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S.C. SUPREME COURT

BEFORE THE SUPREME COURT OF SOUTH CAROLINA

Appellate Case No. 2016-002541

State of South Carolina, and City of Columbia, SC
v. Marie Assa'ad-Faltas, MD, MPH

On Petition for a writ of certiorari
To the Court of Appeals of South Carolina

Dr. Assa'ad-Faltas' Return to Orin Briggs' Motion to be Relieved as Counsel

Do not reprove a scoffer, or he will hate you, Reprove a wise man and he will love you. ***Proverbs 9:8***
Whoever loves discipline loves knowledge, But he who hates reproof is stupid. ***Proverbs 12:1***
I will judge you by your own words. ***Luke 19:22***

Briggs' rabid retaliation against Dr. Assa'ad-Faltas for having reproved Briggs': (1) unwise contacts with Larry Wayne Mason; (2) "willy-nilly" breaches of attorney-client privileges; and (3) failure to keep pace with developments in the law; validated Proverbs' warning against reproving a scoffer.

"Natural experiments" teach that courts prefer a proverbial monkey with a law degree to the most talented *pro se* advocate. To the U.S. Court of Appeals (11th Cir.) Dr. Faltas once submitted a *pro se* brief and motion for *ifp* status. Denial came swiftly under false pretext of frivolity. *The same court found the same brief resubmitted in the same case* over Briggs' signature worthy of the sparingly-granted oral arguments. But Briggs refused to study for oral arguments and lost the case.

Briggs' motion condemns him. First, it is neither filed *in camera* nor served on SC's AG. Second, to frame Dr. Faltas of "frankly lying about [...] imagined" breaches of attorney-client privilege, Briggs **published *privileged* e-mails.** Third, to paint himself "professional," Briggs displays *more* attorney-client privileged e-mails where he scolds Dr. Faltas for her Bible-quoting draft; yet, Briggs claims criticizing Mason is "un-Christian." *Is ruthlessly attacking Dr. Faltas "Christian"?* Fourth, *is Mason a filer of "frivolous ethics complaint[s]" or some holy re-incarnation of Christ?* Fifth, *before* taking *this* case from Dr. Faltas on contingency, Briggs had answeredd Mason's *second* complaint. *Did that create a conflict of interest?* If so, Briggs should not have taken this case *ab initio;* if not, his motion to relieve counsel is specious. Sixth, *how could Dr. Faltas have possibly "forced" Briggs to seek rehearing in 2015-000941?* Seventh, client-attorney debates about pleadings are privileged. Eighth, *is Dr. Faltas' purported "constant disagreement with her counsel, believing that she knows more law than any attorney she has hired or been assigned" a product of Briggs' imagination or a client-to-attorney disclosure?* If the former, its inclusion is frivolous; if the latter, it is unethical. Ninth, Briggs' claim that what he wanted to file would have gotten "favorable consideration" borders on guaranteeing result and is belied by his record of losing *all* cases he handled for Dr. Faltas. Tenth, what Mason "falsely alleges" should have been resisted with principled defense of confidentiality of a lawyer's advice to his client, not with disclosure of "more than two dozen" purported attorney-client advice. Eleventh, *what "client's misconduct in court" did Briggs want to "quote"? How could it possibly be something Briggs alone observed if it occurred "in court"?* Twelfth, Briggs' disclosure of an on-going ethics investigation is itself unethical in addition to unnecessary.

Briggs' motion crudely mirrors this Court's own self-contradictory, discriminatory and tyrannical insults of Dr. Assa'ad-Faltas, starting with false claims that *she* (not those who *knowingly* brought false criminal charges against her) wasted judicial resources and ending with the scary command for the lower courts to obey this Court "right or wrong" even when this Court disobeyed the U.S. Supreme Court and when judicial ethics require a judge to report wrongdoing, including xenophobia, of another judge whether the xenophobe sits on a higher, coordinate, or lower court.

