from days two to four of the trial. That would have placed on you a duty to transcribe fully and accurately everything that occurred on days 2, 3 and 4 of the trial. **But for you to have accepted a written order that required you to delete passages** *from the middle* **of what you were transcribing is simply unprecedented and improper.** The only thing worse is if you did not actually have a written transcript order but were consulting with Assistant Solicitor Weiss as you went what parts to delete. In the event you willingly agreed in advance with Ms. Weiss what parts you would delete from the transcript and still present it as a complete transcript, even of the testimony, I consider that a conspiracy to tamper with the record.
During the trial itself, you were overly unfair to me even to the point I asked Judge Newman to see if another court reporter could be assigned to the case. You made faces and gestures which prejudiced me to the jury, then you apologized to me in the jury's absence. On another morning, you called Heather Weiss to the back and falsely accused me of surreptitiously recording the proceedings. Even after I assured you that I was not, you still went to Judge Newman *ex parte* and suggested to him that I was recording the proceedings. **In fact, more of the unfairness to me is that I was not allowed to independently audio-record the proceedings** *exactly* **for a contingency such as this.**
What if I am certain that a certain question was asked and answered in testimony but it does not show up in what you produce as a purportedly complete transcript of the testimony? *What is my recourse then?* **Wouldn't that be exactly putting a needle back in its place in the haystack?**
Further, as I explained to you and to everyone involved, the Assistant Solicitor herself made issue of the colloquies and of my opening and closing arguments and of my objections and of my opposition to her objections and almost of every breath I took during that trial. I e-mailed you her motion for me to have yet a fourth mental evaluation.
As to preparation, as soon as the trial ended, I asked you for an estimate of the transcript; and I filed a motion to Judge Cooper through Mark Sawyer. The motion came back with a stickie from Judge Cooper's law clerk that he wanted the trial judge to decide that motion. By that time, Judge Newman had become disqualified because his son is now running for City of Columbia Council Seat 2.
As soon as I received your April letter, I submitted another motion to Judge Cooper through Mr. Sawyer. That motion quoted the exact amount in your April letter. **Frankly, Mark Sawyer was not forthright with me about Judge Cooper's action or inaction on that motion.**
Additionally, on one of my e-mails, I asked you how come you will start typing the trial transcript immediately after 31 May 2010 even though you requested an extension to 22 June 2010 to complete the 17 December 2009 hearing transcript. You did not respond to me. In that e-mail or letter, I indicated that I would give you the payment for the balance of the trial transcript if Judge Cooper had not acted by then, when I received the hearing transcript from you. **YOU DID NOT RESPOND TO THAT.**
Frankly, I can see now it was all a conspiracy to selectively transcribe the parts of the testimony unfavorable to me and omit the parts favorable to me and embarrassing to others. In any event, I am **DEMANDING a copy of the Solicitor's transcript order to you.** If it was not a written order, think of the unfairness to me of some oral agreement behind my back for unspecified selectivity in which passages to type.
Thanks for your attention and God bless./Marie

> From: DHelms@sccourts.org
> To: marie_faltas@hotmail.com; DAllen@sccourts.org; sawyerm@rcgov.us; hryan@sccid.sc.gov; hbuhl@bellsouth.net; ogb-atty@sc.rr.com
> Date: Sun, 27 Jun 2010 09:35:51 -0400
> Subject: P.S. to email
>
> Dr. Faltas,
>
> I meant to say please do not email me any more asking for the transcript. If you wish to order the transcript, please send me a letter requesting the transcript, with the necessary monies enclosed per my April letter, and I will proceed accordingly.
>
> Also, please do not send me any more emails with corrections. Please put all corrections in writing and mail to me through the regular mail.

>
> Thank you,
> Daphne Helms
> _____
> From: Marie Faltas [marie_faltas@hotmail.com]
> Sent: Saturday, June 26, 2010 1:06 PM
> To: Helms, Daphne D.; Allen, Desiree; Mark A. Sawyer; Hugh Ryan; Herbert Buhl; ogb-atty@sc.rr.com
> Subject: My request that the trial transcipt be complete, accurate, and easily legible.
>
> Ms. Daphne Helms, Circuit Court Reporter:
> Over the past few days, there have been several exchanges of e-mails which culminated in the following:
> 1. You delivered to me the complete transcript of the 17 December 2009 hearing in my General Sessions cases before Circuit Judge James George, Jr. That transcipt is of a high quality of accuracy; and you agreed to correct some of the few typos in it which I pointed out to you.
> 2. I indicated, however, that a transcript typed in all upper case letters is fatiguing to the eye to read and would be a problem with a trial transcript typed in all upper case letter. You kindly responded that the trial transcript will be in lower case letters with capitalizations as appropriate for the grammar, spelling and perhaps identifications of the speakers. I am grateful for that.
> 3. The e-mails also resulted in written admissions to me my Mr. Sawyer that he knew Heather Weiss was planning to give me a copy of the transcript of those parts she ordered from you. Thereupon, I informed you and you objected to Mr. Sawyer and he agreed to mediate a resubmission of the issue of authorization of payments, at least for the copy, to Judge Cooper.
> 4. Upon being informed that Judge Cooper is on vacation until after the 4th of July holiday, I asked Mr. Sawyer to see if Judge Cooper's law clerk would authorize the submission of that motion to another judge. After all, there are procedures for another judge handling the ADMINISTRATIVE duties of the Chief Administrative Judge for General Sessions when that judge is absent or disqualified. Mr. Sawyer has not responded to me on that.
> 5. You indicated to me that you are now working on the trial transcript. And from a question you e-mailed me about the name of a party to another case that was brought up in the testimony, I estimate that you are about halfway through that transcript.
> 6. I have previously e-mailed you, written to you, and on one occassion told you orally, that a fragmentary transcript would be unfair to me. I also emphasized that I needed you to tell me a reasonable thing I can do to ensure that you prepare the complete trancript at the first go so that it is accurate. I also wrote to several concerned that the entire transcript is needed because Ms. Weiss filed a motion to require me to undergo yet a fourth mental evaluation. She based that in large part on my opening and closing arguments to the jury at trial and on other trial events other than testimony. In fact, she even referenced by answer to a personal question you, Ms. Helms, asked me while the jury was out deliberating. So, there is no question that the entire transcript is needed in fairness to me.
> 7. In another e-mail, you Ms. Helms, appeared to indicate to me that you were typing the non-testimony parts, then deleting them, to comply with Ms. Weiss' request. I respectfully reiterate my objection to that. In fact, I believe your court-reporter integrity should have made you insist on preparing a complete and accurate transcript or none at all and letting us rely on the tapes or something else.
> 8. I wrote to you, and do hereby reiterate, that I had told you I thought you would not start the trial transcript until you have delivered the 17 December 2009 hearing transcript which is shorter than, and ahead in line of, the trial transcript. You did not deliver the hearing transcript until 21 June 2010.
> 9. This is only 26 June 2010; i.e., only five days laters. I am begging you: please tell me how much you need so you can go back and prepare the entire trial transcript in the actual and accurate order in which things took place in the trial.
> 10. Although I have no funds of my own, I have access to borrowing. Please stop and tell me how much you need and how so this full transcript can be received no later than the beginning of August 2010, which is my understanding of the limits of your extensions from the Office of Court Administration.
> 11. I will worry about the issue of my being reimbursed later.
> 12. Mr. Sawyer has not been a good advocate for me on that issue; nor did he alert me early enough so I can request an opportunity to advocate for myself. He was talking to Judge Cooper, as pretty much everybody involved but I was, and not telling me what the substance or the result was.
> I implore all the recipients of this e-mail to be fair to me and to help me get the truth.
> Thanks and God bless./Marie

P.S. to email

From: **Helms, Daphne D.** (DHelms@sccourts.org)

Sent: Sun 6/27/10 9:39 AM

To: Marie Faltas (marie_faltas@hotmail.com); Allen, Desiree (DAllen@sccourts.org); Mark A. Sawyer (sawyerm@rcgov.us); Hugh Ryan (hryan@sccid.sc.gov); Herbert Buhl (hbuhl@bellsouth.net); ogb-atty@sc.rr.com (ogb-atty@sc.rr.com)

Dr. Faltas,
I meant to say please do not email me any more asking for the transcript. If you wish to order the transcript, please send me a letter requesting the transcript, with the necessary monies enclosed per my April letter, and I will proceed accordingly.
Also, please do not send me any more emails with corrections. Please put all corrections in writing and mail to me through the regular mail.
Thank you,
Daphne Helms

From: Marie Faltas [marie_faltas@hotmail.com]
Sent: Saturday, June 26, 2010 1:06 PM
To: Helms, Daphne D.; Allen, Desiree; Mark A. Sawyer; Hugh Ryan; Herbert Buhl; ogb-atty@sc.rr.com
Subject: My request that the trial transcipt be complete, accurate, and easily legible.
Ms. Daphne Helms, Circuit Court Reporter:
Over the past few days, there have been several exchanges of e-mails which culminated in the following:
1. You delivered to me the complete transcript of the 17 December 2009 hearing in my General Sessions cases before Circuit Judge James George, Jr. That transcipt is of a high quality of accuracy; and you agreed to correct some of the few typos in it which I pointed out to you.
2. I indicated, however, that a transcript typed in all upper case letters is fatiguing to the eye to read and would be a problem with a trial transcript typed in all upper case letter. You kindly responded that the trial transcript will be in lower case letters with capitalizations as appropriate for the grammar, spelling and perhaps identifications of the speakers. I am grateful for that.
3. The e-mails also resulted in written admissions to me my Mr. Sawyer that he knew Heather Weiss was planning to give me a copy of the transcript of those parts she ordered from you. Thereupon, I informed you and you objected to Mr. Sawyer and he agreed to mediate a resubmission of the issue of authorization of payments, at least for the copy, to Judge Cooper.
4. Upon being informed that Judge Cooper is on vacation until after the 4th of July holiday, I asked Mr. Sawyer to see if Judge Cooper's law clerk would authorize the submission of that motion to another judge. After all, there are procedures for another judge handling the ADMINISTRATIVE duties of the Chief Administrative Judge for General Sessions when that judge is absent or disqualified. Mr. Sawyer has not responded to me on that.
5. You indicated to me that you are now working on the trial transcript. And from a question you e-mailed me about the name of a party to another case that was brought up in the testimony, I estimate that you are about halfway through that transcript.
6. I have previously e-mailed you, written to you, and on one occassion told you orally, that a fragmentary transcript would be unfair to me. I also emphasized that I needed you to tell me a reasonable thing I can do to ensure that you prepare the complete trancript at the first go so that it is accurate. I also wrote to several concerned that the entire transcript is needed because Ms. Weiss filed a motion to require me to undergo yet a fourth mental evaluation. She based that in large part on my opening and closing arguments to the jury at trial and on other trial events other than testimony. In fact, she even referenced by answer to a personal question you, Ms. Helms, asked me while the jury was out deliberating. So, there is no question that the entire transcript is needed in fairness to me.
7. In another e-mail, you Ms. Helms, appeared to indicate to me that you were typing the non-testimony parts, then deleting them, to comply with Ms. Weiss' request. I respectfully reiterate my objection to that. In fact, I believe your court-reporter integrity should have made you insist on preparing a complete and accurate transcript or none at all and letting us rely on the tapes or something else.

8. I wrote to you, and do hereby reiterate, that I had told you I thought you would not start the trial transcript until you have delivered the 17 December 2009 hearing transcript which is shorter than, and ahead in line of, the trial transcript. You did not deliver the hearing transcript until 21 June 2010.
9. This is only 26 June 2010; i.e., only five days laters. I am begging you: please tell me how much you need so you can go back and prepare the entire trial transcipt in the actual and accurate order in which things took place in the trial.
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11. I will worry about the issue of my being reimbursed later.
12. Mr. Sawyer has not been a good advocate for me on that issue; nor did he alert me early enough so I can request an opportunity to advocate for myself. He was talking to Judge Cooper, as pretty much everybody involved but I was, and not telling me what the substance or the result was.
I implore all the recipients of this e-mail to be fair to me and to help me get the truth.
Thanks and God bless./Marie
RE: My request that the trial transcipt be complete, accurate, and easily legible.
From: **Helms, Daphne D.** (DHelms@sccourts.org)
Sent: Sun 6/27/10 8:18 AM
To: Marie Faltas (marie_faltas@hotmail.com); Allen, Desiree (DAllen@sccourts.org); Mark A. Sawyer (sawyerm@rcgov.us); Hugh Ryan (hryan@sccid.sc.gov); Herbert Buhl (hbuhl@bellsouth.net); ogb-atty@sc.rr.com (ogb-atty@sc.rr.com)

Dr. Faltas,
I wrote to you in April (I originally thought it was March but was not) letting you know in very specific detail how you might obtain a transcript. I even copied Desiree Allen on the letter. You emailed me about it later, and I referenced my original letter. You emailed me about it I believe a third time (I cannot remember for sure due to the large number of emails I have received from you), and I again referenced my original letter letting you know how you may obtain a transcript. This is the final time I will say this: Please reference the letter that I sent you in April. I gave you over a month to pay in advance so that the full and complete trial transcript would be produced.
Ms. Weiss requested only the testimonial portion of the trial. Because I want to comply with her request, I am omitting the colloquy portions of the trial, which includes colloquy that takes place in the midst of someone testifying. At times there is discussion that goes on and on for 10 minutes or longer in the midst of someone's testimony that is considered colloquy. If I include that in the transcript which she has ordered, I will not be complying with what she requested.
When I take down testimony in court, everything I am taking down is going on to a disk in my stenotype machine. I then do what's called "translate" the job where it takes my notes and translates them from steno to English. I then go through with recordings I've made of the proceedings and go over what's been translated to correct any errors I've made. It is an extremely tedious task. So as I've been going through typing the transcript that Ms. Weiss requested, I am deleting things that she does not want, namely colloquy, because it is not what she requested.
If I am to produce the full transcript for you, I will have to re-translate the notes that I took and start from the beginning. I am happy to do this for you. That has never been a problem. It's just that I require payment in full in advance before beginning a trial transcript from a pro se litigant and usually require it from attorneys as well. Trying to go back and "add in" what I have deleted would be like putting a needle back in a haystack in the exact place I found it. It is simply impossible.

You sent me several emails requesting that I go ahead and start typing the transcript in its entirety, and each time I referenced you back to the letter I originally wrote you letting you know how you may obtain the transcript, and I told you that I would not waiver from my position with regards to what I had written. I have not spoken to nor have I even seen Judge Cooper since the date of your trial in February. Thus, I have not said anything to him with regards to your trial transcript. If he had signed the order, I would have gladly typed the transcript in its entirety.

If you had complied with my original letter and had timely paid for the transcript in advance, since you do have others you can borrow the money from as you have stated, then you would not be in this situation now. Lack of preparation on your part does not create an emergency for me.

