

BEFORE THE SOUTH CAROLINA COURT OF APPEALS

Appellate Case No. 2014-000006

City of Columbia

Plaintiff-Respondent

v.

Marie Assa'ad-Faltas, MD, MPH,

Defendant-Appellant

RICHLAND COUNTY CIRCUIT COURT, Alison Renee Lee, Circuit Judge

Case # 2013-CP-40-03522, a criminal appeal in which Dr. Assa'ad-Faltas is Now Permitted to Advocate pro se

**MOTION FOR AN EXPEDITED PROCESSING AND DECISION OF THIS APPEAL**

**Because: (1) Delay imposes undue hardship on Appellant; (2) The Facts are Clear from the Public Record; and (3) The Law is Unequivocal.**

Marie Assa'ad-Faltas, MD, MPH, *pro se*, timely appealed Judge Lee's 31 December 2013 ORDERS denying release of the appeal bond to Appellant, and, while correctly ordering two additional transcripts and copies of the exhibits below, incorrectly giving the date of the third additional transcript. South Carolina's Supreme Court accepted the appeal, assigned it a number, and transferred the case to this Court.

Dr. Assa'ad-Faltas tried to consult with opposing counsel, Columbia's Assistant City Attorney ("CACA") David A. Fernandez, but he responded by trying to incarcerate Dr. Assa'ad-Faltas for merely trying to consult with him. Dr. Assa'ad-Faltas reported CACA Fernandez's response to SC's Supreme Court.

The ORDERS appealed from finally dispose of Appellant's request for refund of bond and, thus, irrespective of the outcome of the appeal itself, are immediately appealable in that they are controlled by errors of law and clear errors of fact. Under the Eighth Amendment to the U.S. Constitution and parallel provisions of SC's Constitution, and *Stack v. Boyle*, 342 U.S. 1 (1951), bond conditions are immediately appealable.

*Sells v. United States*, 129 S.Ct. 1391 (2009), explained that harm to a criminal defendant forced to take medication to be able to stand trial is complete upon the compulsion regardless of the trial outcome.

Dr. Assa'ad-Faltas was, on 5 September 2009, falsely accused by her former landlady, Dinah Gail Steele ("Steele"), of "trespass" in the parking lot of Dr. Assa'ad-Faltas' own apartment where she had lived alone (a jury, thank God, acquitted Dr. Assa'ad-Faltas of that charge on 21 March 2013). On 11 September 2009, Steele made a call to 911 initially accusing Dr. Assa'ad-Faltas of "trespassing [...] again" but later aggrandized into "simple assault." On 2 December 2009, Steele had Dr. Assa'ad-Faltas falsely arrested on harassment charges of which she, thank God, fully and finally exonerated herself *pro se* on 13 August 2012.

On 8 July 2010, Steele again caused Dr. Assa'ad-Faltas to be falsely arrested on new false charges of trespass and "disorderly conduct" of which Dr. Assa'ad-Faltas was, thank God, acquitted on 24 April 2013.

Steele caused yet another property maintenance charge to be brought against Dr. Assa'ad-Faltas in October 2011. Dr. Assa'ad-Faltas had, from the beginning, asserted and demanded her speedy trial rights. But all charges (other than the false harassment charges and the false charge of "unlawful use of a telephone," of which Dr. Assa'ad-Faltas *pro se* was, thank God, acquitted on 6 October 2010) remained intentionally ignored by Columbia's Municipal Court ("CMC") until Dr. Assa'ad-Faltas caused that delay to be brought to the attention of SC's *current* Chief Justice Toal, who, on 7 March 2013, issued the attached ORDER.

