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SC Court of Appeals

BEFORE THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA

**Appellate Case No. 2014-002346**

APPEAL from RICHLAND COUNTY Court of Common Pleas

Alison Renée. Lee, Circuit Court Judge

**Circuit Court Case No. 2013-CP-40-03525**

City of Columbia, South Carolina,

Respondent,

v.

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

Appellant.

**APPELLANT'S Timely Petition for a Writ of Certiorari and Motion for the Appointment of Counsel to Represent Petitioner in this Case before This Court**

By SC-licensed attorney Orin G. Briggs, Appellant Marie-Thérèse Assa'ad-Faltas, MD, MPH, had on 16 January 2015 timely petitioned SC's Court of Appeals *en banc* to rehear and reverse its Chief Judge Few's January 9, 2015 ORDER dismissing this appeal and subsuming his previous orders herein. Attorney Orin G. Briggs repeatedly disavowed any intent to take any action contrary to Rule 1.16 (b)(1) of the SC Rules of Professional Conduct for Lawyers, Rule 407, SCACR, which provides in relevant part:

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client; Chief Judge Few erred in relieving Dr. Assa'ad-Faltas' volunteer counsel on appeal against the will of both client and counsel and in contravention of Rule 264, SCACR, which provides *in toto*: [with emphasis added]

**SUBSTITUTION OF ATTORNEYS OR GUARDIANS**

(a) **Continued Representation.** The attorneys and/or guardians *ad litem* of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties in the appellate court until withdrawal is approved and notice is given as provided in this Rule.

(b) **Withdrawal.** An attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, and with notice to the adverse party.

Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

It is extremely unfair that Attorney Briggs' fear lest his own health fails before he can vindicate his client in this appeal was turned into dismissing this appeal by forcing a withdrawal which could not have been and was not "accomplished without material adverse effects on the interests of the client." And in *Turner v. Rogers*, 564 U.S. \_\_\_ (2011), the U.S. Supreme Court clearly prohibited South Carolina's courts from ordering parties to take, under penalty of incarceration, actions beyond their financial means. Appellant has been found and certified indigent and cannot hire a new lawyer. But SC's Court of Appeals returned the timely, properly filed, attorney-signed petition for rehearing to Mr. Briggs without ruling on its merits or on the merits of the appeal itself. Therefore, this Court should hear this matter on *certiorari*.

Appellant therefore seeks a writ of *certiorari* and hereby moves this Court to appoint counsel for her in this criminal appeal.

Respectfully submitted on 26 January 2015 and served the same day by personal delivery of a copy thereof to the City Attorney for the City of Columbia, Attorney for Respondent, at her office located at 1401 Main Street, Columbia, South Carolina, 29201, all God so willing.

Marie-Thérèse Assa'ad-Faltas, MD, MPH

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