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Apr 30 2024

SC Court of Appeals

No. 2024-000559

STATE OF SOUTH CAROLINA ("SC") BEFORE THE SOUTH CAROLINA COURT OF APPEALS
APPEAL from RICHLAND COUNTY CIRCUIT COURT of COMMON PLEAS No. 2018-CP-40-00963
Eugene C. Griffith, Jr., Circuit Judge ("SC-CJ-ECC, Jr.")
on Appeal from Richland County Central Magistrate Court, Daniel M. Coble, then-magistrate

Austin Woods Apartments, Respondent) Defendant-Appellant's TIMELY PETITIONS to: (1) Rehear/Reconsider
v.) the 15 April 2024 ORDER of Dismissing this Case, (2) do so en banc,
Marie Assa'ad-Faltas, MD, MPH, Appellant) (3) Reinstate this Appeal, and (4)(a) Summarily REVERSE the Circuit
Court OR (b) Hold Appeal in Abeyance Pending the Circuit Court's
Ruling on 22 March 2024 Motion to Reopen, all for Judicial Economy
and to Uphold the Promise of Equal Access to the Courts.

Marie Assa'ad-Faltas, MD, MPH, tenant-defendant-appellant pro se ("Dr. Assa'ad-Faltas"), within fifteen days of this Court's Chief Judge's 15 April 2024 order erroneously dismissing this appeal, timely petitions this Court en banc to rehear said ORDER and reinstate this appeal as the single-judge dismissal is based on a wrong assumption that SC's Supreme Court's ("SC S Ct") 10 June 2022 sentence of Dr. Assa'ad-Faltas is permanent. Such reading shockingly violates United States and South Carolina Constitutions and is inconsistent with: (1) SC S Ct's 10 June 2022 ORDER itself and (2) SC S Ct's subsequent orders (a) in Dr. Assa'ad-Faltas' cases and (b) generally.

This Court's Chief Judge overlooked that the 10 June 2022 sentencing of Dr. Assa'ad-Faltas was limited to six months as it was based on trial for contempt without a jury. Dr. Assa'ad-Faltas had argued, and continues to argue, that all criminal contempt trial in South Carolina must be to a jury. SC S Ct itself conceded repeatedly that its power to sentence for criminal contempt without a jury trial is limited to six months or less. Dr. Assa'ad-Faltas has since completely served both the active part and the suspended part of her sentence. Further, SC S Ct itself accepted pro se papers from Dr. Assa'ad-Faltas pro se after the expiration of her sentence and even directed its clerk to "continue to assist" Dr. Assa'ad-Faltas in filing papers. (Ex. 1)

Further, that 10 June 2022 long-expired sentence is currently under collateral pro se attack in SC Appellate Case 2023-000383 (Ex. 2). Also, should this Court doubt that the 10 June 2022 sentence on which the 15 April 2024 dismissal order is base is limited to six months from July 2022 at the latest, this Court is asked to certify the question to SC S Ct to interpret its own sentence. Finally, rehearing en banc is necessary for every member of this Court to examine his/her conscience, recall his/her judicial oath of office, and decide for him/herself to go on a career of courage.

SIGNATURE and Certificate of Service Satisfying the Substance of Form 7 and of all Relevant Rules, SCACR

These Petition for Rehearing and related Motions are sincerely submitted on 30 April 2024 by email according to SC S Ct's 24 April 2024 (Ex.3), recognizing that the recent supersedes the older and that said Ex. 3 does not exclude Dr. Assa'ad-Faltas from the right to file by email and served the same day e-mail to Respondent Austin Woods (of rental office at 7648 Garners Ferry Road, Columbia, SC 29209) to Ms. Valencia Hutcherson of Austin Woods and to Attorney Laura Miller of Loeb sack Brownlee, all God so willing.