I am happy to type the transcript for you, but if it is ordered now with the prepayment amount that's stated in my April letter, it will be considered a separate request because it truly will be a separate request, since Ms. Weiss only requested the testimony and you, if you order the transcript, would be ordering it in its entirety.

Please do not email me again requesting the transcript and please do not try to make me feel guilty about this as you have tried to do in your email to me that you asked me not to share with others. I am happy to keep the contents of that email to myself, but I do not appreciate you trying to implicate that just because I am a Christian I should do this for you. My walk with God does not mandate that I give in to the desires of others just because that's what they want me to do. Please do not send me another email that you ask me to keep private and yet you are verbally coming against me because you think as a Christian I should be doing what you desire for me to do. In fact, please do not send me any more emails that you ask me to keep from others.

Again, I am not preventing you from ordering the transcript. I never have and I never will. I welcome typing the transcript for you. It will be on my terms though or the terms set out by my employer and not on your terms. I am not trying to be mean or rude. I am simply adhering to what I have now told you probably five or six times.

Also, before I forget, I did want to mention that you assume that I started on the trial transcript before typing the December 17 hearing transcript. This is not the case at all. I completed the December 17 hearing awhile back, but I gave it to my proofreader to read for me and it took her awhile to get it back to me. So while she was proofing that transcript, I began on the trial transcript testimonial portion.

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12. Mr. Sawyer has not been a good advocate for me on that issue; nor did he alert me early enough so I can request an opportunity to advocate for myself. He was talking to Judge Cooper, as pretty much everybody involved but I was, and not telling me what the substance or the result was.

I implore all the recipients of this e-mail to be fair to me and to help me get the truth.

Thanks and God bless./Marie

0:00:00 to 0:00:09: Sounds

0:00:10 to 0:00:15: Marie: Officer Harmon, tell me if you want to, if you want me to say somewhere to test the (?)

0:00:16 to 0:00:17: Officer: That's fine.

0:00:17 to 0:00:18: Marie: So, could I test mine?

0:00:18 to 0:00:19: Officer: Sure.

0:00:19 to 0:0:20: Marie: Thank you.

0:00:20 to 0:00:35: Sounds

0:00:36 to 0:01:02: Marie: Uh. (Sounds) Uh. Okay. First, testing, testing, testing.

0:01:02 to 0:01:03: Officer: (?)

0:01:03 to 0:0:08: Marie: Who did? Mr. Fernandez?

0:01:00 to 0:01:10: Sounds ["testing, testing, testing" and Officer's (?) replayed]

0:01:11 to 0:01:25: Marie: All right. Ms. Hawkins, you told me that, yes, it was for the 19th. And now, I get this. This is two conflicting ---

0:01:25 to 0:01:26: Pamela Hawkins: (interposing) Apparently, they changed it.

0:01:25 to 0:01:26: Marie: Who did?

0:01:27 to 0:01:30: Pamela Hawkins: I don't know who did this. You have to talk to Legal about this. I don't know.

0:01:31 to 0:0:33: Marie: Okay.

0:01:34 to 0:01:35: Pamela Hawkins: It's not us.

0:01:31 to 0:0:33: Marie: All right. Is Mr. Fernandez coming?

0:01:34 to 0:01:35: Pamela Hawkins: No. He's not.

0:01:35 to 0:02:06: Marie: He's not here? You didn't talk to him? Okay. The other thing, if you please, is: I'd like this sealed once I look at it so no one adds to it and no one subtracts from it. I mean it doesn't mean anything that I see some things now and then later someone else says "No, this is different. We have more or we have less."

0:02:07 to 0:02:13: Pamela Hawkins: There is no way for me to seal it. I'm not in charge of that. I cannot help you. Legal is. And it's their, it's their information and it's their documents; and you have to talk to them.

0:02:14 to 0:02:20: Marie: Well, could you please transmit to them that I want somebody from Legal over here so that, once I look at it, (?) ---

0:02:21 to 0:02:25: Pamela Hawkins: (interposing) She's coming. Once you look at it, she needs to come here and pick it up.

0:02:25 to 0:02:26: Who is she?

0:02:27 to 0:02:28: Pamela Hawkins: Jennifer (?)

0:02:29 to 0:02:36: Marie: No, it has to stay here. This is supposed to be discovery and it has to be, to stay with the case file.

0:02:37 to 0:02:40: Pamela Hawkins: All I know is they will have that stuff.

0:02:41 to 0:02:42: Marie: No, I understand that.

0:02:43 to 0:02:45: Pamela Hawkins: Right. And I know what you're saying but I apparently that's not the case (?).

0:02:45 to 0:02:52: Marie: But Legal has the burden to put discovery in the case file and they have an open-file policy.

0:02:53 to 0:03:00: Pamela Hawkins: (?)look at it and I'll let them know

0:03:01 to 0:03:02: Marie: Please. And I am saying "please," and I am talking very politely.

0:03:03 to 0:03:04: Pamela Hawkins: You are.

0:03:02 to 0:03:20: Marie: All right. Please convey to them that I want someone from Legal here so that whatever is evidence, once I look at it, it is sealed so no one else adds to it or subtracts from it.

0:03:20 to 0:03:21: Pamela Hawkins: I'll relay that to them.

0:03:22 to 0:03:23: Marie: And please give me a response.

0:03:23 to 0:03:24: Pamela Hawkins: I will.

0:03:24 to 0:03:25: Marie: Thank you, ma'am.

0:03:25 to 0:03:25: Pamela Hawkins: You're welcome.

0:03:25 to 0:03:30: Sounds

0:03:30 to 0:03:34: April Sampson: I will be here. I have to leave at 2:50. So, .

0:03:35 to 0:03:3: Marie: Okay. This is why I need to see the evidence.

0:03:42 to 0:04:30: Sounds

0:04:30 to 0:4:43: Marie: The, the other thing I want to put on the record, I'm sorry, if Ms. Hawkins can come back, the letter still has the K-613866, which was *nol prossed.* It's still saying it's being continued.

0:04:52 to 0:04:54: April Sampson: I can't talk to them for you.

0:04:54 to 0:05:01: Marie: I mean, there is nothing useful you can do. I just want to that so that she can get me a response.

0:05:01 to 0:05:35: Sounds

0:05:35 to 0:05:36: Marie: Well, Officer Harmon, I forget your name.

0:05:36 to 0:05:40: Officer Linen: I'm Officer Linen.

0:05:40 to 0:05:41: Marie: Lenin?

0:05:41 to 0:05:42: Officer Linen: Uh-huh.

0:05:42 to 0:05:47: Marie: As, as Vladimir Lenin, the leader of the Russian Revolution?

0:05:47 to 0:05:48: Officer Linen: It is spelled differently.

0:05:53 to 0:06:03: Marie: Okay, Officers Harmon and Linen, I need a copy of this. I was never given a copy of this. Is there any way I could ask that you can start making copies now please?

0:06:03 to 0:06:05: Officer: I'll have to get some response from the City.

0:06:05 to 0:06:08: Marie: Okay. All right. Thank you.

0:06:08 to 0:06:09: Officer: Please start

0:06:12 to 0:06:16: Marie: Okay. So, first off, may I put to the side the things of which I need copies?

0:06:16 to 0:06:17: Officer: That's fine.

0:06:17 to 0:06:18: Marie: Thank you.

0:06:18 to 0:06:40: Sounds

0:06:41 to 0:07:00: Officer (on the phone): Hey, is Ms. Hawkins there yet? Is Pam Hawkins over there? No, I was just told Dr. Faltas needs to see her. Yes, ma'am. Thank you. Bye.

0:07:00 to 0:08:24: Sounds

0:08:24 to 0:08:34: Marie: Uh. Okay. First, I wanted to tell you that this letter still has this number, which is the unlawful use, which was *nol prossed.*

0:08:34 to 0:08:35: Pamela Hawkins: Yes, we know.

0:08:36 to 0:08:39: Marie: It is still says it's continued over term. Well, they can't have it both ways.

0:08:40 to 0:08:41: Pamela Hawkins: Who signed that letter?

0:08:42 to 0:08:43: Marie: David Fernandez.

0:08:43 to 0:08:44: Pamela Hawkins: You'd have to take that up with him.

0:08:44 to 0:08:54: Marie: Well. Okay. He's not letting me talk to him. The other thing is: I need a copy of this. There are, there may be many things of which I'm going to need copies ---

0:08:55 to 0:08:56: Pamela Hawkins: (interposing) I'm not gonna be making you any copies, Dr. Faltas.

0:08:58 to 0:08:40: Marie: Well. I mean, it's my right.

0:08:42 to 0:08:45: Pamela Hawkins: for you to look at.

0:09:01 to 0:09:05: Marie: Well, could you please check?

0:09:06 to 0:09:07: Pamela Hawkins: No. There is no one in the office.

0:09:08 to 0:09:0: Marie: Fernandez is gone?

0:09:42 to 0:08:45: Pamela Hawkins: Must be at lunch.

0:09:13 to 0:09:16: Marie: Well, could you please check with him when he comes back from lunch, or leave him a message, please?

0:09:16 to 0:09:07: Pamela Hawkins: you look at it .

0:09:13 to 0:09:05: Marie: Or talk to his superior?

0:08:42 to 0:08:45: Pamela Hawkins: We're not gonna copy a bunch of stuff

0:09:13 to 0:09:05: Marie: Well, how can I look at a CD?

0:08:42 to 0:08:45: Pamela Hawkins: We're not gonna copy a bunch of stuff

0:09:30 to 0:09:35: Marie: That's a CD. It's a CD. This is a CD. Here, this, it's a Cd.

0:09:36 to 0:09:37: Pamela Hawkins: Well, I'll have to check on that. You just go on until I find out about that.

0:09:38 to 0:09:45: Marie: Thank you. Could you also Mr. Fernandez' supervisor. There are many things you can do.

0:09:46 to 0:09:07: Pamela Hawkins: Well, you know, this is between you and your attorney and .

0:09:50 to 0:09:55: Marie: I don't have an attorney.

0:09:55 to 0:09:37: Pamela Hawkins: Well, anyway,

0:10:01 to 0:10:04: Marie: She's not even stand-by any longer. She's just here because

0:10:05 to 0:10:06: Pamela Hawkins: That doesn't matter. Just look at it and then we will talk about all that stuff later on.

0:10:07 to 0:10:08: Marie: I'm asking, please, for the tenth time,

0:10:09 to 0:10:11: Pamela Hawkins: I can't deal with all that stuff. I don't know. I cannot.

0:10:13 to 0:10:19: Marie: I mean, please, ask Mr. Cooper since Mr. Fernandez went to lunch.

0:10:20 to 0:10:21: Pamela Hawkins: I don't know. I'm not calling.

0:10:21 to 0:10:22: Marie: Why not?

0:10:23 to 0:10:32: Pamela Hawkins: I can't do that. Just take a look at it for now. Anything else. I cannot do anything else, Dr. Faltas.

0:10:33 to 0:10:34: Marie: This is a CD. It doesn't tell me anything

0:10:35 to 0:10:36: Pamela Hawkins: Look at anything else.

0:10:21 to 0:10:22: Marie: Okay.

0:10:45 to 0:11:06: Sounds

0:11:06 to 0:11:30: Marie: This is .

0:11:30 to 0:22:22: Sounds

0:22:22 to 0:25:33: Marie: Uh. I will read for the record some documents that I'm seeing for the first time and I would like copies of them. One of them is an e-mail to Overture Walker from Ken Gaines. This is Monday, November 24th, 2008, at 2:00 pm. "To: Overture Walker. Subject: RE: Your Thoughts question mark" and it seems that this is comment from Ken Gaines "took some words out and added some." "Copy the City Clerk with e-mail as well. Don't suggest you refer to the Mayor and Manager as You Guys." And then there is apparently was a, an e-mail from Overture Walker to Gen Gaines, Robert Cooper, Dana Thye, on Monday, November 24th, 2008, at 1:27 pm. Mr. Gaines' response was at 2:00 pm. So, it says "Mayor Coble and City Manager Austin: This past Friday, November 21st, 2008, you both were subpoened by Marie Faltas to appear as witnesses in the municipal court case of Columbia," "of City of Columbia versus Marie Faltas. The subpoenas were served on the City Clerk Erica Salley. Ms. Faltas is charged with front-yard parking and seems to believe that you are material witnesses with respect to records concerning the ordinances issued. She moved before the trial judge to have you both held in contempt for failing to appear. I moved to have the subpoenas quashed on the ground that they were defective and service was improper. The judge granted the City's motion and quashed the subpoenas. We proceeded with a jury trial but recessed for the evening after the City's opening statement when Ms. Faltas complained of a rapid heart beat. EMS was called to the courthouse and transported Ms. Faltas to a local hospital. A mistrial was

ordered the next morning when Ms. Faltas, Judge Benjamin, and the prosecutor at," "prosecuting attorney caucused in the judge's chambers via conference call and Ms. Faltas indicated she was still receiving medical attention. There is strong likelihood that you could be subpoened again when this case hits the docket at the beginning of the new year. In the event you or any of your staff receive a subpoena, please fax it to the legal" "to the legal department at 737-4250 immediately." And it has Overture Walker. And then there is another one. I guess that's the one that has "Your views?" I'm not going to read it altogether.

0:25:44 to 0:26:26: Marie: I also would like a copy of a check from McKenzie to McDonald, McKenzie, Rubin and Lybrand, dated November 17, 2009, to the City of Columbia by which they requested a payment of the, they made a payment of a copy of the front-yard parking trial. And apparently they were charged $16.25 for 65 pages at 25 cents each. And that is the receipt. So, I'm reading for the record the things of which I would like a copy. And of course I had requested a copy of this CD.

0:26:27 to 0:27:06: Sounds

0:27:07 to 0:28:31: Marie: I also would like copies of a letter to me dated, a letter from me to them dated November 5 of 2009, which is hand-written; a letter from Mr. Fernandez to me dated November 5, 2009; a fax to Chief Turner from David Fernandez; and another fax-transmittal sheet, David Fernandez to Chief Turner. There is a fax-transmittal sheet. There is May 28th letter saying that the transcript is complete. I just need that letter. The transcripts are in the file. I have them and I don't need copies of them.

0:28:32 to 0:28:40: Sounds

0:28:40 to 0:28:50: Marie: I do need copies of the defendant, Mr. Fernandez' letter to me dated November 5, 2009.

0:28:50 to 0:29:15: Sounds

0:29:16 to 0:29:40: Marie: I do need a copy of the letter dated March 14, 2010, from Mr. Fernandez to Mr. Clarke Newton with the fax-transmittal sheet; and it says "4 pages." I do not know, however, what the other two pages are. But I do need that.

0:29:40 to 0:31:28: Sounds

0:31:28 to 0:32:00: Marie: This, I also need a fax that seems to have gone from (803) 733-8542, CPD Criminal Investigations on 11/09/2009 and it says, it starts with "page 2 of 37" and does not, I'm sorry, "2 of 27" and does not have .... You're picking up? It's recording?