In sum, Dr. Assa'ad-Faltas was acquitted of six of the eight *directly*-Steele-instigated charges and was also acquitted of another charge *proximately* resulting from the direct Steele charges. After extremely unfair trials, Dr. Assa'ad-Faltas was: (1) on 11 April 2013, jury-convicted of unspecified property maintenance violation; (2) on 25 April 2013, bench-convicted of "simple assault" of Steele on 11 September 2009; and (3) in the afternoon of 25 April 2013, sentenced to 30 days for the property maintenance conviction and 20 days for the assault conviction, both sentences to run consecutively **without any fine whatsoever**.

Dr. Assa'ad-Faltas timely appealed and paid a \$470.00 cash bond for the property maintenance conviction and a \$1,092.70 cash bond for the assault conviction. The sentencing CMC Judge Solomon was emphatic that no bond conditions whatsoever would be imposed on Dr. Assa'ad-Faltas. On 17 June 2013, CMC filed with Richland County Circuit Court ("RCCC") incomplete returns on both appeals. Dr. Assa'ad-Faltas promptly brought that to the attention of her then-court-imposed-appellate-counsel Tristan Shaffer and he e-mailed both CACA Fernandez and CMC Chief Turner as quoted below; but neither CACA Fernandez nor Chief Turner supplemented the return *to this day*:

RECEIVED  
JAN 21 2014  
SC Court of Appeals

From: [tristan.m.shaffer@gmail.com](mailto:tristan.m.shaffer@gmail.com) on behalf of Tristan Shaffer (shafferlawfirm@gmail.com)  
Sent: Fri 7/12/13 11:39 AM  
To: Turner, Dana (dturner@columbiasc.net)  
Cc: Fernandez, David A (dafernandez@columbiasc.net); Marie Faltas (marie\_faltas@hotmail.com)

Judge Turner,

Thank you for considering the request. Here are the dates:

March 12, 2013 (Morning)

April 10, 2013 (Afternoon)

April 24, 2013 (jury selection Morning and pretrial motion by Ted Lupton)

On Fri, Jul 12, 2013 at 6:56 AM, Turner, Dana <[dturner@columbiasc.net](mailto:dturner@columbiasc.net)> wrote:

Good morning: As you know, there have been a number of pre-trial hearings regarding cases involving Dr. Faltas. Please specify a date and we will give consideration to your request. Thanks,

**Dana D. Turner**

Chief Administrative Judge

City of Columbia Municipal Court

811 Washington Street

Columbia, SC 29201

(803) 545-3040

(803) 545-3193 fax

**From:** [tristan.m.shaffer@gmail.com](mailto:tristan.m.shaffer@gmail.com) [mailto:[tristan.m.shaffer@gmail.com](mailto:tristan.m.shaffer@gmail.com)] **On**

**Behalf Of** Tristan Shaffer

**Sent:** Thursday, July 11, 2013 6:48 PM

**To:** Turner, Dana; Fernandez, David A

**Cc:** Marie Faltas

**Subject:** Faltas Appeal

Judge Turner,

Sorry to bother you but according to Dr. Faltas the return is incomplete because it does not include the pretrial hearings before Judge Solomon.

Is there any way we could get those supplemented? Thanks

Tristan M. Shaffer

Attorney at Law

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Lexington, SC 29072

Phone: (803) 575-0384

Fax: (803) 403-9965

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RCCC compounded CMC's delay by failing to schedule Dr. Assa'ad-Faltas' appeals in due order while appeals younger than hers were scheduled and adjudicated in the 8 July 2013, 5 August 2013, 26 August 2013, 2 September 2013 (the Honorable Judge Lee sitting), 23 September 2013, 7, 14, and 31 October 2013, and 4 and 25 November 2013 "Common Pleas Non-Jury" weeks where appeals and motions are heard.

Judge Lee erroneously held that Dr. Assa'ad-Faltas is sentenced to fines. But the record clearly shows the sentences are for "jail time only." The order for transcripts is not *per se* appealable but may be reviewed in conjunction with an appealable order. As the latter order does not require the municipal court to provide a free copy of the additional transcripts to Dr. Assa'ad-Faltas, it violates *Mayer v. Chicago*, 404 US 189 (1971). That violation was exacerbated by Columbia's Municipal Court's ("CMC") previously attached letter of 27 December 2013 (not mailed until January 2014 and) setting exorbitant price for copies.