Assuming this Court conforms its acts to its goals, and since denial of Dr. Faltas' right to *pro se* advocacy achieved neither justice nor judicial economy, this Court's goal must have been maximization of her misery, parochial lawyers' employment on foreign money, or both. Only the misery maximization succeeded but at a price of this Court's loss of self-respect and of foreign talent.

Rather than show the self-contradictions in this Court's actions against Dr. Assa'ad-Faltas from July 2005 to August 2017, this return compares *objectively* the judicial resources *actually* spent on, and/or to enforce and excuse, the restrictions on Dr. Assa'ad-Faltas' right to *pro se* advocacy with the judicial resources that *would* have been spent had she been given the plenary *pro se* range.

This comparison starts with the *indisputable* premise that she could not possibly have brought false, *or any*, criminal charges against herself; and with the *objective* facts that she was *eventually* fully exonerated of all criminal charges against which she defended herself *pro se*. Therefore, any and all judicial resources spent on those criminal matters cannot be blamed on Dr. Assa'ad-Faltas but must be imputed to her false accusers.

After a November 2001 petition resolved in one day by a single justice, Dr. Assa'ad-Faltas' first application to this Court was a May 2005 motion to *defer* consideration of her *certiorari* petition so that she may present her after-discovered evidence to the trial court (Columbia's Municipal) and render *certiorari* moot. She thus meant *to conserve*, not waste, judicial resources. Instead, this Court expedited denial of *certiorari* but the trial court on 25 July vacated the wrongful conviction.

Columbia's City Attorney appealed to Richland County's Court of Common Pleas. Dr. Assa'ad-Faltas returned to this Court with a petition for a writ of mandamus to the lower court's clerk to "un-docket" the City's appeal under a theory that the grant of a new trial to a criminal defendant is not, or should not be, appealable by the prosecution. Had this Court granted that writ *then*, no more judicial resources would have been expended on that matter ***or on any prosecutor's appeal from grant to a criminal defendant of a new trial based on after-discovered evidence.***

Instead, Circuit Judge G. Thomas Cooper, Jr. reversed the grant of new trial. SC's Court of Appeals REVERSED Judge Cooper. City sought rehearing *en banc* (denied) and *certiorari* (also denied). Meanwhile, Arthur Franklin Smith was heard in SC's Court of Appeals and proceeded to this Court, which ultimately decided that grant of a new trial is unappealable by the Prosecution.

Dr. Faltas would have had this Court decide the appealability issue ***in one* July 2005 *proceeding*.** Rejection of her approach cost a circuit court appeal, two Court of Appeals appeals, and *certiorari* in her case and a Court of Appeals appeal; ***State v. Smith*, 642 S.E.2d 627 (SC Ct.App.2007)**; and *certiorari* to this Court; ***State v. Smith*, 383 S.C. 159, 679 S.E.2d 176 (2009)**; ***i.e*, six more appeals and four years of legal stagnation *to reach a result advocated in Dr. Faltas' July 2005 petition for a writ of mandamus.*** *The City of Columbia* also cost *the judicial system* **nine different proceedings** and Dr. Faltas seven years of her life in a failed attempt to convict her of a crime of which she is innocent.

The City of Columbia *again* arrested Dr. Assa'ad-Faltas on 2 December 2009 on two false counts of first-degree harassment **and *again* on 12 December 2009** on one false count of unlawful use of telephone, **of *all* of which she, thank God, ultimately fully exonerated herself *pro se*.** And again, an examination of Dr. Assa'ad-Faltas' approach versus the cost of rejecting it is instructive.

On 16 December 2009, Dr. Assa'ad-Faltas filed a complaint in this Court's original jurisdiction to hold the statutes under which she was arrested unconstitutional as written and as applied to her. This Court reacted by barring Dr. Assa'ad-Faltas from seeking *any extra-ordinary* writ *from this Court pro se* but left her other *pro se* rights alone. She used those rights to seek *habeas* in the Circuit Court *twice*, and thrice pre-trial to challenge the harassment/stalking statute, and also twice pre-trial to attempt to challenge constitutionality of prosecutorial control of the criminal docket.