Signature of Marie-Thérèse Assa'ad-Faltas, MD, MPH, Defendant/Appellant and here-server pro se
P.O. Box 9115, Columbia, SC 29290 Phone: (803) 783-4536
e-mail: Marie_Faltas@hotmail.com Cell: (330) 232-4164

EXHIBIT**No. 1**

The Supreme Court of South Carolina

Marie Assa'ad Faltas, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2023-000616

ORDER

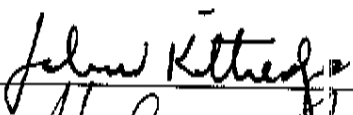
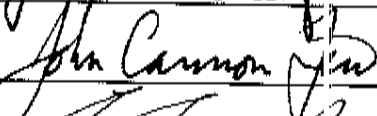
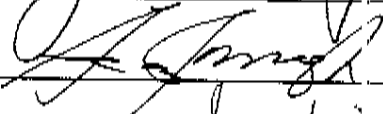
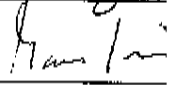
Petitioner has filed an emergency motion to relieve the Office of Appellate Defense as her counsel and a motion for a public evidentiary hearing on her motion to relieve counsel. Further, Petitioner "demands" an evidentiary hearing before Chief Justice Beatty and access to the Court's rear ramp and accessible parking spaces.

Petitioner is not permitted to proceed *pro se* in this post-conviction relief appeal. *See Assa'ad Faltas v. State*, S.C. Sup. Ct. Order dated Sept. 20, 2019. Therefore, should this Court grant Petitioner's motion and relieve the Office of Appellate Defense, Petitioner would be required to secure private counsel.

Within ten days of the date of this order, Petitioner must notify the Clerk of Court's Office of her decision to either proceed with her motion to relieve the Office of Appellate Defense and retain private counsel or withdraw her motion and remain represented by the Office of Appellate Defense. If Petitioner wishes to retain private counsel, her retained counsel shall advise the Court of his or her appearance on behalf of Petitioner within twenty days after Petitioner notifies the Court of her decision on the motion to relieve counsel.

Petitioner's demand for an evidentiary hearing is denied. Petitioner further seeks access to the Court's secure parking lot, which we deny. No litigant has access to the Court's secure parking lot. However, the Clerk of Court's Office has regularly assisted Petitioner in ensuring access for the purpose of filing documents. As with

all litigants, the Clerk of Court's Office will continue to assist Petitioner and provide access for the purpose of filing documents.

	_____	A.C.J.
	_____	J.
	_____	J.
	_____	J.

Beatty, C.J., not participating.

Columbia, South Carolina
August 24, 2023

cc:
Danielle Dixon, Esquire
Robert Michael Dudek, Esquire
Marie Assa'ad Faltas

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EXHIBIT
No. 2

FEB 22 2024

FEB 22 2024

S.C. BEFORE THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA ("SC")
ON APPLICATION FOR POST-CONVICTION RELIEF ("PCR")

No. 2023-000383

Criminal Case No. 2021-00815

Marie Assa'ad-Faltas, MD, MPH

Applicant/Petitioner for Reconsideration/Movant

v.

The State of South Carolina ("SC")

Respondent

Applicant's Timely Petition for Reconsideration of 7 February 2024 ORDER COMBINED WITH Related Motions

This Court overlooked its law barring same judge (or panel) who presided over/sentenced for criminal conviction(s) from hearing any PCR challenging same conviction(s)/sentence(s). *Floyd v. State*, 303 S.C. 298, 400 S.E.2d 145 (1991). This Court also overlooked the *entire* record of the criminal *quasi-trial* simply because this Court never took care to procure that record or examine it as conclusively proven by the attached letter from this Court's clerk which includes this case's supposedly complete record. That record (not displayed for public view despite protestation of transparency) does NOT include the record of SC 2021-000815, the underlying conviction.