0:32:00 to 0:32:05: Officer: Yes, ma'am.

0:32:07 to 0:33:30: Marie: Okay. It goes through "12 of 27," then there is a gap, then there is "22 of 27," "23 of 27," and then there are two pages. One of them says "page," one of them says "page 2" and it appears to have gone from "jury trials scheduling" number: areas code (803) 545-3193, dated 9/28/2008 and page, and this page, apparently a courtesy summons by Dinah Steele against Marie Faltas. Page 3 is a courtesy summons, also by Dinah Steele against Marie Faltas but seems to be for a different matter. Uh, and ...

0:33:30 to 0:33:38: Sounds

0:33:38 to 0:34:50: Marie: Then there is a set of pages that start "15 of 27," "18 of 27," and then there is "13 of 27," "14 of 27," "15 of 27," and then there is "19 of 27, "20 of 27," "21 of 27." They may be the rest of this fax. There is with them, however, a business card from Larry Mason that says "Triple A Investigative Services Reliable Confidential Free Consultation." It has hand-written on it "Dinah Steele Mason." It says Larry Mason, Triple A Investigative Services, LTD, Columbia, SC, Office 736-9900 Mobile 331-1000." I do need a copy of that.

0:34:50 to 0:34:55: Sounds

0:34:55 to 0:35:50: Marie: Then there is a set that's pages "24 of 27" and "27 of 27"; another set that's "25 of 27" and "26 of 27." There are documents filed by me. There is one document filed by me dated November 4, 2009, and it is stamped "Received" by "Legal Department" and it is "Motion to Dismiss and enter a judgment of formal acquittal in this case of in the alternative for a continuance of this case." I do need a copy of that.

0:35:50 to 0:35:55: Sounds

0:35:55 to 0:37:25: Marie: There is a list, which is stapled to the back of the file cover. It says Marie Faltas "after notice." And 066971 and 06994,"unlawful use of telephone" K-6136866, front-yard parking 6034. I need a copy of this. I need the record to also reflect that April Sampson left the room a while ago, although

all the time she has been working on her own computer, apparently on something else. There is another CD which says 3 Byron Road; and there are initials; and then there -22-10. I do not know what that is but I do need a copy of it because it, there is a paper clip attaching it.

0:37:25 to 0:37:27: Sounds

0:37:28 to 0:41:25: Marie: Then there is a document which I never received, which says "State of South Carolina, County of Richland, attached report, case number 2009cv401063496, dates of violations of defendant Marie Faltas." "She is ordered by the court to stay away from, and to not harass or stalk the plaintiff," and plaintiff is misspelled. It's in the plural instead on the possessive. Larry Mason and Dinah Steele Mason. The defendant Faltas continuously, continually harassed the defendants while they are working on the rental property at 300 and 304 Byron Road. And "Road" is misspelled. It's lower case. Columbia, South Carolina. The defendant has been arrested on or about December 4 and July 8 by the City of Columbia Police and is presently awaiting trial. The defendant was ordered by Judge Burns not to go back upon the property at 300 and 304 Byron Road." Again, "Road" is misspelled. "This ordered was later followed by four more judges." "The defendant continually disregards the court order and returns to the property to harass the plaintiff's," again, "plaintiffs" is in the possessive, not the plural, "and the tenants at Byron Road Apartments." "March 17 to 18 to 19, 2010, while working at the apartment complex, 300 and 304 Byron Road, Columbia, South Carolina, the defendant harassed the plaintiff's, again, "plaintiffs" is in the possessive, not the plural, "and a sub-contractor while working at the complex by calling the police, Zoning, City of Columbia Fire, etc." "March 22, 23, 24, 2010, Defendant harassed the plaintiffs," and again, "plaintiffs" is misspelled because it's in the possessive, not the plural, "while they were painting the building by calling them names, calling the police on them, and harassed the sub-contractor." "April 1, 3, 15" comma "2010, the defendant came to the apartment complexes 300 and 304 Byron and harassed the plaintiffs," again misspelled, "while they were conducting maintenance." "June 25, 2010, Defendant at the apartment complex entered the building 304." "July 8, 2010, Defendant was arrested by CPD for trespassing on property." "July 12, 2010, the defendant was back at the apartment complex harassing the plaintiffs," again, "plaintiffs" misspelled, "as they were mowing the grass by calling them names and taking photos, etc." "August 1 to 15, 2010, the defendant had, has shown up at 300 and 304 Road" comma "almost daily either attempting to follow the plaintiffs," again, misspelled, "and/or tenants attempting to question them or make indirect threats to them." "On or about August 2, 2010, defendant attempted to follow plaintiff Larry Mason with her vehicle, taking photos" "photos" again misspelled, it's in the possessive, not the plural, "etc." "August 16, 2010, defendant attempted to follow plaintiff and ." "There are other dates that are" "two" "numerous," and "too" is misspelled. It's t-w-o. "numerous." "The defendant." I need to change the tape.

0:41:25 to 0:41:27: Sounds

0:41:28 to 0:41:25: Marie: Let me check, rewind and recording.

0:41:25 to 0:43:00: Sounds

0:43:00 to 0:43:02: Marie: Testing, testing, testing.

0:43:02 to 0:43:12: Sounds ("Testing, testing, testing." replayed)

0:43:14 to 0:44:02: Marie: This is the second tape. Uh. And this is continuing to, reading from an undated, uh, something called "attached report" that I was never given and that is signed by Larry Mason and somebody that says "Dinah Steele Mason." The last paragraph says "There are other dates that are" "two" numerous" and "too" is misspelled "t-w-o" "the defendant Faltas continually on a daily basis shows up at the Byron Road address in an effort to harass or take photos of the plaintiffs" and again "plaintiffs" is misspelled in the possessive, not the plural.

0:44:02 to 0:44:04: Sounds

0:44:04 to 0:44:54: Marie: There is an envelope that has, uh, somebody's handwriting that says "arrested December 2, 2009, assault and harassment bond December 3, 2009" "December 17-change bond to get things out of apartment with police." "Judge James January 7 change bond denied Judge James to get back into apartment" "February 26 Judge Manning no change in bond" "7 judges to get back into apartment all denied" "Bluff Road left 3.2 miles Alvin Glenn Center" I do need a copy of that.

0:44:54 to 0:45:04: Sounds

0:45:04 to 0:45:14: Marie: There is a color photo dated 2/2/10. I do need a color copy of that.

0:45:14 to 0:45:20: Sounds

0:45:20 to 0:45:34: Marie: There is a color copy, a color photo dated 4/6/10. I do need a color copy of that.

0:45:34 to 0:45:46: Sounds

0:45:46 to 0:45:51: Marie: There is a color photo dated 4/10/10. I do need a copy of that.

0:45:51 to 0:45:56: Sounds

0:45:57 to 0:46:21: Marie: There is a color copy that has handwriting that says 4/10/10 but the date stamp on the picture says 4/18/2010. There is a discrepancy; and I do that, I do need that either way.

0:46:21 to 0:46:23: Sounds

0:46:23 to 0:46:35: Marie: There is a photograph with hand-written notation "7/8/10" I do need a copy of that, color copy of that.

0:46:35 to 0:46:37: Sounds

0:46:38 to 0:46:43: Marie: And another dated "7/8/10" I do need a copy of it in color.

0:46:44 to 0:47:17: Sounds (outside someone yells "What's up?" but another shushes)

0:47:17 to 0:47:42: Sounds

0:47:41 to 0:47:45: Marie: I'm sorry. Is there any reason everybody's here like this?

0:47:47 to 0:47:49: Marie: Okay. What about Officer Wise?

0:47:50 to 0:47:52: Sounds

0:47:53 to 0:48:15: Marie: Well. Okay I'm doing something. If you can all talk to each other somewhere else I'd appreciate it because (?). Officer Harmon is already here. If Officer Avery would like to stay, that's fine. But for there to be five officers, that's a bit much.

0:48:15 to 0:48:18: Sounds

0:48:18 to 0:48:19: Marie: Thank you.

0:48:20 to 0:48:38: Sounds

0:48:43 to 0:49:43: Marie: There is a memorandum, "Official City Attorney" "Requested for David A. Fernandez Assistant City Attorney" uh "to Jennifer Blair 911 Communications from Shirlene Streeter Legal Assistant" "date July 9, 2008," "Re 911 closed incident reports and each," "and audio tape." "Jennifer, David Fernandez would like a copy of this closed incident report and also a copy of the call as soon as possible." "Case number 10-18968" "incident date 7/8/10" "Dispatch depart time 12:18 to 12:23" "Location of incident 304 Byron Road" "Responding Officer Max" "McSwain and Ashmore" "Defendant Marie-Therese H. Assa'ad Faltas."

0:49:44 to 0:49:50: Sounds

0:49:51 to 0:51:19: Marie: And then there is a fax-transmittal sheet July 9, 2010, fax number 733-8500. It's "from the office of the City Attorney to Edgar," and I'll spell that name "H-E-U-S-T-E-S-S" dash "fleet services" "from Shirley Ann L. Streeter, paralegal for the City of Columbia." "RE City of Columbia versus Adam Bonnette Jury Trial July 13, 2010," "seven pages including cover" "Please call Shirley Ann Streeter at 737-4242 if all are not received." "Attached please find copies of work order job work sheet that you provided to Constance Holloway regarding Unit 21233. This case is scheduled for trial on Tuesday, July 13th, and Constance would like you to be on" and that's between apostrophes "stand-by in case she needs you to verify the authenticity of these documents." "If you had any question," "If you have any questions, please give Constance a call." "Sent from" and ....

0:51:19 to 0:51:25: Sounds

0:51:26 to 0:51:40: Marie: And then there is Columbia Police Department fax cover sheet 512109 to "N Streeter" "Name of Company: Legal." I do not know what this is about.

0:51:40 to 0:52:36: Sounds

0:52:37 to 0:52:49: Marie: There is a receipt dated August 20th, 2010. Attached to it is another receipt. And I would like copies of those.

0:52:50 to 0:54:10: Sounds

0:54:11 to 0:55:40: Marie: There is a rap sheet that says "Attention Turner" and it's dated "2010-08-26" eight, the time "8:49:32." I imagine 8 o'clock 49 minutes and 32 seconds. And it iden, it's the arrest record of Charlene Crouch. It is one of five pages. I need a copy of that. It starts, uh, the first arrest, Charlene

Crouch is identified as having "birth dates of 12/02/1968 and 11/02/1968" and three different social security numbers: "248-49-7878, 249-49-7879, 249-49-7878" Uh. Charlene Crouch's arrest record starts, on this particular rap sheet, starts with an arrest dated "07/30/1986."

0:55:41 to 0:56:00: Sounds

0:56:01 to 0:56:34: Marie: And there is two arrests from 2007, one dated 07/10/2010 [verbatim] for felony charge, "arrest charge 1: grand larceny" and then, on 10/17/2010 [verbatim] there is another arrest charge for possession of 28 grams or less of marijuana/10 grams or less hashish"

0:56:34 to 0:56:39: Sounds

0:56:40 to 0:57:19: Marie: And then there is "page 1 of 1" where it says, it really has no name but says "not guilty on bench trial of possession of marijuana" and it seems to be sent to Columbia Municipal Court. I do need this "page 1 of 1" and the date is 20, 2010-08-26. And it seems to be one minute after the other one. I do need a copy of this one as well.

0:57:20 to 0:57:37: Sounds

0:57:37 to 0:58:19: Marie: There seems to be a request for, uh, the arrest record of Larry Mason "date of birth 1945-05-30." Uh, it has "Notice: a large number of records for persons born prior to 1956 are not automated at the FBI. If a search of the non-automated file is desired, a (?) should be submitted." And that is also dated 2010-08-26 at 08:47:34. I do need a copy of that.

0:58:20 to 0:58:23: Sounds

0:58:24 to 0:58:38: Marie: There is an e-mail from me to several persons. I do need a copy of it. And the, that is dated August 26, 2010, 11:53 am.

0:58:38 to 0:58:45: Sounds

0:58:45 to 0:59:02: Marie: There is what seems to be a print-out of a rap sheet for me dated 2010-07-10 at 9 o'clock 50 minutes and 14 seconds.

0:59:03 to 0:59:05: Sounds

0:59:05 to 0:59:13: Marie: It does have three arrest records on it. I do need a copy of that.

0:59:13 to 0:59:47: Sounds

0:59:48 to 1:00:06: Marie: There is a motion by, and certificate of service, by Mr. Schnee, uh, dated September 7, 2010, stamped "Received" at the legal department and also in municipal court. I do need a copy of that.

1:00:06 to 1:00:14: Sounds

1:00:15 to 1:00:46: Marie: There is a letter from Mr. Schnee to Mr. Fernandez that's dated October but no day. It's received, stamped "received" by the legal department October 1, 2010. It says "Mr. Fernandez," "Re: Dr. Marie Faltas" "Mr. Fernandez, enclosed are three DVD blanks. Please copy the video DVDs you have and let me know when I can send my paralegal to pick them up."

1:00:46 to 1:00:55: Sounds

1:00:55 to 1:01:06: Marie: There is an envelope that has three DVDs. I do not know if they have recordings on them or not.

1:01:06 to 1:01:10: Sounds

1:01:11 to 1:01:39: Marie: There is an intervenor complaint and motions for number 1: class certification and injunctive relief that is filed by me in the federal court. And it's stamped "received" September 21st, 2010, at the legal department of Columbia. I just need a copy of the first page front and back and of the last page.

1:01:39 to 1:01:52: Sounds

1:01:51 to 1:02:29: Marie: There is the, Mr. Schnee's "Petition for Writ of Mandamus." It is, uh, dated September 24, 2010. I just need a copy of the certificate of service, of the envelope, and of the back of the certificate of service that is stamped "received" "September 24, 2010" by the legal department.

1:02:29 to 1:02:52: Sounds

1:02:52 to 1:03:29: Marie: There is a file that has in the inside of the front cover SLED and there is a word that seems to read "HOH" and there is a number 896-7365. I do need a copy of that.

1:03:29 to 1:05:25: Sounds

1:05:26 to 1:05:41: Marie: There is a set of three stapled pages dated October 1st, 2010, actually it's, it's three sheets; but it's five pages. I do need a copy of those.

1:05:41 to 1:06:41: Sounds

1:06:41 to 1:06:56: Marie: There two fax-transmittal sheets from the City of Columbia dated October 1st, 2010. They say that two pages including the cover are included; but there is nothing attached to them. I just need these.

1:06:56 to 1:07:02: Sounds

1:07:02 to 1:07:35: Marie: There is a letter dated October 29, 2010, to April Sampson from David Fernandez that says "Dear Ms. Sampson: There are no jury trials scheduled in Columbia Municipal Court on Thursday, November 3rd, 2010, and

1:07:35 to 1:07:58: Sounds

1:07:58 to 1:08:23: Marie: There is a set of three sheets. The first page is a letter dated April 14, 2010, from Mr. Fernandez to me, improperly identifying me. I just need a copy of that.

