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BEFORE THE SUPREME COURT OF SOUTH CAROLINA

Appellate Case No. 2016-002541

State of South Carolina, and City of Columbia, SC

S.C. SUPREME COURT

v.

On Petition for a writ of *certiorari* to

Marie Assa'ad-Faltas, MD, MPH

The Court of Appeals of South Carolina

Petitioner's FURTHER Notice of ANOTHER Just-Released U.S. Supreme Court Decision which Supports Her Motions to Summarily Grant, Vacate and Remand to the Court of

Appeals

AND to Lift the Ban on Her pro se Advocacy in Pending and Future Cases.

Petitioner promptly brings to this Court's the just-released U.S. Supreme Court decision in *Nelson v. Colorado*, 581 U. S. ____ (2017), which has direct application to this case, which this Court is prayed to summarily GRANT *certiorari*, VACATE the Court of Appeals' dismissal of Petitioner's appeal from Richland County's Circuit Court of General Sessions' denial of her claim for defense expenses as the prevailing party and for reimbursement of her *pro se* defense expenses, and REMAND to the circuit court for further proceedings and detailed findings of fact in light of **both** *Nelson, supra* and *Manuel V. City Of Joliet, Illinois, Et Al.*, 580 U. S. ____ (2017).

The 7-1 *Nelson* decision (Justice Gorsuch not participating) also vindicates Petitioner's scholarly efforts to advance the law, having, on January 25, 2017, filed *in this case* a supplement quoting from the-then-just-held oral arguments of *Nelson* and arguing, at page 2 of said supplement:

Nelson seeks ministerial-act refund of court costs paid, upon initial conviction, by one later-exonerated. Dr. Assa'ad-Faltas seeks such device for trial-acquitted defendant's defense expenses. The constitutional status of the cash in question and the feasibility of a *quasi*-ministerial remedy to refund it are the same in both cases. A state is undoubtedly constitutionally required to pay *from its own coffers* to defend all criminally-charged indigents, whether ultimately acquitted or not. If SC makes *pro se* indigents front their own defense expenses but refuses to refund them, SC violates the Taking Clause which this Court applied in *Ex parte Brown*, 393 S.C. 214, 711 S.E.2d 899 (2011), and which Chief Justice Roberts invoked in the *Nelson* questions, *supra*. Irrespective of *Nelson's* eventual result, the importance of the question (which made this Court accept *amici's* first-time arguments in *Ex parte Brown, supra*, and made SCOTUS grant *certiorari* in *Nelson, supra*) counsels the reinstatement and grant of the instant novel-question-posing petition.

Not only does *Nelson's* result validate Dr. Assa'ad-Faltas' prior submission, **its *ratio decidis*, closely tracking her property-right argument above**, shows her most deserving of addressing this Court and all other courts of this State *pro se* due to her talents, education, and self-discipline.

Fees assessed by the trial court against a defendant, line other economic damage to an ultimately-exonerated criminal defendant, are subject to due process according to Justice Alito's concurrence:

III

Although long-established practice supports the Court's judgment, the Court rests its decision on different grounds. In its *Mathews* analysis, the Court reasons that the reversal of petitioners' convictions restored the presumption of their innocence and that "Colorado may not presume a person, adjudged guilty of no crime, nonetheless guilty *enough* for monetary exactions." *Ante*, at 7. The implication of this brief statement is that under *Mathews*, reversal restores the defendant to the *status quo ante*, see *ante*, at 3. But the Court does not confront the obvious implications of this reasoning.

For example, if the *status quo ante* must be restored, why shouldn't the defendant be compensated for all the adverse economic consequences of the wrongful conviction? After all, in most cases, the fines and payments that a convicted defendant must pay to the court are minor in comparison to the losses that result from conviction and imprisonment, such as attorney's fees, lost income, and damage to reputation. The Court cannot convincingly explain why *Mathews'* amorphous balancing test stops short of requiring a full return to the *status quo ante* when a conviction is reversed. But *Medina* does.

Notably, after ordering refund of fines and fees paid to the state, *Nelson* **orders the state to refund the ultimately-exonerated defendant restitution costs disbursed to private parties.** Petitioner's defense expenses include transcript costs to court reporters who are employees of SC's Judicial Department and fees to private investigators, *etc.* Nelson controls in holding the State responsible to refund what an ultimately-exonerated defendant would not have paid **absent** (a reversed conviction in *Nelson*) or a proven-false arrest in this case.

WHEREFORE, this Court should allow further briefing and oral arguments on the effect of *Manuel* and *Nelson*, or summarily GRANT, VACATE AND REMAND to the Circuit Court for findings in light of *Manuel* and *Nelson* and, in any event, restore Petitioner's right to advocate *pro se* in all courts of this State, a right she enjoyed before the arrests on the charges from which she, thank God, exonerated herself *pro se* after incurring the expenses claimed.

Respectfully submitted by fax and U.S. Mail on April 19, 2017.


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Certificate of Service

Orin G. Briggs hereby certifies that he has faxed and mailed this document to SC's Attorney General on April 19, 2017, as evidenced by the attached copy of the envelope.


Orin G. Briggs, Counsel for Petitioner

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