This Court further overlooked the word "generally" in its own citation of *Al-Shabazz*, at 338 SC 364 (2000) (refiled):

Therefore, when asserting the erroneous admission of evidence, a violation of a constitutional right, or other errors in a proceeding, the applicant **generally** must frame the issue as one of ineffective assistance of counsel. *Drayton v. Evans*, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993) ³⁶⁴⁻³⁶⁴ (holding issues that could have been raised at trial or in direct appeal cannot be asserted in PCR application absent a claim of ineffective assistance of counsel); *Hyman v. State*, 278 S.C. 501, 299 S.E.2d 330 (1983) (same); *Richardson v. State*, 310 S.C. 360, 363, 426 S.E.2d 795, 797 (1993) (explaining that defendant who pleads guilty upon advice of counsel may only attack the voluntary and intelligent character of plea by showing that advice he received from counsel was not within range of competence demanded of attorneys in criminal cases). [larger font added on "generally"]

And that is *only* on issues which could have been raised on trial but were not. Had this Court cared to review the 22 February 2022 *Faretta* hearing and the 22 March 2022 *quasi-trial* transcripts, it would have seen that Dr. Assa'ad-Faltas *did* raise the constitutional issues pre-trial and in the *quasi-trial*.

On 22 February 2022, Justice Few so acknowledged at Tr. p 15: 12-18 and added a stunning admission:

There are constitutional issues that might be at stake. In fact, you have already raised constitutional issues and you've done it here today. And I just want to make sure you understand that there are many times when even the judges on this Court don't understand the constitutional issues[.]

And on 22 March 2022, Dr. Assa'ad-Faltas' constitutional and factual issues were so clear that then-Acting-SC-Chief Justice Kittredge admitted the Court "got it" and became "firmly convinced" of Applicant's position; *e.g.*,

[Page 62-19] MR. ZELENSKA: Objection, Your Honor. Relevance.

[20-21] DR. FALTAS: Your Honor, it's the heart of the matter.

[22-25] JUSTICE KITTREDGE: Well I think I finally understand why you believe the 2017 order is invalid. And I'm going to take this up with my colleagues on the Court at the next break.

[Page 63, line 1] DR. FALTAS: Thank you, and thank God.

[2-3] JUSTICE KITTREDGE: And I think we can answer it with finality.

[4] DR. FALTAS: Yes, sir. Because I -

[6-8] JUSTICE KITTREDGE: You think the Supreme Court doesn't have the authority under the Constitution and Rule 245 to address matters and correct matters in the trial courts, and also that occur at the appellate level?

[9] DR. FALTAS: Absolutely.

[10] JUSTICE KITTREDGE: Thank you, ma'am.

[11-18] DR. FALTAS: Because the Constitution says you sit as a Court for correction of errors. So you leave the circuit court alone to do so. And hundreds, hundreds of your rulings say this or that is left to the discretion of the trial judge, and you leave them alone until somebody comes to you in a case. And thank you for understanding. You thought I was just being frivolous, but, but -

[19-20] **JUSTICE KITTREDGE**: No, I'm not saying I agree with your argument.

[21] **DR. FALTAS**: I know.

[22-24] **JUSTICE KITTREDGE**: But I now understand the basis of your argument. I think we all do, and I might be the last one up here to have figured it out.

[25 to page 64 line 3] **DR. FALTAS**: I'm sorry. But I was saying because for some reason you have a prejudiced idea that everything I say is frivolous or going to be frivolous or trying to avoid true legal --

[4-5] **JUSTICE KITTREDGE**: We're going to -- if you have any other questions on that issue ask your question.

[6-7] **DR. FALTAS**: Absolutely, absolutely. And I thank you.

[8-10] **JUSTICE KITTREDGE**: Please proceed. You don't need to speak to me. You're examining a witness, please proceed.

[11-14] **DR. FALTAS**: Yes, sir. But you know exactly that this is not exactly a trial or is not proceeding like a trial because you all are interested. But I'll take everything I can get when it's so --

[15-17] **Q**: Which court, which trial court complained of the substance of anything that I had filed in a trial court?

[18-19] **JUSTICE KITTREDGE**: That's the same objection that was just made.

[20] **DR. FALTAS**: But you overruled it.

[21-22] **JUSTICE KITTREDGE**: No. We understand it. I overruled an earlier objection.

[23] **DR. FALTAS**: Okay, all right.