1:08:23 to 1:08:51: Sounds

1:08:52 to 1:08:59: Marie: There is a fax-transmittal sheet dated August 27, 2010, (?) Turner.

1:09:00 to 1:09:05: Sounds

1:09:05 to 1:09:30: Marie: And another one to Chief Turner and it's dated August 27, 2010 "re City versus Marie Faltas."

1:09:30 to 1:09:53: Sounds

1:09:53 to 1:09:59: Marie: The pages back to

1:10:01 to 1:10:56: Sounds

1:10:56 to 1:11:29: Marie: There is a fax sheet dated December 30, 2006, which is a certificate of service on John Harris and then there is a deposition, a notice of a deposition, signed by (?) of (?) January

1:11:29 to 1:11:39: Sounds

1:11:40 to 1:12:25: Marie: And there is a fax cover sheet from David Fernandez to Clarke Newton. It's date 8/10/20102. 2010 . Then there is a letter dated November 12, which is the same as the letter, November 12, 2010, which is the same as the letter found on the table. I would like to let me look at the original.

1:12:25 to 1:12:26: April Sampson: I'll try just

1:12:28 to 1:12:33: Sounds

1:12:34 to 1:12:35: Marie: Thank you ma'am. I need to ask Ms. Sampson on the record whether she has advised Judge Cooper on, of this change too.

1:12:40 to 1:12:47: April Sampson: I just got that when I got here.

1:12:47 to 1:12:49: Marie: Well, fine

1:12:50 to 1:12:56: April Sampson: No. I haven't told him anything because I've been in here.

1:12:57 to 1:12:59: Marie: Well, I've put it on the record. But you've been out of here, for a while.

1:12:59 to 1:13:01: April Sampson: It's not; I haven't talked to the chief administrative judge.

1:13:01 to 1:13:02: Marie: Do you intend to?

1:13:02 to 1:13:05: April Sampson: To tell him that your trial's been changed?

1:13:05 to 1:13:05: Marie: Yes.

1:13:06 to 1:13:07: April Sampson: Yes, I'll let him know.

1:13:08 to 1:13:12: Marie: Will you be able to give me his response too?

1:13:13 to 1:13:15: April Sampson: I'll give you a response. Sure.

1:13:15 to 1:13:20: Marie: Thank you. Thank you. Is it okay if I kept the original?

1:13:21 to 1:13:23: April Sampson: I, as long as I have me a copy.

1:13:23 to 1:13:2: Marie: Okay. Okay. Let's swap your original for my copy.

1:13:32 to 1:13:35: April Sampson: I'll

1:13:23 to 1:13:2: Marie: Okay. Okay. Let's swap your original for my copy.

1:13:32 to 1:13:35: April Sampson: I'll

1:13:36 to 1:14:02: Sounds

1:14:02 to 1:14:23: Marie: There is a two-page e-mail from me to David Fernandez. I'd like a copy of that because it does show that they received my e-mail to him saying that I contest their claim that the videos were inoperable.

1:14:23 to 1:14:50: Sounds

1:14:50 to 1:15:11 Marie: There is a, an e-mail to, uh, David Fernandez from Clarke Newton which is forwarding an e-mail from me and it has hand-written material on it. It's two pages. I'd like a copy of that.

1:15:11 to 1:16:00: Sounds

1:16:00 to 1:17:41 Marie: There is a strange e-mail that's one page from Mr. David Fernandez. And it says from Marie Faltas, October 27, 2010, at 12:19 pm someone's hand-writing says David "Hello, I'm sorry because it might get you too versions; but because of the situation I think right now in the United Kingdom. We came down here on vacation. Our ash, credit card and cell phone were stolen. Experience our passport flight ticket" and "I" is lower case. "as soon as I am back home." I need a copy of that. I need

1:17:46 to 1:17:51: April Sampson: If I may, Ms. Faltas, sounds like your e-mail's been hacked.

1:17:51 to 1:17:51: Marie: To me?

1:17:51 to 1:13:35: April Sampson: Not to you.

1:18:01 to 1:18:07 Marie: Yeah, actually, my e-mail was hacked by somebody; but I reported it and changed.'s

1:18:07 to 1:13:35: April Sampson: I'm just letting you know: e-mail a lot of us got this.

1:18:01 to 1:18:07 Marie: Yeah, actually, my e-mail was hacked by somebody; but I reported it and changed.'s

1:18:07 to 1:13:35: April Sampson: I'm just letting you know: e-mail a lot of us got this.

1:18:36 to 1:18:27: Sounds

1:18:28 to 1:18:07 Marie: I was curious as to what they said

1:18:31 to 1:13:35: April Sampson: They were doing it on the theory account, hot mail account and I'm

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1:18:31 to 1:13:35: April Sampson: They were doing it on the theory account, hot mail account and I'm

1:19:28 to 1:20:36: Marie: Okay. There is a file that has on the inside back cover a hand-written note on a yellow sticky; and it says "civil service division" "ask Judge Hanna to ask SLED to investigate use of" something "examine anything with judge's signature." Oh, brother! It seems that they were asking or suggesting that I forged Judge Turner's signature on subpoenas. So, I do need a copy of this. Did you see that?

1:20:31 to 1:20:35: April Sampson: I don't know anything of what happened.

1:20:41 to 1:20:51: Marie: Oh, I just want you to see it. Look. They were asking SLED to investigate me

1:20:51 to 1:20:56: April Sampson: They were doing it on the theory account, hot mail account and I'm

, I read into the record what Heather Weiss had told the first mental health examiner about me on 2 to 4 December 2009;

1:42 to 1:43, I receive a call from Laurie Treywick of SC's Judicial Merit Selection Commission concerning my testimony against the judicial candidacies of DeAndrea Gist Benjamin and John Pascal Meadors;

1:43:09 to 1:44:48, Marie: There is a file that says "Charlene Crouch Statement and Report." And there is, apparently someone looked her up "research under secure access, 11/11/2009, 4:46:19 pm." And it has her arrest for simple possession of marijuana and her arrest for drunkenness and her picture. And I do definitely need a copy of that. And I want to put on the record that the date of it was 11/11/2009. That was

never produced to me before; and it's very important that it shows Blanton .... Also in that file, there is a statement by Charlene Crouch and a sticky, a yellow sticky note that says "care to make report" Obviously, whoever prepared that knew that Charlene Crouch does not care to make report but knew that she has a bad arrest record. Other statements, there is one that's supposedly signed by Rodney Ingram and another that's supposedly signed by Alden Wheeler. I just would like copies of these two statements."

1:44:56 to 1:47:58, Marie:

There is a file called "Dinah Steele Mason Statement and Report." There is a fax dated 10 slash 08 slash 2009 at 15:18. It has page 6-8 to Gwedolynn Bouie from Dinah Steele. I do not have that. I need a copy of it. Another titled from Dinah Steele to Lynn Matthews. I need that. There is a "South Carolina Victim Impact Statement" that is filled by Dinah Steele and claims that Larry Mason is her representative and husband; and her e-mail address is NobleBlond@BellSouth.net. She lists four telephone numbers: 800, 803-600-5953, 803-787-4454; and again 803-600-5953 and 803-331-1000. It is signed apparently before Francis Reynolds on the front and back. It says: "Did you suffer any physical injury?" And the answer is "NO." Then "Have you noticed any change in you life style since this happened? This may include personal habits, close relationships, the amount of tension and nervousness or you ability to work. Please describe." It says "weight loss" comma "mental and emotional strain" and it's signed on 12/21/2009. I do need a copy of that. "Did you receive any mental health counseling as a result of this crime?" The answer is "NO." And it continues: "If not, are you interested in receiving counseling?" It is left blank. I definitely need a copy of this front and back.

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

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

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

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

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

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

1:52:57 to 1:52:58: Marie: What?

1:52:59 to 1:53:03: Officer: You can't. You have to leave. So, if she leaves, you have to leave.

1:53:04 to 1:53:05: Marie: Who said that?

1:53:06 to 1:53:07: Officer: Ms. Hawkins. I just spoke to her.

1:53:08 to 1:53:13: Marie: Okay. Did she have an answer as to, hum, about the copies that I need and all of that?

1:53:14 to 1:53:15: Officer: No, ma'am. She didn't say to me anything to me about that.

1:53:16 to 1:53:18: Marie: Well, I'm going to need, hum ---

1:53:12 to 1:53:26: Officer: I think she's gonna leave.

1:53:27 to 1:53:28: Marie: You think or not?

1:53:33 to 1:53:34: Officer: No.

1:53:37 to 1:53:38: Marie: Well, I'm going to need

1:53:33 to 1:54:44: Sounds

1:54:43 to 1:53:44: Marie: I have a tape,

1:54:44 to 1:54:44: Officer: Okay.

1:54:45 to 1:55:39: Sounds

1:55:39 to 1:55:55: Marie: Testing, testing, testing. It's not recording for some reason.

1:55:56 to 1:56:00: Officer: Dr. Faltas

1:56:01 to 1:56:04: Marie: Testing, testing, testing.

1:56:01 to 1:56:04: Marie: Testing, testing, testing.

1:56:56 to 1:56:44: Officer: Dr. Faltas

1:56: to 1:57:: Sounds

1:57:13 to 1:57:: Marie: And just in case that recording, the first recording did not pick up, I need a copy of the three pages that are in the file called "Charlene Crouch Statement and Report," specially, the one dated, it says "page 1 of 1, research appended by secure access" dated 11/11/2009 at four o'clock pm, forty-six minutes and four seconds; and it does show a picture of Charlene Crouch with her arrest for simple possession of marijuana on 10/18/2007 and also the most recent charges drunkenness on 1/5/2007 and her release date at 1/16/07.

1:58: to 1:59:35: Sounds

1:59:36 to 2:00:01: Marie: In a file called "Arrest Warrants," there are two warrants that are signed in the blank by Angela Ladson, Ministerial Recorder, that; and it says that, I'm sorry, I thought that ...

2:00:01 to 2:00:32: Sounds

2:00:33 to 2:02:35: Marie: There is an envelope called "Heather Weiss Solicitor's office." And, in it, there is a page that has my that says "additional info from Faltas the Garners-Ferry Road call, the call-taker was added after the re that info." And it's signed "J. Blair 1/27" it doesn't say. Signed J Blair 1-27-10. I do need that. And in , there is an e-mail from Gary Johnson December 29, 2009, 3:49 pm to "Blair, Jennifer" "cc: Heather Weiss" 911 call December 10, 2009 "Jennifer, I know you are looking for records for calls made by Marie Faltas in connection with the above date. Please have the for those dates preserved. We may wish to append someone to listen to the calls to pick up involving this suspect. I asking Solicitor Weiss to provide any additional date to preserve. We will contact you re copies of the audio files for review." "Gary H. Johnson, Assistant City Attorney, Telephone; (803) 737-4242" I need copy of those. This seems to be another one that has

2:02:35 to 2:02:35: Marie: There is a CD attached to 693; I need a copy of that CD.

2:02:35 to 2:02:54: Marie: There is another CD attached to incident number L ; I need a copy of that.

2:02:54 to 2:03:07: Marie: And there is another CD that was attached but it had come loose from L655; I need a copy of that.

2:03:07 to 2:04:17: Sounds

2:04:17 to 2:04:18: Marie: Is, is the air-conditioning set to cold?

2:04:18 to 2:04:19: Officer: I guess.

2:04:20 to 2:04:21: Marie: Isn't it a bit cold here?

2:04:22 to 2:04:23: Officer: It seems to be.

2:04:23 to 2:04:24: Another Officer: No. It isn't it.

2:04:25 to 2:04:21: Marie: Can you make it?

2:04:28 to 2:04:29: Another Officer: Undecipherable.

2:04:29 to 2:07:02: Sounds

2:07:03 to 2:09:11: Marie: There is something, apparently from the internet dated 10/8/2009. It says "page 1" I need a copy of that. And then there is another one that is 10/7/2009. There is only one; I need a copy of it. Then there is ; I need a copy of those. Then there is "Virginia Board of Medicine Practitioner Information" I need a copy of that. One for education, the other for certification; professional licensure 2009 . And then there is another . Apparently my license to Virginia Board of Medicine. These are all from 2009. I do need all of those.

2:09:12 to 2:09:14: April Sampson: .

2:09:15 to 2:09:27: Marie: No, I know that. Just in a manner of speaking. Now, I'm afraid someone may be using my DEA number, you know, to get a prescription under my name or something,

2:09:29 to 2:09:32: Sounds

2:09:32 to 2:09:49: Marie: "Marie Assa'ad Faltas" and I want the ones that have got my license information.

2:09:49 to 2:11:32: Sounds

2:11:33 to 2:14:32: Marie: originating agency one Power McIntosh and one . I need a copy of that. There is another one by Pentasari. All that. Different submitting agency. Then . There is . This warrant is. The writer CPD evidence room computer lab Pentasari . Both items were looked at. From either unit. Items the CPD and then 12-12-35 304 Byron 10-2-13 I arrived Sergeant Drafts . She asked for a time extension of one hour. During at Byron Road, Ms. Faltas" and it is misspelled "from her apartment to her car; and the

items to another location departure . There is Byron Road. 1-9-2-12 I arrived region officer around the parking lot

2:14:34 to 2:15:03: Sounds

2:15:04 to 2:15:03: Marie:

2:15:18 to 2:17:30: Sounds

2:17:31 to 2:17:53: Marie: file I need copies of these.

2:14:34 to 2:15:03: Sounds

2:15:04 to 2:15:03: Marie:

2:18:34 to 2:18:53: Sounds

2:18:54 to 2:19:03: Marie: I need all the pages in the file "Orin Briggs"

2:1:34 to 2:15:03: Sounds

2:15:04 to 2:15:03: Marie:

2:18:34 to 2:18:53: Sounds

2:04:28 to 2:04:29: Another Officer: Undecipherable.

It is very important to get these two documents and also the disposition of Charlene Crouch's public drunkenness ticket 32051GA, apparently pled on 25 April 2012, **and the conditions of her PR bond on 22 April 2012,** which must have included no trespass on Byron Road.

That would be something Dinah Steele would have held over Charlene Crouch's head because Charlene continued to go to Charlie White and take money from him, specially that she had an eviction action filed against her for failure to pay the rent. Here it is:

Crouch, Charlene	Defendant	2012CV401061918	06/04/2012	Disposed	07/24/2012	Civil	Rule to Vacate $40	2012CV401061918	Lykesland Magistrate

Thanks and God bless./Marie

CITY OF COLUMBIA
INTEROFFICE MEMORANDUM

TO: **The Honorable Mayor Benjamin and City Council** **DATE: 12/7/2010**

CC: **Ken Gaines, City Attorney**
Erika Salley, City Clerk

FROM: **Steve Gantt, City Manger**

RE: **Richland County Solicitor's Office**

During the FY 10/11 Budget process, City Council allocated $70,000 for the continued support of a Special City Prosecutor with the Richland County Solicitor's Office. Attached is a letter from the Solicitor's office request for this year. The City has supported this position for several years with great success. I am requesting your approval for this allocation for FY 10/11. Funding is included in the General Fund Budget for this request.