She also defended herself *pro se* in a five-day jury-trial in General Sessions on 22-26 February 2010 and again in hearings in municipal court on 6 October 2010 and 13 August 2012 *resulting in her ultimate final exoneration of the charges under the statutes she continues to allege are unconstitutional.* This Court will undoubtedly hear those challenges from other

litigants sooner or later. That will cost this Court at least two separate proceedings in its original jurisdiction, or at least two separate proceedings on *certiorari* after two separate sets of appeals and petitions for rehearing *en banc* before SC's Court of Appeals. So, under Dr. Assa'ad-Faltas' approach, this Court would have taken one case in its original jurisdiction in December 2009, declared two statutes unconstitutional, and saved the system countless proceedings under them.

But under the above-all-else-make-Dr.-Assa'ad-Faltas-miserable approach, the system spent five pre-trial hearings and one five-day jury trial in General Sessions, two habeas cases in Common Pleas, thirty appearances in Columbia's Municipal Court, four stand-by counsel and over a thousand pages of transcripts at state expense **with no conviction of Dr. Assa'ad-Faltas on those charges *and no definitive answer on the constitutionality of the two statutes involved.***

The above-all-else-make-Dr.-Assa'ad-Faltas-miserable approach also cost the system four appointed counsel for trial, three of whom had conflicts of interest, two appointed counsel for appeal, and one appointed counsel for PCR, all to achieve, out of ten misdemeanor charges, one misdemeanor conviction which may yet, God willing, be vacated on state PCR or on federal habeas.

Had Dr. Assa'ad-Faltas' plenary rights to *pro se* advocacy remained unmolested, and had her legal talents and diligence been met with the fairness they deserve, she would have exonerated herself at minimal expense to the system and, in the process, advanced the law in many novel ways.

Self-contradiction peaked with all five then-SC-sitting Justices writing in *State v. Duncan* (trial court case No. 2007-GS-23-05016) on 7 April 2011 *in toto:*

> **While the Court appreciates Dr. Faltas' good faith attempt to opine on a legal matter** pending before the Court, she totally misapprehends the nature and purpose of an Amicus Curiae brief. The Motion for Reconsideration is respectfully denied.

But on 8 April 2011, same five branded Dr. Faltas so "frivolous and vexatious" that, not only must *she* be prevented from writing for herself, every lawyer's writing *on her behalf* must be pre-cleared with this Court, an obvious waste of judicial resources, an insult to all SC's trial courts' ability to separate the meritorious from the frivolous in the first instance, and an unconstitutional intrusion of an appellate court into the trial courts' jurisdiction. The pre-clearance provision was so extreme that it was quietly ignored until superseded by other orders which did not require pre-clearance.

But Dr. Faltas still wonders how she *magically* went *overnight* from "appreciate[d] good faith" to "frivolous and vexatious." She emphatically DENIES ever standing during, or in any way interrupting or disrupting, oral arguments before this Court. Such would have been video-or-audio-recorded and swiftly handled and documented by court security. And even this Court's own 3 February 2011 initial denial of her motion to file an *amicus* said NOTHING about her having supposedly "stood up."

At-all-cost-make-Dr.-Faltas-miserable peaked again on 21 June 2017. Opinion 27723's *faithlessness to* ***the factual record,*** and self-admitted "extreme" deviation from established law, all to discredit **an innocent** Coptic Orthodox Christian immigrant, will dishonor this Court for all posterity. The samples below of Opinion 27723's faults preview what any conscientious brain outside this Court's geographic and temporal control will eventually see and say. **Only animals do not care about their reputations after they leave power; and only fools think they can muzzle the world.**