[24 to page 65, line 2] **JUSTICE KITTREDGE**: But the absence of a complaint from Justice James or Justice Lockery, you believe the lack of a complaint from the trial court did not allow the exercise of jurisdiction by this Court?

[3-4] **DR. FALTAS**: Anyone, the lack of complaint of anyone. There was no case or controversy before you.

[5] **JUSTICE KITTREDGE**: Thank you, ma'am. We've got it.

[6] **DR. FALTAS**: Thank you.

[7] **JUSTICE KITTREDGE**: Go ahead.

[Page 67:17-23] **Q**: Have you finished? Can I ask a new question which was really my original question? And let's get a clean answer please, and I'm trying to make the question as clean as possible. Is there a record from any lower court, be that the Court of Appeals of South Carolina or the circuit court or the summary courts complaining to this Court that I was filing frivolous documents?

[24-25] **A**: As I indicated earlier, I'm not aware of any such complaints being filed.

[Page 126:15-18] **JUSTICE KITTREDGE**: You've got one question that you can ask. I don't know what else to tell you. So if you want to ask one question you better think real hard, because it's the only question you're going to ask because we have another matter beginning at 2:00 o'clock.

[20-22] **DR. FALTAS**: All right. Do you understand that it is a matter of conscience for me that I believe that the order is invalid?

[23-24] **JUSTICE KITTREDGE**: We are completely convinced that you believe the order is invalid.

[25] **DR. FALTAS**: Okay.

[Page 127, lines 1-2] **JUSTICE KITTREDGE**: And that you have never filed frivolous litigation and you believe that.

[3] **DR. FALTAS**: Yes.

[4] **JUSTICE KITTREDGE**: Thank you, ma'am.

[5] **DR. FALTAS**: Thank you.

[6-8] **JUSTICE KITTREDGE**: Thank the State for its work today in preparation, we know a lot of hard work went into it.

[9] **MR. ZELENKA**: Thank you.

[10-14] **JUSTICE KITTREDGE**: We are very grateful to the State, and we're grateful to Dr. Faltas appearing and being here as well, to both sides. We'll do our very best to issue an order that's fair and in accordance with the law under the circumstances. Thank you.

[15] **DR. FALTAS**: Thank you.

[16-17] (Whereupon, the Hearing adjourned at 1:52 p.m. on the 22nd day of March, 2022)

Dr. Assa'ad-Faltas (compliment on her awareness of *inter alia* her Fifth Amendment rights which equals the Court's knowledge as stated by then-Acting-SC-Chief-Justice Kittredge) does not claim ineffective assistance of herself. The problem is that *this Court* refused to see the connection between Dr. Assa'ad-Faltas' 2 December 2009 false arrest based on perjured testimony **from 1 December 2009 arrest warrant to 22-26 February 2010 jury trial and**

beyond, for which perjury THIS COURT STILL REFUSES to hold anyone accountable. To the contrary, all manner of intimidation and threats and contempt trials have been **with this Court's indulgence, if not prodding,** deployed against Dr. Assa'ad-Faltas to deter her efforts to hold the perjurers and suborners accountable. That is evidenced in this excerpt of the 22 March 2022 quasi-trial transcript:

[Page 110:3-4] **JUSTICE KITTREDGE:** At this point, Mr. Zelenka, we're not going to hear any further witnesses from the State.

[9] **MR. ZELENKA:** Thank you.

[7-20] **JUSTICE KITTREDGE:** The Court has decided that you have put forth testimony allegations about discrete conduct which may constitute contempt under the 2017 order from Mr. Shearouse. We're not, of course, dismissing the other contempt particulars, but we see no reason to go forward to allow the additional. Because if there is contempt we would never in any circumstances go beyond six months and do a consecutive sentence. So we're going to hold those matters in abeyance after we issue a formal order in this case. So I apologize if that cuts off your presentation. But in talking to the members of the Court we see nothing practical to be gained at this point by going further with the contempt evidence.

[21] **MR. ZELENKA:** Understood.

[22 to page 111, line 14] **JUSTICE KITTREDGE:** [22] Thank you, sir. [23-24] Now if you want to testify, you have a right to testify to us.