If you have any questions, please let me know.

Attachment

The State of South Carolina

W. Barney Giese
Solicitor

SOLICITOR
Fifth Judicial Circuit
Post Office Box 192
1701 Main Street
Columbia, South Carolina 29202

Phone
(803) 576-1800

Fax (803) 576-1718

November 30, 2010

Steve Gantt, City Manager
City of Columbia
Post Office Box 147
Columbia, SC 29217

RE: Special City Prosecutor Funding

Dear Mr. Gantt:

Thank you so much for the continued support of the Special City Prosecutor position in my office for the fiscal year 2010-2011. The $70,000.00 you have allocated for the position helps us continue to fund a prosecutor to facilitate the positive relationships we have with the City and streamline prosecution of the cases arising there. I look forward to continuing this relationship for years to come. Please feel free to contact me or Heather Weiss, your Special City Prosecutor, if we can be of service to you.

Sincerely,

W. Barney Giese
Solicitor

WBG/tby
Cc: Missy Caughman, City of Columbia

Results

Name **Charlene Crouch**

Date of Birth **1968 11 02**

Maiden Name

Gender **Female**

SSN

Transaction **004645036**

Date of Check **February 21, 2012 at 10:56**

This record is based on a search using **Last name, First initial, Gender, and Date of Birth only.** Compare all identifying data given for record subject with screening subject. Fingerprint comparison is recommended as the most reliable means to identify a record subject.

```
INTERNET RAP SHEET REQUEST
ORI-SCLED0000  SID-SC00561433  FBI-*********  PUR-E
ATN-WEB, ACCOUNT

AUTHORIZED USE ONLY.       ********        CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01  DATE-02/21/2012  TIME-10:53:44
REQ ORI-SCLED0000  S C LAW ENF DIV
SID-SC00561433 FBI-
NAME-CROUCH, CHARLENE               SEX-F RACE-W
HEIGHT-502 WEIGHT-100 EYES-GRN HAIR-BLN SKIN-FAR BORN-SC
FPC-PMPM16POPODIPI17PI16          HENRY-16 M 29 W    MOO
                                           I 24 W    IOI 16
PHOTOGRAPH AVAILABLE AUTHORIZED USE ONLY
PALM PRINTS AVAILABLE AUTHORIZED USE ONLY
DATE RECORD ENTERED--11/13/1986    DATE OF LAST UPDATE--12/19/2007
-------------------------------------------------------------------
ADDITIONAL IDENTIFIERS          BIRTH
NAME                            DATES  MARKS      SOC SEC   MISC NUM
CROUGH, CHARLENE              12021968
                              11021968
-------------------------------------------------------------------
CONTRIBUTOR/SUBJECT           DOA/RCVD CHARGE/DISPOSITION/ETC
```

CROUCH, CHARLENE 07/30/1986
SC0200100 WINNSBORO PD
CASE-8607320
WARR-B418075

ARREST CHARGE 01-DISORDERLY CONDUCT
PHOTOGRAPH AVAILABLE

WARR-B418075

COURT CHARGE 01-DISORDERLY CONDUCT
COURT DISP-CONVICTED;15D CONFINE; $100 FINE;CONFINEMENT OR FINE
COURT DATE-08/11/1986

CROUCH, CHARLENE 06/20/1987
SC0200000 FAIRFIELD CNTY SO

ARREST CHARGE 01-DISORDERLY CONDUCT
PHOTOGRAPH AVAILABLE
COURT CHARGE 01-DISORDERLY CONDUCT
COURT DISP-NON-CONVICTION; NOT GUILTY
COURT DATE-07/02/1987

CROUCH, CHARLENE 11/04/1987
SC0200000 FAIRFIELD CNTY SO

ARREST CHARGE 01-GRAND LARCEN

Y

CROUCH, CHARLENE 09/24/1988
SC0200000 FAIRFIELD CNTY SO

ARREST CHARGE 01-BURGLARY 2ND
PHOTOGRAPH AVAILABLE

CROUCH, CHARLENE 03/14/1989
SC0200000 FAIRFIELD CNTY SO

ARREST CHARGE 01-CONTRIBUTING TO MINOR DELINQUENCY
OFFENSE DATE-03/14/1989
PHOTOGRAPH AVAILABLE

CROUGH, CHARLENE 12/19/1990
SC0200100 WINNSBORO PD
CASE-9012401
WARR-09299NJ

ARREST CHARGE 01-LEAVING

SCENE OF ACCIDENT
DOC-R84 WARR-09299N2 COURT CHARGE 01-COURT CHARGE NOT SUBMITTED
COURT DISP-CONVICTED;LEAVING SCENE OF ACCIDENT/$237 OR 30D
COURT DATE-01/03/1991

CROUCH, CHARLENE 05/02/1991
SC0200000 FAIRFIELD CNTY SO
ARREST CHARGE 01-DISORDERLY CONDUCT
PHOTOGRAPH AVAILABLE

CROUCH, CHARLENE 07/22/2002
SC0200100 WINNSBORO PD
ATN-WARR-G885490
CIT-16-25-20-MISDEMEANOR
ARREST CHARGE 01-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
OFFENSE DATE-07/22/2002
PALM PRINTS AVAILABLE
WARR-G885491
CIT-16-25-20-MISDEMEANOR
ARREST CHARGE 02-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
OFFENSE DATE-07/22/2002
CIT-16-25-20-MISDEMEANOR
DOC-R84 WARR-G885490 COURT CHARGE 01-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
COURT DISP-NON-CONVICTION; DISMISSED
COURT DATE-08/08/2002
ATN-CIT-16-25-20-MISDEMEANOR
DOC-R84 WARR-G885491 COURT CHARGE 02-CRIMINAL DOMESTIC VIOLENCE 1ST OFFENSE
COURT DISP-NON-CONVICTION; DISMISSED
COURT DATE-08/08/2002

CROUCH, CHARLENE 02/25/2005
SC0200100 WINNSBORO PD
CASE-NA
ATN-990000030512
WARR-H475516

CIT-44-53-370(D)(2)-MISDEMEANOR
ARREST CHARGE 01-POSS OTHER CONTROLLED SUB IN SCHED I TO V-1ST
OFFENSE DATE-02/25/2005
PHOTOGRAPH AVAILABLE

WARR-83239BZ
CIT-44-53-370(D)(3)-MISDEMEANOR
ARREST CHARGE 02-POSS 28G OR LESS MARIJ OR 10G OR LESS HASH 1ST
OFFENSE DATE-02/25/2005

CIT-44-53-370(D)(3)-FELONY
DOC-05GS2000241 WARR-H475516
COURT CHARGE 01-POSS 15 DOSAGE UNITS MDMA/ECSTASY 1ST OFFENSE
COURT DISP-NON-CONVICTION; NOLLE PROSSED
COURT DATE-05/23/2005
ATN-990000030512

CROUCH, CHARLENE 01/12/2006
SC0120200 GREAT FALLS PD
CASE-GF3085
ATN-990000319922
WARR-12060112 @
CIT-568-5-381-MISDEMEANOR
ARREST CHARGE 01-VIOLATION OF VEHICLE BACKING LIMITATIONS
OFFENSE DATE-01/12/2006

WARR-12060112 @
CIT-568-5-381-MISDEMEANOR
ARREST CHARGE 02-VIOLATION OF VEHICLE BACKING LIMITATIONS
OFFENSE DATE-01/12/2006

WARR-12060112 @
CIT-44-53-960-MISDEMEANOR
ARREST CHARGE 03-POSSESSION OF DRUG PARAPHERNALIA
OFFENSE DATE-01/12/2006

WARR-12060112 @
CIT-44-53-370(D)(3)-MISDEMEANOR
ARREST CHARGE 04-DRUGS/POSSESSION OF COCAINE 1ST
OFFENSE DATE-01/12/2006

CROUCH, CHARLENE 01/19/2006

SC0100000 CHARLESTON CNTY SO
CASE-NA
ATN-990000153479
WARR-H840590
CIT-16-13-30(A)-MISDEMEANOR
ARREST CHARGE 01-PETTY LARCEN
Y
OFFENSE DATE-12/23/2005
PHOTOGRAPH AVAILABLE
CIT-16-13-30(A)-MISDEMEANOR
DOC-R84 WARR-H840590
COURT CHARGE 01-PETTY LARCENY
COURT DISP-NON-CONVICTION;
SENTENCE UNKNOWN
COURT DATE-03/02/2006
ATN-990000153479

CROUCH, CHARLENE 01/25/2007
SC0200100 WINNSBORO PD
CASE-07-01-0347
ATN-200000002483
WARR-K171042
CIT-16-25-20(A)-MISDEMEANOR
ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-01/24/2007
PALM PRINTS AVAILABLE
CIT-16-25-20(A)-MISDEMEANOR
DOC-R84 WARR-K171042
COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
COURT DISP-CONVICTED;$2125
OR 30 DAYS SUSPENDED UPON
COMPLETION OF BATTERER
TREATMENT PROGRAM
COURT DATE-03/22/2007
ATN-200000002483

CROUCH, CHARLENE 07/10/2007
SC0200000 FAIRFIELD CNTY SO
CASE-07072952
ATN-200000003021
WARR-K171203
CIT-16-13-30(B)(1)-FELONY
ARREST CHARGE 01-GRAND LARCEN
Y,VALUE >$1,000 BUT <$5,00
0
OFFENSE DATE-07/10/2007
PALM PRINTS AVAILABLE

CROUCH, CHARLENE 10/17/2007
SC0400000 RICHLAND CNTY SO
CASE-160107
ATN-990000347605
WARR-J559117
CIT-44-53-370(D)(4)-MISDEMEANOR

ARREST CHARGE 01-POSS 28G OR
LESS MARIJ/10G OR LESS
HASH 1ST
OFFENSE DATE-10/17/2007
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

CIT--MISDEMEANOR
DOC-40 WARR-J559117

COURT CHARGE 01-POSS 28G OR
LESS MARIJ/10G OR LESS
HASH 1ST
COURT DISP-NON-CONVICTION;
NOT GUILTY/BENCH TRIAL
COURT DATE-11/05/2007
ATN-990000347605

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC00561433
THIS CRIMINAL HISTORY RECORD IS FOR SOUTH CAROLINA ARRESTS AND CONVICTIONS ONLY AND IS BASED ON THE INFORMATION PROVIDED. SINCE CHANGES MAY OCCUR DAILY A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

** S C CJIS END OF RECORD **

Credit Card Transaction Number **1329839722ICE827120221105522**

Return | Another Check

Charlene Crouch's April 2012 (public drunkenness) and June 2012 (sexual battery on a vulnerable adult) arrest photos



Teresa Felicia Ingram-Jackson's 2012 arrest photos for shoplifting and solicitation for prostitution in Florence, SC, and drugs in Richland, SC



375 / 477

CRIMINAL CHARGING DOCUMENT NO.

BAIL PROCEEDING
FORM I

STATE OF SOUTH CAROLINA

IN THE Richland County General Sessions

COUNTY OF Richland

STATE OF SOUTH CAROLINA

v.

Crouch, Charlene
NAME OF DEFENDANT

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Offense Charged: Assault / Assault & Battery 2nd degree-[1902825]

IT IS HEREBY ORDERED

I

That the above named defendant be released from custody on his own recognizance without surety on the condition that he will personally appear before the designated court at the place, date, and time required to answer the charge made against him and do what shall be ordered by the court, and not depart the State without permission of the court and be of good behavior.

II

That the above named defendant be released from custody upon recognizance without surety executed by him.

Appearance Recognizance Without Surety

On the 19th day of June, 2012, personally appeared before the undersigned judge the defendant named above who acknowledged himself indebted to the State of South Carolina, in the sum of 5,000.00 dollars, to be levied on his real and personal property for the use of the State, if the defendant shall fail in performing the conditions of the Order.

III

That the defendant will notify the court promptly if he changes his address from the one contained in this Order and will comply with the following other conditions of release: No Contact With NICHOLAS STATON Directly or Indirectly

IV

That the defendant shall appear at (check one):

☒ the term of COURT OF GENERAL SESSIONS beginning on July 23, 2012 at 9:00 o' clock, A M, at Richland County General Sessions - 1701 Main Street/P O Box 192/Columbia, SC 29202 / (803) 576-1999 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

☐ the session of ☐MAGISTRATE COURT ☐MUNICIPAL COURT beginning on _____ at _____ o' clock, ___M, at _____

If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

SIGNATURE OF JUDGE

JUN 19 2012

DATE

SIGNATURE OF DEFENDANT

337 Byron Rd Apt 2
ADDRESS

Columbia, SC 29209-1550
CITY/STATE/ZIP

(803) 553-2524
TELEPHONE

249-49-7878
SOCIAL SECURITY NUMBER

008494256 (SC)
DRIVER'S LICENSE OR ID NUMBER

ORIGINAL AND ONE COPY OF THIS FORM ARE TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED
Original Copy For The Trial Court - Copy For The Defendant

Form Approved by S.C. Attorney General
Section 17-15-40
September 5, 2006

STATE OF SOUTH CAROLINA)
) IN THE SUMMARY COURT
County of Richland)
)
) DISCHARGE

State of South Carolina

vs.

Charlene Crouch
DEFENDANT(S)

DISCHARGE

By Kirby D Shealy, Judge in and for the County and state aforesaid,

To the Sheriff and Keeper of the Common Jail in the said County:

The Defendant, Charlene Crouch, having been committed to your custody for the charge of:

Case number	Charge	Trial Court	Bond Type	Amount
I902825	Assault / Assault & Battery 2nd degree	Richland County General Sessions	Personal Recogniza	$5,000.00

has posted bond of type
Personal Recognizance in the amount of $5,000.00

and having given bond as required by the Court, you are hereby authorized and required to discharge the said Defendant from your custody. Provided that said Defendant is not held by you upon commitment for some other offense.