Further, §§ 14-25-95 and 105 provide *in toto* with emphasis added:

**SECTION 14-25-95.** Appeals to Court of Common Pleas; procedures and time limits.

Any party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of the county in which the trial is held. Notice of intention to appeal, setting forth the grounds for

appeal, must be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal is considered waived. The party appealing shall enter into a bond, payable to the municipality, to appear and defend the appeal at the next term of the Court of Common Pleas or shall pay the fine assessed.

**SECTION 14-25-105.** Municipal judge to make return to Court of Common Pleas in event of appeal; no appeal de novo.

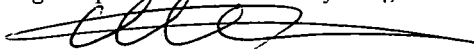
In the event of an appeal, the municipal judge shall make a return to the Court of Common Pleas, and the appeal must be heard by the presiding judge upon the return. The return of the municipal judge shall consist of a written report of the charges preferred, the testimony, the proceedings, and the sentence or judgment. When the testimony has been taken by a reporter as provided herein, the return shall include the reporter's transcript of the testimony. The return must be filed with the Clerk of the Court of Common Pleas of the county in which the trial was held and the cause must be placed on the motion calendar for the Court of Common Pleas. There shall be no trial de novo on any appeal from a municipal court.

And *Chessman v. Teets*, 354 U.S. 156 (1957), held it a violation of due process for a criminal defendant to not be provided a complete accurate transcript and to not be able to contest it or argue based on it.

If the Honorable Judge Lee's ORDERS foreclose Dr. Assa'ad-Faltas' supplemental briefs in light of the added transcripts and exhibits, it violates *Chessman*. The additional transcripts the Honorable Judge Lee ordered include the sentencing hearing which is already transcribed but omit the 8 April 2013 jury qualification event in which comments very derogatory to Dr. Assa'ad-Faltas were made by CMC's J. Steadly Bogan within the hearing of the venire panel form which the jury for the 11 April 2013 trial was drawn.

For these foregoing reasons, and because Dr. Assa'ad-Faltas completely fulfilled the conditions of her monetary bond by appearing and defending her appeals on 13 December 2013, and because Dr. Assa'ad-Faltas already suffered inordinate delays through no fault of hers in the trial and appeals of these cases and there is no date set for the returns to be complete, this Court is asked to order Dr. Assa'ad-Faltas' appeal bonds forthwith refunded to her with interest as she had fulfilled the purpose of the bonds by appearing and defending the appeals when called by the Circuit Court on 13 December 2013. In the unlikely event that, God forbid, Dr. Assa'ad-Faltas loses the appeals in RCCC and needs to appeal further, it will be up to RCCC to assess what new bond, if any, should be imposed on Dr. Assa'ad-Faltas.

Respectfully submitted and served by hand delivery to South Carolina's Attorney General's office, to the Clerk of Richland County, and to the City of Columbia's Legal Department on 21 January 2014, all God so willing.



Marie Assa'ad-Faltas, MD, MPH, Appellant pro se  
P.O. Box 9115, Columbia, SC 29290, Cell Phone: (330) 232 - 4164  
e-mail: Marie\_Faltas@hotmail.com

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\* This inadvertence by the Honorable Judge Lee could have been easily corrected were Dr. Assa'ad-Faltas not foreclosed from submitting any supplements.

# The Supreme Court of South Carolina

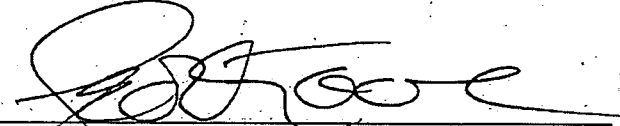
In the Matter of Dr. Marie Assa'ad-Faltas.

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## ORDER

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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.



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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