You have a right to present evidence. [25 to page 111, line 14] **And you're aware of this as much as we are, Dr. Faltas, your right to remain silent. You referenced the Fifth Amendment several hours ago when we started when I asked you if you would admit or deny that you had made the phone calls or sent the emails. And you didn't respond, and you had absolute right to invoke the Fifth Amendment. And you have a right to stand on that at this time. You don't have to testify, you don't have to present evidence. Because the burden is on the State to prove the elements of contempt, willful violation of a court order beyond a reasonable doubt. So I want you to know something I think you're already familiar with, you have the right to testify and present evidence, or you have the right to decline to do so based on the Constitution. So the choice is yours, ma'am.**

[15 to page 112, line 1] **DR. FALTAS:** Well, sir, I was trying to work with the Court and with the Court's time and my time and my health in cutting it short. But if you want me to present my defense, that's a different story. How about -- and I'm not, I'm saying we can agree that if you want that to be resolved, fine. If you don't, then you can reconvene and let me put a case in defense. Because there is no point in this if a higher court might say that, no, the order was invalid, or no, you should have taken into account intent and necessity and the Rule of Lenity because the order was so ambiguous that the State itself --

[2-3] **JUSTICE KITTREDGE:** That's a valid point, and we hear you.

[4] **DR. FALTAS:** So, so --

[5-21] **JUSTICE KITTREDGE:** [5-8] But if you choose to present a defense, it will be limited very narrowly. We are not going to hear about the 2017 order. We have ruled with finality it is a valid and legal order. [9-18] The only evidence you'll be able to present on the issue of whether or not you are in contempt is whether or not you sent an email on October 22nd, 2020 to Mr. Shearouse; whether you sent an email to him on January 22nd, 2021; whether you sent an email to him on January 22nd, 2021 at a different time, there were two time periods on January 22nd; and an email that was sent on January 10th of 2022. He's testified to that. We've received exhibits. That will be the extent of any defense. [19-21] How if you acknowledge that you sent those emails and you want to present mitigation and invoke the Rule of Lenity, we'll be glad to hear from you.

[22 to page 114, line 1] **DR. FALTAS:** [22 to page 113, line 1] And what I'm saying is I do want to put all those defenses, but after, and not only from him but **I could have the right to call other witnesses and do compulsory process with them.** But I don't want to go this route if there is a possibility of conciliation. [2-8] And if, because really I was thinking that the Court was trying to make me miserable. You have convinced me that that's not your intent. I hope I've convinced you that I'm not this evil, crazy person who's going around violating orders just for the sake of it. And when people decide for resolution they don't like say, okay, we still want to fight it. [9-19] And what I'd like to do is to say two things. From December 2009 I was not allowed to file any new civil cases. I take issue that you call PCR civil. But I wasn't allowed to file any civil cases. Previously all four of the civil cases that I had filed pro se were resolved in my favor. So I do not understand unless, and I'm sorry, I mean unless the judges, the circuit judges, in fact, even the case that I had the pleasure of arguing or advocating before Judge Lockery was settled. So I do not understand. Some other cases I won straight out, others were settled. [20 to page 114, line 1] **So my question is do you have any other basis for thinking that cases I won were frivolous? Because if you do, please tell me, and I'll try to explain why they were not frivolous. The other matters that I had been involved in since 2009 were criminal proceedings that were brought against me. I mean I could have never arrested myself or brought criminal proceedings.**

[2-29] **JUSTICE KITTREDGE:** [2-6] I apologize for cutting you off, but we have an obligation to deal with only things that are relevant. At this stage the State has established a prima facie case that you violated the September 2017 order by your contacts with Mr. Shearouse. [7-13]

Whether you filed meritorious cases in the past or not, what happened in 2009 or didn't happen, has nothing to do with anything that's before our decision of whether or not you have any defense to your contacts with Mr. Shearouse vis-à-vis the 2017 order from this Court. If you do not have a defense we are obligated by law to find you in contempt of court. (14-15) Now if we make that decision then you can speak to us about mitigation or reasons why you think of what you think would be an appropriate remedy here. One of which we've gone back and forth with is you want to have some specific right and opportunity, maybe a day and time periodically, to access your records here at the Court. (22-23) That doesn't strike us as unreasonable at all. So that's a productive way going forward to remedy this. (22-25) But right now we've got to back up and see what your position is regarding whether or not you contacted Mr. Shearouse. Then we can discuss what is the appropriate way forward.