GIVEN UNDER MY HAND AND SEAL THIS DAY June 19, 2012

(Seal)
(Judge)
Richland County, SC

☐

DISCHARGE FROM JAIL

SCREENING SHEET

1. Prepare this case for Grand Jury: _____
2. Name of Defendant: _____
3. DP or Warrant Number: _____
4. Charge: _____
5. Officer/Agency: _____ _____

Crouch, Charlene
DOA: 06/19/2012
I902825
3413 - Assault / Assault & Battery 2nd degree

_____
91 _____

Reviewed by: _____
Date: _____

Pending Unindicted

ASOL # _____

* * * *

☐

DISCHARGE FROM JAIL

SCREENING SHEET

1. Prepare this case for Grand Jury: _____
2. Name of Defendant: Charlene Crouch
3. DP or Warrant Number: I 902825
4. Charge: A & B 2nd
5. Officer/Agency: _____ _____
6. Please Subpoena: _____

_____

_____ GS 40 _____ Reviewed by: _____

OR Date: _____

Pending Unindicted

ASOL # 9

* *

DISPOSITION

☐	☐	☐	☐	☐	☐	☑	☐	☐
Dism.	NP	Remanded	Dismissed at Prelim	Failure to Appear	PTI	Restore _____	Judicial Dismissal	Other

Explain: _____

_____

_____

OR

Date of Failure to Appear: _____

Date Bench Warrant Issued: _____

Solicitor: Sampson Tate

Date: 1-9-13

☐

DISCHARGE FROM JAIL

SCREENING SHEET

1. Prepare this case for Grand Jury: _____
2. Name of Defendant: Charlene Crouch
3. DP or Warrant Number: I902825
4. Charge: A&B and
5. Officer/Agency: _____ _____
6. Please Subpoena: _____

_____

_____ GS 40 _____ Reviewed by: _____
OR Date: _____
Pending Unindicted

ASOL # 91

* *

DISPOSITION

☐	☐	☐	☐	☑	☐	☐	☐	☐
Dism.	NP	Remanded	Dismissed at Prelim	Failure to Appear	PTI	Restore _____	Judicial Dismissal	Other

Explain: _____

_____

_____

OR

Date of Failure to Appear: 10-25-12
Date Bench Warrant Issued: 11-7-12

Solicitor: Simpson

Date: 11-8-12

V. 2012

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF GENERAL SESSIONS
ORDER FOR DESTRUCTION OF ARREST RECORDS

380 / 477

THE STATE OF SOUTH CAROLINA

vs.

Race OTHER Sex FEMALE Age 59
DOB 4-4-1953 SSN 241-41-0682

SID SC0139 9029

MARIE FALTAS

AKA MARIE ASSAAD-FALTAS

Charges were disposed of in the court indicated below:

Magistrate Municipal X General Sessions

IT APPEARS that the defendant is entitled to have all records relating to this offense expunged and destroyed according to the applicable section of the South Carolina Code of Laws indicated below:

Warrant/GS No. K613792; K613793 Date of Arrest 12-2-2009 Place of Arrest Richland County, S.C.

Arrest Charge HARASSMENT / 1ST DEGREE HARRASSMENT (2 COUNTS)

X § 17-1-40. The charge was dismissed; *nol prossed* or the defendant was found not guilty **8-13-12**

____ § 17-22-150(a). The charge was *nol prossed* on _____ by the Solicitor because the defendant successfully completed the Pre-Trial Intervention Program. (*PTI Director must attest to eligibility for expungement*).

§ 17-22-530(A). The charge was *nol prossed* on _____ by the Solicitor because the defendant successfully completed the Alcohol Education Program Program. (*AEP Director must attest to eligibility for expungement*).

§ 34-11-90(e). The defendant was convicted of a first offense misdemeanor under the Fraudulent Check Law on and no additional criminal conviction as defined by § 34-11-90(e) has taken place in one year from date of conviction.

§ 44-53-450(b). The defendant was charged with first offense simple possession of marijuana or hashish on received a conditional discharge and has successfully complied with the terms as set forth by the court.

§ 22-5-910. The defendant was convicted of a first offense for a crime carrying a penalty of not more than 30 days on that offense did not involve the exceptions enumerated in § 22-5-910, and no additional criminal conviction as defined by § 22-5-910 has taken place within three years from date of conviction or five years from the date of conviction for criminal domestic violence. (*Summary Court Judge must attest to eligibility*).

§ 22-5-920. The defendant was convicted of a first offense as a youthful offender on _____, that offense did not involve the exceptions enumerated in § 22-5-920, and no additional criminal conviction as defined by § 22-5-920 has taken place during a five-year period following the first offense conviction as a youthful offender.

§ 56-5-750(F). The defendant was convicted of a misdemeanor first offense failure to stop motor vehicle on _____ and no additional criminal conviction has taken place for three years after completion of the sentence.

RICHLAND COUNTY FILED
2012 AUG 24 PM 3:30
JEANETTE W. McBRIDE C.C.P. G.S.

SLED verifies the offense listed above is eligible for expungement: ☐ Yes ☐ No SLED _____ Date _____

IT IS ORDERED that all records relating to such arrest and subsequent discharge pursuant to the above-referenced section be dismissed, expunged and immediately destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency except nonpublic information retained on each person accepted for Pre-Trial Intervention pursuant to § 17-22-130, nonpublic information retained by SC Law Enforcement Division (SLED) pursuant to § 34-11-90(e), nonpublic information retained by the Department of Narcotic and Dangerous Drugs Under SLED pursuant to § 44-53-450, nonpublic information retained by SLED pursuant to § 22-5-910 and § 22-5-920, and nonpublic information retained by SLED and Department of Public Safety pursuant to § 56-5-750 (F).

Solicitor: X Consents

Declines to Consent

Determined ineligible for expungement

D ... /vw
Circuit Solicitor

Signed this 23 day of August 2012

Circuit Court Judge

I attest that the defendant is eligible for expungement pursuant to S.C. Code §17-22-150(a) (successful completion of PTI), §17-22-530(A) (successful completion of AEP), § 22-5-910 (summary court conviction) or § 44-53-450(b) (conditional discharge).

Director PTI / Director AEP/Summary Court Judge (circle one)

Marie Assaad Faltas, MD, MPH
Defendant / Attorney for Defendant (Circle One)

Expunged by SLED by:_____ Date: _____ (For SLED internal use only)

CERTIFIED TRUE COPY
C.C.P. G.S. FILED
Jeanette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

SCCA 223A (11/2009)

Richland County
Fifth Judicial Circuit
Public Index

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:			
Status:	Disposed	Assigned Judge:	Davis, Michael Ronald	Disposition Judge:	Barber, James R. III
Disposition:	Pled Guilty				
Disposition Date:	07/11/2013	Date Received:	07/05/2012	Arrest Date:	06/19/2012
Law Enf. Case:	#1201805812-R1	True Bill Date:	03/13/2013	No Bill Date:	
Prosecutor Case:		Indictment Number:	2013GS4001496	Waiver Date:	
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%	ASMVIC	$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%	CFEE3%	$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	Condition
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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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

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)	IN THE COLUMBIA MUNICIPAL COURT
)	FIFTH JUDICIAL CIRCUIT
CITY OF COLUMBIA)	Warrant No. 388303FK, 37025FK, L066971,
)	L066954, and 201310
STATE OF SOUTH CAROLINA)	
)	
v.)	Certificate of Service by Mail
)	
MARIE FALTAS,)	
Defendant.)	
)	

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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 of 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 court-room 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 Faltas, 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 sill 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 unwanting touching not rising to a lewd act or other issues -- you know, we've got A.B.H.A.N. issues about unwanting 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 preempted 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 folows:**

[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 henious 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 prospectives 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
County of Richland

Court of General Sessions
2013-GS-40-01496

The State of South Carolina
-vs-
Charlene Crouch

TRANSCRIPT OF RECORD

July 11, 2013
Columbia, South Carolina

BEFORE: The Honorable James R. Barber, III, Judge.

APPEARANCES: April Sampson, Esquire
Attorney for the State

Constantine Pournaras, Esquire
Attorney for the Defendant

Daphne D. Helms
Circuit Court Reporter

[page 2, line 1] **Ms. Sampson:** The State calls Charlene Crouch.
[2-3] **Charlene Crouch, after being duly sworn, testified as follows:**
[4] **Examination by the Court**
[5] **Q.** All right. You are Charlene Crouch?
[6] **A.** Yes, sir.
[7] **Q.** Ms. Crouch, you're 44 years of age?
[8] **A.** Yes, sir.
[9] **Q.** Are you married?
[10] **A.** No, sir.
[11] **Q.** Do you have any children?
[12] **A.** Yes, sir. I have one daughter; she's 20.
[13] **Q.** And do you work?
[14-17] **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.
[18] **Q.** How far did you go in school?
[19] **A.** Eleventh grade.
[20] **Q.** Are you from Columbia?
[21] **A.** No, sir.
[22] **Q.** Where are you from?
[23] **A.** Winnsboro.
[24] **Q.** Why do you smile about that?
[25] **A.** I don't know.
[page 3, line 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.
[5-6] **Q.** [5] You're charged with assault and battery second degree. [6] Do you understand that?
[7] **A.** Yes, sir.
[8-9] **Q.** You can get up to three years in the department of corrections for that charge. Do you understand that?
[10] **A.** Yes, sir.
[11-12] **Q.** And you want to enter a guilty plea on this matter. Is that correct?
[13] **A.** Yes, sir. That -- the night it happened---
[14-16] **Q.** I'm going to give you a chance to talk if that's what you want to do or give your lawyer a chance to talk, but 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.
[20-21] Q. And you've had an opportunity to talk to your lawyer about this matter?
[22] A. Yes, sir.
[23] Q. Have you told him everything you know about it?
[24] A. Yes, sir.
[25 – page 4, line 2] Q. Has he answered all your questions, done everything you've asked him to do including conduct any investigation or make any inquiry into the matter?
[3] A. Yes, sir.
[4] Q. Are you satisfied with his services?
[5] A. Yes, sir.
[6-7] **The Court:** All right. Counselor, do you concur with your client entering the guilty plea?
[8] **Mr. Pournaras:** I do, Your Honor.
[9-10] **The Court:** Do you think it's in her best interest to do so?
[11] **Mr. Pournaras:** I do, Your Honor.
[12-13] **The Court:** Do you think the State most probably would prevail if it went forward with a trial?
[14] **Mr. Pournaras:** Yes, Your Honor.
[15-21] [15] By **The Court:** [16-21] Q. All right. Now, Ms. Crouch, do you understand you don't have to plead guilty? You're presumed to be innocent. The State would have to prove you guilty beyond a reasonable doubt, but by pleading guilty the State doesn't have to prove you guilty because you're admitting your guilt. Do you understand that?
[22] A. Yes, sir.
[23 – page 5, line 3] Q. And by pleading guilty you're waiving some of your constitutional rights. You have a constitutional right to a jury trial if you'd like one, let 12 citizens of this county hear the evidence and they would determine whether you're guilty or not, but by pleading guilty you give up your right to a jury trial. Do you understand?
[4] A. Yes, sir.
[5-8] Q. And by pleading guilty you're waiving some of your constitutional rights. You have a constitutional right to confront any witnesses the State may have, but by pleading guilty you give that right up. Do you understand?
[9] A. Yes, sir.
[10-13] Q. [10] And you have a constitutional right to remain silent. [11-13] You would not have to testify at a trial. You wouldn't have to say anything, but by pleading guilty you give up your right to remain silent. Do you understand that?
[14] A. Yes, sir.
[15-17] Q. As I said, you have a constitutional right to a jury trial, but you waive that with this -- with this plea. Do you understand?
[18] A. Yes, sir.
[19-22] Q. And by giving up your right to a trial, you're giving up your right to put up any defenses you may have to this charge and you're giving up your right to contest any evidence the State may have. Do you understand that?
[23] A. Yes, sir.
[24 – page 6, line 1] Q. And, of course, when you give up your right to a trial, you give up your right to get up and testify and tell your side of the story. Do you understand that?
[2] A. Yes, sir.
[3-6] Q. All right. Now, the State is making a recommendation of time served. Other than that recommendation, has the State or anyone else offered or promised you anything to get you to plead guilty?
[7] A. No, sir.
[8-9] Q. Has anybody threatened you, coerced you, forced you or 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.
[15-16] **Q.** Have you had any alcoholic beverages in the last 24 hours?
[17] **A.** No, sir.
[18-19] **Q.** Have you taken any drugs or had any medication in the last 24 hours?
[20] **A.** No, sir.
[21-22] **Q.** Are you under the influence of any kind of substance here today?
[23] **A.** No, sir.
[24-25] **Q.** Are you being treated by a psychiatrist or other professional for any mental illness or emotional problem?
[page 7, line 1] **A.** No, sir.
[2-3] **Q.** Do you have any complaints with the solicitor's office, with lawyer enforcement or anybody at the jail?
[4] **A.** No, sir.
[5-6] **Q.** Do you understand when I sentence you here today you'll have ten days to appeal this sentence?
[7] **A.** Okay. Yes, sir.
[8-15] **Q.** All right. Ms. Crouch, as to indictment **2013-GS-40-1496** which says you did in Richland County on or about **December 23rd, 2011,** commit an assault and battery in the second degree upon Nicholas Stanton by injuring or attempting to injure the victim and you had the present ability to do so and the act involved a non-consensual touching of the private parts of Nicholas Stanton, either under or above his clothing, how do you plead?
[16] **A.** Guilty.
[17-22] **The Court:** [17-21] I find this defendant to be represented by competent counsel. She's satisfied with the services of her attorney. I further find the defendant is pleading guilty freely and voluntarily and her guilty plea is entered knowingly and intelligently, and I will accept her plea. [22] Madam Solicitor?

[23 – page 9, line 4] **Ms. Sampson:** [23 – page 8, line 3] Thank you, Your Honor. This incident occurred on December 23rd, 2011, at 7005 John Edwards Street which is in Richland County. At that time the victim, [page 8] Nicholas Stanton, was staying with his mother for the holidays who lived at that address. He normally stays with his father in Mount Pleasant. [4-13] While staying with his mother -- *the defendant is a friend of his mother's. She came over, and Nicholas was talking to her about her daughter and whether she had a Facebook page, could they be friends on Facebook. They went into the bedroom so that they could use the computer and search for the daughter on Facebook. While they were in the bedroom, the defendant initially rubbed the victim's leg and then rubbed his crotch. At that time he asked her what was she doing. She immediately apologized, got up and left the room and then left the house. [14-20] Nicholas immediately reported to his mother what had happened. Once he returned back to his father's house in Mount Pleasant he also told his father and then they reported it to the Richland County Sheriff's Department in January of 2012. The victim was interviewed by ARC and there's a video of that interview where he states the facts that I just gave the Court.* [21 – page 9, line 4] *The victim suffers from cerebral palsy, and so he has some mental and physical disabilities due to that. However, we've interviewed him a couple of times, and as I said, he was interviewed by the police and by ARC and his statement always stays consistent.* The victim is here with his family, [page 9] and they would like to speak at the appropriate time. The victim -- excuse me -- *the defendant's priors are a 1986 disorderly conduct and a 1991 leaving the scene and a 2007 C.D.V. first.*

[5] **The Court:** All right. Who wants to talk to me?
[6-7] **Ms. Sampson:** This is Mr. Stanton. He is the victim's father.
[8] **The Court:** All right.
[9-10] **Ms. Sampson:** And also standing now is Nicholas, the victim.
[11-12] **The Court:** [11] All right. Let me get y'all to step back. [12] Yes, sir?

[13-14] **James Stanton:** Sir, my name is James Stanton, and I'm the father of Nicholas Stanton.

[15] **The Court:** I can tell.

[16] **James Stanton:** I'm sorry?