(Page 116, lines 1-4) **DR. FALTAS:** I thought you said that you will review the basis of the orders and whether I had previously filed frivolous things. Was that my wishful thinking?

(8-14) **JUSTICE KITTREDGE:** That was your wishful thinking. We're going to look at the evidence. But based on what's presented, and we've spoken at the last break, we want to give you a chance to present a defense. Perhaps you did not send the emails to Mr. Shearouse. I don't know. But you have a right to present a defense to that. But that's the parameters of the defense. **Not what happened in 2009. Not some glorious case that had merit that was filed. That is not germane, it's not relevant to the issue of contempt. And if you want to be heard --**

(15) **DR. FALTAS:** Did you say contempt or intent?

(16) **JUSTICE KITTREDGE:** Contempt.

(17) **DR. FALTAS:** Okay, I'm sorry.

Why? Why should this Court *never* examine "what happened or did not happen in 2009"? Ironically, this Court's 27 September 2017 ORDER, the claimed violation of which is the basis of the contempt conviction underlying this PCR, open with acknowledgment of *this Court's* duty to maintain the integrity of the state courts. **What integrity when the Clerk of Colleton County is found "not totally credible" but waived off as "foolish and fleeting"?** What integrity when a sitting juror receives "thousands of dollars" from unnamed sources to continue on Richard Alexander Murdaugh's ("RAM") "trial of the century" instead of returning to work and getting replaced by an alternate; yet RAM's defense is NOT allowed to question jurors about it in a jury-tampering hearing? **Dr. Assa'ad-Faltas submits that the scandals of RAM's trial are the result of this Court's indulgence of "what happened [to Dr. Assa'ad-Faltas] in 2009."** Prosecutors who got from this Court a clear signal that subornation of perjury against Dr. Assa'ad-Faltas will be ignored could not have resisted the urge to apply the signal to RAM's "trial of the century."

WHEREFORE, this Court's 7 February 2022 ORDER in this matter should be reconsidered and vacated; and the matter should be reassigned to a jurist or a substitute supreme court with no prior *direct or indirect* involvement in the underlying 10 June 2022 contempt conviction and sentence. A plenary hearing on this PCR application should then be heard after Dr. Assa'ad-Faltas had had discovery with the aid of the compulsory process she was unconstitutionally denied in the 22 March 2022 *quasi*-trial. Appeal from that jurist or substitute supreme court, if adverse to Dr. Assa'ad-Faltas, should be *to still another* substitute supreme court or to SC's Court of Appeals.

Certificate of Service and of Submission

Sincerely submitted on 22 February 2024 and served by hand-delivery of a copy thereof to SC's Attorney General's office at 1000 Assembly Street, Columbia, SC 29201, and by additional courtesy email to Mr. Zelenka and interested other, all God so willing.



[s/] Marie-Thérèse Assa'ad-Faltas, MD, MPH, PCR Applicant/Petitioner for Rehearing/Movant pro se
P.O. Box 9115, Columbia, SC 29290

Phone: (803) 783-4536

e-mail: Marie.Faltas@hotmail.com

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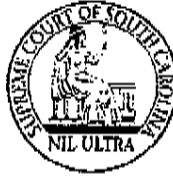
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S.C. SUPREME COURT

EXHIBIT
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S.C. SUPREME COURT



The Supreme Court of South Carolina

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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

January 23, 2024

Marie Assa'ad Faltas, MD. MPH
PO Box 9115
Columbia, SC 29290



Re: Marie-Therese Assa'd Faltas, MD, MPH (PCR Application) v. State of
South Carolina
Appellate Case No. 2023-000383

Dear Ms. Faltas:

This responds to your hand-delivered correspondence received on January 19, 2024. I have enclosed a listing of the filings in Appellate Case No. 2023-000383. Please be advised that the case remains pending, and you will be advised as soon as action has been taken by the Court.

Very truly yours,

Patricia A. Howard

CLERK

cc: Alan McCrory Wilson
Donald J. Zelenka

1/23/24, 9:12 AM

2023-000383: Public Event Sheet

Public Event Sheet

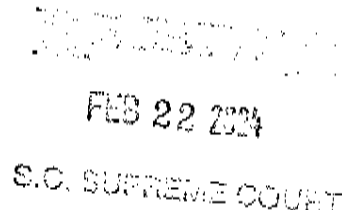
Case No. 2023-000383 - Marie-Therese Assa'd Faltas, MD, MPH (PCR Application) v. State of South Carolina

Case Information: 2023-000383

Court:	Supreme Court	Classification:	Orig. Jur. and Writs - Action - Commenced In Sup. Ct.
Short Title:	Marie-Therese Assa'd Faltas, MD, MPH (PCR Application) v. State of South Carolina	Case Status:	Awaiting Responses
Consolidated:			
Filed Date:	03/06/2023	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:			

Appellate Role	Party Name	Former	Attorney(s)
Petitioner	Marie Assa'd Faltas	N	Self Represented
Respondent	State of South Carolina	N	Alan McCrory Wilson Donald J. Zelenka

Filed Date	Event Information
01/19/2024	Correspondence - Incoming (Other)
06/13/2023	Correspondence - Outgoing with fee for copies
06/12/2023	Correspondence - Incoming request to see file and status of case
04/14/2023	Petition for Original Jurisdiction and Responses - Return
03/15/2023	Correspondence - Outgoing email sending out letter
03/15/2023	Correspondence - Outgoing advising any response due in 30 days
03/06/2023	Correspondence - Incoming from Ms. Faltas
03/06/2023	Motion - Proceed In Forma Pauperis or Waive Costs
03/06/2023	Petition for Original Jurisdiction and Responses - Application of Post Conviction Relief

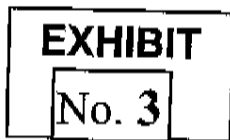


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The Supreme Court of South Carolina

Re: Methods of Electronic Filing and Service Under Rule
262 of the South Carolina Appellate Court Rules (As
Amended April 24, 2024)

Appellate Case No. 2020-000447

ORDER

- (a) **Purpose.** Pursuant to Rule 262(a)(3) and (c)(3) of the South Carolina Appellate Court Rules (SCACR), this Court may by order establish methods for the electronic filing and service of documents. For the purpose of this order, "Appellate Court" means the Supreme Court of South Carolina or the South Carolina Court of Appeals.
- (b) **Electronic Methods of Filing.** Filings with an appellate court may be made electronically using the methods listed below.
- (1) **Electronic Filing by Lawyers.** Lawyers who are licensed to practice law in South Carolina may utilize OneDrive for Business to electronically submit documents for filing with the Supreme Court and the Court of Appeals, and *lawyers are strongly encouraged to use this method of filing.* More information about this method, including registration and filing instructions, is available in the Attorney Information System (<https://ais.sccourts.org/AIS>) under the tab "Appellate Filings." A document filed by this method must be in Adobe Acrobat portable document format (.pdf).
- (2) **Filing by E-mail.** Filings may be made by e-mail. For the Supreme Court, the e-mail shall be sent to suptcfilings@sccourts.org; for the Court of Appeals, the e-mail shall be sent to ctappfilings@sccourts.org. This method may not be suitable for large documents, and if it becomes necessary to split a document into multiple parts, the e-mail shall identify the part being sent (i.e., Record on Appeal, Part 1 of 4). A document filed by this method must

be in Adobe Acrobat portable document format (.pdf). Filers shall not utilize any other file format or a file-sharing service when e-mailing documents for filing. The clerk of the appellate court may reject any document submitted by e-mail in a format other than .pdf or using a file-sharing service.