[17-18] **The Court:** I can tell. Y'all look like each other or you look like your son I guess is the way to describe it.

[19] **Nicholas Stanton:** Thank you.

[20 – page 10, line 9] **James Stanton:** [20 – page 10, line 1] *I guess I just wanted to briefly address the Court and explain that obviously compared to some of the other things you see, this is not as big of a scale, but in our world, given the circumstances that we have before us in Nicholas's life, this is a very big event. Nicholas has a strong sense of what is right and wrong as anybody in this room. The difference is that there's no gray area. [2-9] This was obviously something that was very wrong in his world, and it was only right for us to pursue justice in this case. The reason that we continued to pursue this was that after all of this came to light, Nicholas was very distraught by all this, ended up having to seek counseling for a period of time, and it was just the right thing to do. We're here physically today to face Ms. Crouch and to try to achieve some closure in this situation.*

[10-11] **The Court:** You understand what the recommendation is that the State's making.

[12] **James Stanton:** I do.

[13-14] **The Court:** All right. Does your son have anything he wants to say?

[15-16] **Nicholas Stanton:** I know how this is going to be big because I've watched a lot of *Law and Order.*

[17-18] **The Court:** Well, that's much more interesting than this; I can tell you that.

[19] **Nicholas Stanton:** No, not really.

[20-25] **The Court:** I watch a lot of it, too. That's how I learn how to do this stuff. I'm sorry what you've had to go through. I know this has not been an easy path for you, but I thank y'all for pursuing it, and you clearly did right in not letting the matter drop. All right. Y'all both live in Charleston?

[page 11, line 1] **James Stanton:** We do.

[2-3] **The Court:** Well, y'all have a safe trip back to Charleston.

[4-5] **James Stanton:** Beautiful place. Come on down sometimes.

[6-8] **The Court:** [6-7] I've been down there. There's too many people, and most of them aren't from there. All right. [8] Thank y'all.

[9] **James Stanton:** Thank you, sir.

[10-11] **Ms. Sampson:** That would be it from the State, Your Honor.

[12] **Nicholas Stanton:** Thank you.

[13-14] **The Court:** All right. Ms. -- counselor, do y'all want to tell me something?

[15-24] **Mr. Pournaras:** *Yes, Your Honor. You know, this incident happened some time ago, and there was a lot of alcohol involved. I know that that doesn't make any less culpability there, but Ms. Crouch was drinking at the time with Mr. Stanton's mother. According to every accounting of the facts, it was very brief, very brief. It was a lapse in judgment, and I think that Ms. Crouch immediately realized that, you know, that that advance wasn't welcome and she apologized and immediately left embarrassed, Your Honor, and I think that she wants to go ahead and address the Court.*

[25] **Ms. Crouch:** Yeah.

[page 12, line 1] **Mr. Pournaras:** And I'll let her do that.

[2-9] **Ms. Crouch:** *Well, first of all, I'm very embarrassed of that. I also have a child -- well, a grown daughter of my own and it's really humiliating. I was real drunk that night. Me and his mother had upon both been drinking for awhile. I vaguely really remember it, and I just want to also apologize to -- I want to apologize and hope you'll accept that and I'm truly sorry. I really am. It's just an embarrassing situation, and I do apologize.*

[11-12] **The Court:** All right. Well, Ms. Crouch, I know that the State is recommending that you -- that you be given time served which I was told was a day or so?

[13] Mr. Pournaras: Two days, Your Honor.

[14] Ms. Sampson: Two days.

[15 – page 13, line 16] The Court: [15-23] Two days? And I know you -- I truly believe you feel bad about what you did, but unfortunately **you did it and you picked on a young man who has some impairment that which may affect his ability to respond to something like that.** You know, I'd like to accept the recommendation, but I'm going to have to reject it and I'm going to have to let you make a little contribution to society and -- as a result of this behavior. **You do have some record. While it's not a bad record, you do have some record and I can't ignore that.** [24] So -- all right. [25 – page 13, line 8] The sentence of this Court is you be committed to the department of corrections for a term of one year provided upon the service of time served plus costs and assessments, the balance is suspended with probation for one year. As a condition of probation, I'm ordering that you do 120 hours of community service. So you're going to have to make some contribution to this community, and while it won't be in the name of this young man, it will be as a result of his having suffered that loss, that injury, that you would be doing it. [9-10] I will terminate your probation once you have completed your community service and paid all your monies. [11-16] Now, you're going to have to pay a $500 fee to the public defender fund, and you're going to have to pay some court costs and you'll have to pay probation costs, so – but hopefully you can save a little bit of money from your unemployment and get this paid and do your community service and get all this behind you.

[17] Ms. Crouch: Okay.

[18] Mr. Pournaras: Thank you, Judge.

[19] The Court: Good luck to you.

[20-21] **(Whereupon, the proceedings were concluded. There were no exhibits introduced.)**

[page 14]

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

[s/] Daphne D. Helms, court reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF Richland)
STATE VS.)
Charlene Crouch)
AKA:)
Race: WHITE Sex: F Age: 44)
DOB: 11-02-1968 SS#: 249-49-7878)
Address: 337 Byron Rd Apt 2)
City,State,Zip: Columbia, SC 29209-1550)
DL#: 008494256 SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

INDICTMENT/CASE#: 2013GS4001496 ✓
A/W#: I902825
Date of Offense: 12/23/2011
S.C. Code § : 16-03-0600(d)1
CDR Code #: 3413

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Assault / Assault & Battery 2nd degree

in violation of § 16-03-0600(d)1 of the S.C. Code of Laws, bearing CDR Code # 3413
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☒ Recommendation by the State. Time Served

ATTEST: Sampson, April / 15964 SC Bar# / Charlene Crouch Defendant / Attorney for Defendant / 80872 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections.** ☐ **County Detention Center,**
for a determinate term of 1 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of 1.5 days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for 1
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 56-21-114(DUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP ✓
120 days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal. consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☒ Appointed PD or appointed other counsel.
§ 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Jeanette McBurney
Court Reporter: Nelms
Presiding Judge James F. Bodie
Judge Code: 2110
Sentence Date: 7/11/13

SCCA/217 (03/2011)

[page 1] STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

COURT OF COMMON PLEAS
2013-CP-40-3522
2013-CP-40-3525

City of Columbia, South Carolina,)
Plaintiff,)
vs.)
Marie-Therese Assa'ad-Faltas,)
Defendant.)

TRANSCRIPT OF RECORD

December 13, 2013
Columbia, South Carolina

BEFORE: THE HONORABLE ALISON RENEE LEE, JUDGE.

APPEARANCES:

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, line1] DECEMBER 13, 2013
[lines 2-3] (WHEREUPON, the hearing commenced at11:38 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 confabulated, 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 matter, 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

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,

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

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

Kirbie J. Harris/Staff Assistant

Date JAN 21 2014

"EVERYBODY COUNTS. EVERYBODY CONTRIBUTES. EVERYBODY BENEFITS."

RECEIVED 4647
FEB 06 2014
S.C. SUPREME COURT

Before the Supreme Court of South Carolina

In the Matter of Marie Assa'ad-Faltas, Respondent.
Appellate Case No. 2013-000862

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 Odinance 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

USPS Tracking™

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Product & Tracking Information

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DATE & TIME	STATUS OF ITEM	LOCATION
February 4, 2014 , 10:56 am	Available for Pickup	COLUMBIA, SC 29202
February 4, 2014 , 10:56 am	Arrival at Unit	COLUMBIA, SC 29202
February 1, 2014 , 8:57 pm	Dispatched to Sort Facility	COLUMBIA, SC 29206
February 1, 2014 , 1:56 pm	Acceptance	COLUMBIA, SC 29206

Available Actions

Email Updates

Track Another Package

What's your tracking (or receipt) number?

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Richland County
5th Judicial Circuit
Public Index



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 Cousel	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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Case View

State of South Carolina vs Marie Assaad-Faltas

Case Number:	201310	Court Agency:	City Of Columbia Municipal Court	Filed Date:	07/02/2012
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 box 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 29290	Other	F	04/04/1953	Defendant		04/26/2013
Easpon, Theodore Nichols	140 Gibson Rd. Lexington SC 29072				Defendant Attorney		03/08/2013
Sims, Myron C	1136 Washington Street Columbia SC 29217				Officer		07/02/2012
Sims, 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	401081-CTY International Property Maintenance: Unlawful Acts 1st Offense	401081-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
	Jail 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		03/17/2014-04:45		
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	03/12/2013-16:54	
Assaad-Faltas, Marie	Continued	Filing		12/04/2012-10:59	03/12/2013-10:59	
Assaad-Faltas, Marie	Criminal/Traffic Jury Trial Roster/Jury Term	Event		12/04/2012-08:00	12/05/2012-08:01	
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	11/06/2012-13:03	
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		01/02/2013-08:00	07/10/2012-08:01	

Financials

Summary

Fine/Costs:	$940.00	Total Paid for fine/costs:	$940.00	Balance Due:	$0.00

Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Fine to General Fund	AFNEGF	$200.00		$200.00
Victim Services Assn 38.0013% / 5.7831%	ASNVIC	$24.00		$24.00
Victim Conviction Surcharge $100 / $29	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	STAASM	$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	19123	CTYWESTONR	BP	$470.00
10/26/2011	19203	CTYDAVISD	PY	$470.00

Bonds

Bond Information

Bond Id	Set Date	Amend Date	Set By	Type	Amount	Type	Amount	Condition
20138402161304696	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
20138402161304696	Cash Bond	$470.00	04/26/2013	Assaad-Faltas, Marie

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Richland County
5th Judicial Circuit
Public Index



Search View

City of Columbia vs Marie Therese Assa'ad Faltas

Case Number:	2013CP4003922	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

Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
Assa'ad Faltas, Marie Therese					Defendant		09/17/2013
Assa'ad Faltas, Marie Therese	Po Box 8115 Columbia SC 29290				Defendant Pro Se		09/08/2013
City of Columbia					Plaintiff		09/17/2013
Fernandez, David A	PO Box 667 Columbia SC 29202				Plaintiff Attorney		11/15/2013
Lupton, Theodore Nichols(Inactive)	140 Gibson Rd. Lexington SC 29072				Defendant Attorney		09/27/2013
Shaffer, Tristan Michael	140 Gibson Road Lexington SC 29072				Defendant Attorney		09/27/2013

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Assa'ad Faltas, Marie Therese	Reply to CMC's Chief Administrator Tuner'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 O	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		12/05/2013-13:05		
Assa'ad Faltas, Marie Therese	Fourth Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		12/03/2013-12:50		
Assa'ad Faltas, Marie Therese	Advisement to The Court and Respectful Request For Urgent Cl	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		11/25/2013-09:54		
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		11/05/2013-08:48		
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		09/08/2013-13:58		
City of Columbia	Order Authorizing Funding for Production of Transcripts	Order		09/08/2013-10:08		
Assa'ad Faltas, Marie Therese	Motion to Relieve Counsel	Motion		09/05/2013-15:41		
City of Columbia	Order DENYING Defendant/Appellant's Request to Proceed Pro S	Order		09/03/2013-09:38		
City of Columbia	Certificate of Exemption/Withdrawal from Arbitration and Med	Filing		09/17/2013-14:54		
City of Columbia	Certificate/Certificate	Filing		09/17/2013-14:54		
City of Columbia	Transcript and Return	Filing		09/17/2013-14:54		
City of Columbia	Transcript Of Record	Filing		09/17/2013-14:54		
City of Columbia	Appeal/Notice of Criminal Appeal	Filing		09/17/2013-10:52		
City of Columbia	Service/Proof Of	Filing		09/17/2013-09:39		

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Richland County
5th Judicial Circuit
Public Index



Switch View

City of Columbia vs Marie Therese Assa'ad Faltas

Case Number:	2013CP4001515	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 [E] icon to view complete parties.

Name	Address	Race	Sex	Date Of Birth	Party Type	Party Status	Last Updated
[E] Assa'ad Faltas, Marie Therese					Defendant		06/17/2013
[E] Assa'ad Faltas, Marie Therese	Po Box 9115 Columbia SC 29290				Defendant Pro Se		07/08/2013
[E] Briggs, Orin Gail(Inactive)	PO Box 85085 Lexington SC 290730022				Defendant Attorney		06/27/2013
[E] City of Columbia					Plaintiff		06/17/2013
[E] 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 C	Filing		12/02/2013-12:00		
Assa'ad Faltas, Marie Therese	Third Supplement to Pro Se Motion Permitted by SC's Supreme	Motion		11/27/2013-09:03		
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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STATE OF SOUTH CAROLINA)	IN THE MUNICIPAL COURT
)	OF THE CITY OF COLUMBIA
COUNTY OF RICHLAND)	
City of Columbia,)	City of Columbia Municipal Court 811 Washington St. Columbia, SC 29201 2/19/14
State,)	
v.)	**MOTION FOR RULE TO SHOW CAUSE**
Marie Assa'ad Faltas,)	
Defendant.)	

TO: MARIE ASSA'AD FALTAS, DEFENDANT:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the City of Columbia ("City") will move before the Municipal Court for the City of Columbia, located at 811 Washington Street, Columbia, SC, 29201, on the tenth (10^{th}) day after service hereof, or at such other time and place as is convenient to the Court and counsel, for a hearing to determine whether or not the Defendant should be held in contempt of court for violating an Order of this Court as set forth more specifically herein below.

The Honorable Judge Marion O. Hanna issued an Order imposing restrictions Defendant's access to the City of Columbia Municipal Court and employees of the City Attorney's Office on October 13, 2010 (attached and included as Exhibit "A"). The Defendant did contact employees of the Office of the City Attorney for the City of Columbia at total of four times by e-mail correspondence on January 11, 2014, and once again on February 18, 2014 (e-mails attached and included collectively as Exhibit "B"). A letter was written to this Defendant on February 7, 2014, withdrawing the City's prior motion for *a Rule to Show Cause* hearing based on the clarity of the recent Supreme Court Order of January 30, 2014 (attached and

included as Exhibit "C"). This correspondence also cautioned the Defendant on further violations of the Municipal Court Order, and requested compliance.

This Defendant not only acknowledges, in email correspondence, her awareness of the existing Order and limitations imposed, but also disregards its application to her. The Order, dated October 13, 2010, states in relevant part that the Defendant is "prohibited from confronting or accosting, whether by phone, email, or in person ... the attorneys and employees of the City Attorney's Office." (see Exhibit "A", page 5). The Order further states, "The Defendant, Faltas, is hereby directed to utilize the U.S. Mail when making necessary correspondence with the Office of the City Attorney, or she may coordinate with her standby counsel to have correspondence delivered by him." (see Exhibit "A", page 5, 6.)

The City moves that the Court to hold a hearing as to why the above-named Defendant should not be held in contempt of court for direct violation of a Court Order. This motion is based on the October 13, 2010 Order imposing restrictions on the Defendant (see Exhibit "A"), and e-mail correspondence from the Defendant (see Exhibit "B") to numerous employees of the Office of the City Attorney, in violation of the referenced Municipal Court Order.