(3) Faxing Documents. A document may be filed by an electronically transmitted facsimile copy.¹ While this method is well suited for relatively small documents, depending primarily upon the limitations of the sending fax machine, it may not be possible to send large documents, such as a record on appeal, in a single transmission. If it becomes necessary to split a document into multiple parts to make the fax transmission, a separate cover sheet should be used on each part to identify the document (i.e., Brief of Appellant, Part 1 of 4). In the event the facsimile copy is not sufficiently legible, the clerk of the appellate court may require the party to provide a copy by mail.

(c) Filing Date and Payment of Fees for Documents Filed Electronically.

When filed using one of the methods specified in (b) above, a document transmitted and received by 11:59:59 p.m., Eastern Standard Time, shall be considered filed on that day. If a filing fee is required for the document, a check or money order for the fee must be mailed or delivered to the appellate court within five days of the filing; the case name and the Appellate Case Number, if known, should be listed on the check or money order.

(d) Electronic Service Using AIS E-mail Address.

(1) Service on Another Lawyer. A lawyer admitted to practice law in South Carolina may serve a document on another lawyer admitted to practice law in South Carolina using the lawyer's primary e-mail address listed in the Attorney Information System (AIS). Documents must be e-mailed as an attachment in .pdf. In the absence of consent, a lawyer serving a document by e-mail may not utilize another file format or a file-sharing service. For documents that are served by e-mail, a copy of the sent e-mail shall be enclosed with the proof of service, affidavit of service, or certificate of service for that document. Lawyers are reminded of their obligation under

¹ The fax number for the Supreme Court is 803-734-1499. The fax number of the Court of Appeals is 803-734-1839.

Rule 410(g), SCACR, to ensure that their AIS information is current and accurate at all times.²

(2) Service by an Appellate Court. An appellate court may send an order, opinion or other correspondence to a lawyer admitted to practice law in South Carolina using that lawyer's primary e-mail address in AIS. A self-represented litigant may request the appellate court serve the litigant by e-mail under this provision. Any request must be in writing and must include the e-mail address for service. It is the responsibility of the self-represented litigant to immediately inform the appellate court of any change in e-mail address.

(3) Service on Persons Admitted Pro Hac Vice. For attorneys admitted pro hac vice under Rule 404, SCACR, service on the associated South Carolina lawyer using an electronic method permitted by this order shall be construed as service on the pro hac vice attorney; if appropriate, it is the responsibility of the associated lawyer to provide a copy to the pro hac vice attorney.

(4) Service of the Notice of Appeal. In addition to other methods of service, a party may serve a notice of appeal in accordance with the provisions of any Electronic Filing Policies and Guidelines, or other similar rules established by Order of this Court, that permit the electronic filing and service of documents in a court specified in Rule 203, SCACR. *See* Rule 203(d)(1), SCACR (requiring the notice of appeal be filed with the clerk of the lower court). The party shall file a copy of a Notice of Electronic Filing (NEF), or other similar document, as proof of service of the notice of appeal.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ John Cannon Few J.

² The primary AIS e-mail address for lawyers admitted to practice in South Carolina may be obtained using the search function at <https://www.sccourts.org/attorneys/dspSearchAttorneys.cfm>. Lawyers may update their AIS information at <https://ais.sccourts.org/AIS>.

s/ George C. James, Jr. _____ J.

s/ D. Garrison Hill _____ J.

Columbia, South Carolina
April 24, 2024

RECEIVED

Apr 30 2024

SC Court of Appeals

▶ Fax

Date: 30 April 2024

From: Marie Assa'ad-Faltas, MD, MPH

Phone: (803) 783-4536

To: South Carolina Court of Appeals

Phone: (803) 734-1890

Fax: (803) 734-1839

No. of pages (including cover): 14

Comments: Timely petition for rehearing and rehearing en banc in #2024-000559 with 3 exhibits,

Austin Woods v. Marie Assa'ad-Faltas, MD MPH

- Urgent
- For Review
- Please Comment
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- Please Recycle