David A. Fernandez
Office of the City Attorney
Post Office Box 667
Columbia, South Carolina 29202
(803) 737-4242

Attorney for the City of Columbia

February 19, 2014
Columbia, South Carolina

EXHIBIT B
(Faltas e-mails)

Fernandez, David A

From: Marie Faltas <marie_faltas@hotmail.com>
Sent: Tuesday, February 18, 2014 2:22 PM
To: Marie Assa'ad-Faltas; Orin Gail Briggs; Fernandez, David A; Attorney Theodore N. Lupton; Attorney Tristan Michael Shaffer; Tristan Shaffer; Ted Lupton; Theodore Lupton; hryan@sccid.sc.gov
Subject: Response to Columbia Assistant City Attorney ("CACA") Fernandez' invitation for me to write to him.

On 17 February 2014, I had to go to Columbia's Municipal Court ("CMC") because, despite CMC Chief Administrator Dana Turner's promise to me on Monday, 10 February 2014, that she will write to me that the purported 17 February 2014 Rule to Show Cause hearing is cancelled based on CACA Fernandez' withdrawal of his motion, **I had received nothing in writing from anyone after the copy of CACA Fernandez' letter withdrawing his motion. For the record, I do not consider Marion Oneida Hanna's 13 October 2010 writing "a valid court order." It is a purported, transparently invalid civil injunction from a court that has no civil jurisdiction.**

I write now to ask CACA Fernandez to do what he should have done without being told: voluntarily move to vacate my purported assault conviction because it is now clear that it was infected with falsehood.

Specifically, CMC Judge Solomon, Mr. Lupton, and I were told that Charlene Crouch's 22 April 2012 drunkenness arrest was "still pending" on my 25 April 2013 trial.

Chief Turner has now supplied formal proof that Crouch was found GUILTY on 18 May 2012.

Thanks and God bless./Marie

The Supreme Court of South Carolina

City of Columbia, South Carolina, Respondent,

v.

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

Appellate Case No. 2015-000941
Lower Court Case No. 2013-CP-40-03522

ORDER

Appellant has filed a notice of appeal from an order of the circuit court affirming her municipal court conviction for simple assault. Appellant has also filed a motion to appoint counsel.

The motion to appoint counsel is held in abeyance. Appellant shall, within thirty (30) days of the date of this order, complete an affidavit of indigency and submit it to the Commission on Indigent Defense, Division of Appellate Defense (Appellate Defense) for a determination of indigency. If Appellate Defense determines appellant is not indigent, appellant shall have ten (10) days from the date of that determination to obtain counsel to represent her in this matter. If Appellate Defense determines appellant is indigent, Appellate Defense shall represent appellant in this matter.

C.J.

FOR THE COURT
Pleicones, J., and Beatty, J., not participating

Columbia, South Carolina
June 17, 2015

cc:
Marie Assa'ad Faltas
David A. Fernandez, Esquire
Robert M. Dudek, Esquire

CITY OF COLUMBIA
SOUTH CAROLINA
MUNICIPAL COURT / P.O. BOX 644 / COLUMBIA, S.C. 29202 / 803 / 545-3150 FAX 803 / 733-8433

May 1, 2018

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

Re: Requests to City of Columbia Municipal Court dated April 5, 2018

Dear Ms. Faltas:

In response to the Request to Columbia Municipal Court dated April 5, 2018, please be advised as follows:

The City of Columbia Municipal Court is under no legal obligation to produce a copy of the audio recording of a hearing before Judge Susan Porter and therefore, chooses not to do so.

If any orders from a hearing on March 2, 2018 before Judge Susan Porter were reduced to writing, copies were provided to the lawyers involved in the matter. You may obtain a copy of the order, if any exists, from Christopher S. Truluck, your standby counsel.

The City of Columbia Municipal Court is under no obligation to provide you with copies, if they exist, of "every order Attorney Carl L. Solomon, then sitting as a CMC judge, ordered entered into the record as signed or marked "not signed" in the morning of 24 April 2013". All pending cases before this court are resolved.

With respect to the "two bankers boxes" of evidence, this court has advised you in the past that the bankers boxes, if they exist, are not within the dominion and control of the Municipal Court and therefore, the Municipal Court cannot and will not provide you with access to them.

Sincerely,

Dana D. Turner

Dana D. Turner
Chief Administrative Judge

cc: Jessica Mangum, Assistant City Attorney
Christopher S. Truluck, Defense Standby Counsel

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

Search By...Court Type All Courts **Court Agency** All Agencies

Case # **Case Type** All Case Types **Case SubType** All Case Sub-Types

Last Name/Business steele **First** dinah **Middle** **Suffix** **Party Type** All

Action Type All Actions **CDR Code** **Indictment #**

Date Type **Beginning** **Ending**

Tax Map# From **Through**

Only for Civil Cases... Index Search (•) All ( ) Lis Pendens ( ) Judgments | **Cross Index Search** (•) All ( ) Judgment For ( ) Judgment Against

Search | Reset Search Fields | **Name Search Option** (•) Begins With ( ) Contains

Name	Party Type	Case Number	Filed Date	Case Status	Disposition Date	Type	Subtype	Judgment #	Court Agency
Steele, Dinah	Plaintiff	2006CV401063073	11/17/2006	Disposed	03/09/2007	Civil	Rule to Vacate PS	2006CV401063073	Lykesland Magistrate
Steele, Dinah	Defendant	2009CP4002219	03/25/2009	Dismissed	11/26/2012	Common Pleas	Person Inj/Other 399		Richland County Common Pleas
Steele, Dinah	Plaintiff	2009CP4008013	11/10/2009	Dismissed	11/01/2011	Common Pleas	Use AP Case Type 910		Richland County Common Pleas
Steele, Dinah	Defendant	2009CV401031440	08/21/2009	Dismissed	10/14/2009	Civil	Restraining Order	2009CV401031440	Columbia Magistrate
Steele, Dinah	Plaintiff	2009CV401060951	04/06/2009	Settled	05/12/2011	Civil	Rule to Vacate $40	2009CV401060951	Central Court
Steele, Dinah	Plaintiff	2009CV401060951	04/01/2009	Transferred	04/06/2009	Civil	Rule to Vacate $40	2009CV401060951	Lykesland Magistrate
Steele, Dinah	Plaintiff	2009CV401062978	10/15/2009	Disposed	06/16/2010	Civil	Claim & Delivery	2009CV401062978	Central Court
Steele, Dinah	Plaintiff	2009CV401062978	09/14/2009	Transferred	10/12/2009	Civil	Claim & Delivery	2009CV401062978	Lykesland Magistrate
Steele, Dinah	Plaintiff	2011CV401063968	12/12/2011	Disposed	02/09/2016	Civil	Rule to Vacate $40	2011CV401063968	Lykesland Magistrate
Steele, Dinah	Plaintiff	2013CV401062244	06/06/2013	Disposed	07/01/2013	Civil	Rule to Vacate $40	2013CV401062244	Lykesland Magistrate
Steele, Dinah	Plaintiff	2014CV4010602929	07/21/2014	Disposed	09/30/2014	Civil	Rule to Vacate $40	2014CV4010602929	Lykesland Magistrate
Steele, Dinah	Plaintiff	2014CV4010604159	10/13/2014	Disposed	11/28/2014	Civil	Rule to Vacate $40	2014CV4010604159	Lykesland Magistrate
Steele, Dinah	Plaintiff	2015CV4010603287	08/11/2015	Disposed	11/02/2015	Civil	Rule to Vacate PS	2015CV4010603287	Lykesland Magistrate
Steele, Dinah	Plaintiff	2016CV4010600005	01/04/2016	Vacated	01/25/2016	Civil	Rule to Vacate $40	2016CV4010600005	Lykesland Magistrate
Steele, Dinah	Plaintiff	2016CV4010603555	08/15/2016	Disposed	11/16/2016	Civil	Rule to Vacate $40	2016CV4010603555	Lykesland Magistrate
Steele, Dinah	Plaintiff	2017CV4010600363	05/15/2017	Disposed	06/09/2017	Civil	Rule to Vacate $40	2017CV4010600363	Lykesland Magistrate
Steele, Dinah	Plaintiff	2017CV4010600644	08/10/2017	Disposed	08/31/2017	Civil	Rule to Vacate $40	2017CV4010600644	Lykesland Magistrate
Steele, Dinah	Plaintiff	2018CV4010601387	10/02/2018	Vacated	11/19/2018	Civil	Rule to Vacate $40	2018CV4010601387	Lykesland Magistrate
Steele, Dinah	Plaintiff	2020CV4010600608	07/16/2020	Disposed	08/06/2020	Civil	Rule to Vacate $40	2020CV4010600608	Lykesland Magistrate
Steele, Dinah	Plaintiff	2022CV4010600670	09/06/2022	Settled	10/06/2022	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2022CV4010600747	09/19/2022	Disposed	10/21/2022	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2022CV4010600911	11/10/2022	Settled	12/13/2022	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2022CV4010600953	11/23/2022	Settled	12/13/2022	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2023CV4010600099	01/12/2023	Settled	02/15/2023	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2023CV4010600104	01/17/2023	Settled	02/10/2023	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2023CV4010600155	02/10/2023	Settled	03/08/2023	Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah	Plaintiff	2023CV4010600273	03/16/2023	Transmitted		Civil	Rule to Vacate $40		Lykesland Magistrate
Steele, Dinah G	Plaintiff	157709	09/24/1987	Judgment	09/24/1987	Judgment	Divorce	157709	Richland County Common Pleas
Steele, Dinah G	Plaintiff	2009CP4007098	10/02/2009	Dismissed	07/27/2010	Common Pleas	Use AP Case Type 910		Richland County Common Pleas
Steele, Dinah G	Defendant	29522AY	08/22/2001	Disposed	10/10/2001	Traffic			Central Court
Steele, Dinah G	Defendant	90793AB	01/15/1997	Disposed	01/24/1997	Traffic			Central Court
Steele, Dinah Gail	Plaintiff	2011CV401063119	10/03/2011	Vacated	10/26/2011	Civil	Rule to Vacate $40	2011CV401063119	Lykesland Magistrate

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Richland County
Fifth Judicial Circuit
Public Index



Switch View

Dinah Steele vs Derwin Hardin

Case Number:	2023CV4010600273	Court Agency:	Lykesland Magistrate	Filed Date:	03/16/2023
Case Type:	Civil	Case Sub Type:	Rule to Vacate $40	File Type:	
Status:	Writ of Ejectment	Assigned Judge:	Wofford-Kanwat (Magistrate), Barbara Jo		
Disposition:	Find for Plaintiff	Disposition Date:	05/05/2023	Disposition Judge:	Wofford-Kanwat (Magistrate), Barbara Jo
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Hardin, Derwin	300 Byron Road, Apt 1 Columbia SC 29209				Defendant		03/16/2023
Steele, Dinah	1403 Haigs Creek Drive Elgin SC 29045				Plaintiff		05/05/2023

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Steele, Dinah	RTV Defendant Evicted	Filing		05/01/2023-11:50	05/05/2023-11:50	
Steele, Dinah	Transmitted CV to Richland County Sheriff's Department	Filing		04/18/2023-00:00	05/05/2023-00:00	
Steele, Dinah	Filing/WRIT Affidavit	Filing		04/14/2023-11:30	05/05/2023-11:30	
Steele, Dinah	Writ of Ejectment with Document	Filing		04/14/2023-11:28	05/05/2023-11:28	
Steele, Dinah	Writ Document Printed	Filing		04/14/2023-00:00	05/05/2023-00:00	
Steele, Dinah	RTV $40.00	Action		04/05/2023-13:36	05/05/2023-13:36	
Steele, Dinah	Archived Proof of Service	Filing		03/24/2023-00:00	05/05/2023-00:00	
Steele, Dinah	Service/Proof of Service of RTV	Filing		03/21/2023-15:01	05/05/2023-15:01	
Steele, Dinah	Transmitted CV to Richland County Sheriff's Department	Filing		03/20/2023-10:53	05/05/2023-10:53	
Steele, Dinah	RTV Documents	Filing		03/17/2023-09:05	05/05/2023-09:05	
Steele, Dinah	Archived RTV	Filing		03/17/2023-00:00	05/05/2023-00:00	
Steele, Dinah	Filing/Lease, Notice	Filing		03/16/2023-09:05	05/05/2023-09:05	

Financials

Summary

Fine/Costs:	$50.00	Total Paid for fine/costs:	$50.00	Balance Due:	$0.00

Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Civil Filing Fee County 44%/100%	CVFFCN	$20.00		$20.00
Service Fee $10	SRVFEE	$10.00		$10.00
SCJD Filing Fee Other Summary $10	SCJDFF	$10.00		$10.00
Service Fee $10	SRVFEE	$10.00		$10.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
04/14/2023	98504	c40scunnin	CV	$10.00
03/16/2023	98417	c40ggovan	CV	$40.00

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

In The Court of Appeals (as Transferred from the Supreme Court of South Carolina)
APPEAL from RICHLAND COUNTY Court of COMMON PLEAS
D. Craig Brown, Circuit Court Judge, Case No. 2019-CP-40-01374,
Which is an Appeal from Richland County (Dentsville) Magistrate Phillip F. Newsom
As transferred to Richland Count Magistrates from the City of Columbia' Municipal Court (CMC) Summary Court No. L066971

City of Columbia, SC, Respondent,

v.

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

Certificate of Relevance and of COMPLETENESS

To the best of my ability, this Abbreviated Record on Appeal contains all relevant matter and no irrelevant or completely unnecessary matter, specially given the breadth of my arguments.

Sincerely submitted with the bound version on 9 November 2023 and resubmitted with the unbound version on 16 November 2023.

s/Marie Assa'ad-Faltas, ~~MD, MPH,~~ Defendant/Appellant *pro se*
P.O. Box 9115, Columbia, SC 29209 Phone: (803) 783-4536 Cell: (330) 232-4164
e-mail: Marie_Faltas@hotmail.com **and** MarieAssaadFaltas@GMail.com

Certificate of Service Satisfying the *Substance* of Form 7 and of all Relevant Rules, SCACR

On 16 November 2023, I served Ms. Jocelyn Y. Baker, sole Counsel for sole Respondent in this case, with a true copy of this certificate of relevance and completeness and of the entire unbound revised and repaginated record on appeal by personally going to the City of Columbia's Legal Department's office location on Washington and Main Streets, Columbia, SC 29201, and there and then hand-delivering a true copy of each of this page and the complete unbound record on appeal to a person long known to me to be approved and entrusted to deliver it to Ms. Baker, all God so willing.

s/Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant, here server *pro se*
P.O. Box 9115, Columbia, SC 29209 Phone: (803) 783-4536 Cell: (330) 232-4164
e-mail: Marie_Faltas@hotmail.com **and** MarieAssaadFaltas@GMail.com

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