Opinion 27723 **confuses:** [1] this Court's administrative and ceremonial functions with its adjudicative role; [2] rule-prescribed **suspension** *of a waiver* of filing fees and printing requirements with ***ex ante*** **impermissible** elimination of the Sixth and Fourteenth Amendments *rights* to *pro se* advocacy **and the basic human right, freedom, and dignity to speak for oneself;** [3] rights of civil plaintiffs with rights of criminal defendants; [4] a criminal defendant's ***testimony*** *in a case* with her ***advocacy*** in others, **all of which Dr. Faltas, thank God, ultimately WON *pro se;*** and [5] established power of **a trial court** to control *actual* conduct of all witnesses and advocates with a non-

existent right of appellate courts to *prophesize* that a party would have "bombarded" the trial court with "frivolous and irrelevant" arguments ***when neither the trial court nor this Court heard arguments or defenses Dr. Faltas would have made had she been allowed to plan and present her own defense from the start***. Established law teaches that constitutional structural error **precludes *all courts* from knowing what *would have been* absent the structural error.**

Opinion 27723's starkly unreal oppressive clichés are *introductorily* illustrated by few examples.

Opinion 27723's page 10's "the municipal court granted Dr. Faltas **free-reign** to present 'narrative' testimony" is false: Appellant had *exactly* five minutes **(R.p. 105, line 12)** and was cut off mid-sentence **(R.p. 108, lines 15-19). Opinion 27723** devotes pages 7-9 to Lupton's whining that his "personal life" was invaded by Appellant's *seeing* Lupton's Law Firm's ***world-wide*** website and offering to help improve it. *What is **more public** and **less personal** than a lawyer's www.[].com inviting the public to hire him?* Opinion 27723's note 8 mocks Dr. Faltad' anxiety at Lupton's **"inability to obtain nonexistent police 'dash cam' videos of [an] incident ...."** *How can this Court possibly know that **video of anything** never existed?* **Opinion 27723's** page 9 claims that Judge Barber's 7 March 2013 **"order simply commended Mr. Lupton for *his adept representation* of Appellant."** Judge Barber wrote he *did not know a more adept lawyer* **(R. p. 225).** Lupton did not try *any* case of Dr. Faltas' before Judge Barber and lost at trial, a result justifying Dr. Faltas' anxiety about Lupton's ineffectiveness **(R.p. 14, lines 14-24)**, intention to harm her **(R.p. 21, lines 10-17)**, and general harm by lawyers **(R.p. 16, lines 21-22). Opinion 27723's note 9** is a gratuitous pronouncement on a matter NOT presently before **Opinion 27723's** authors which ***likely* signals that the authors will side against Dr. Assa'ad-Faltas in any case challenging Lupton's effectiveness.** Lawyers who lost this case at trial and on appeal get this Court's "confidence" and "commendations" while Dr. Assa'ad-Faltas, who won all other cases she tried *pro se,* receives the Court's wrath!

I. This Court's *purported* extension of a SCOTUS order is *objectively unreasonable.*

The *entirety* of SCOTUS' 23 February 2015 ORDER in No 14-7472 (cited at Opinion 27723, p 1) is:

> The motion for leave to proceed in forma pauperis is denied, and the petition for a writ of certiorari is dismissed. **See Rule 39.8.** As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions **in non-criminal matters** from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See Martin v. District of Columbia Court of Appeals, 506 U. S. 1 (1992) (per curiam).

First, SCOTUS' decision cites, ***and is limited by,*** a published, Congress-approved, and often-previously-applied rule; but this Court has no similar rule and never previously took the "extreme" actions directed against Dr. Assa'ad-Faltas. **Second**, SCOTUS' Rule 39.8 does NOT eliminate anyone's right to file anything with or without a lawyer. Rather, the general rule is for all parties to pay the applicable filing fees and to conform to SCOTUS' peculiar and onerous printing requirements. Indigents may seek waiver of those requirements. SCOTUS Rule 39.8 merely denies a waiver of a general rule; it does not single a party out for requirements not imposed on other parties. **Third**, SCOTUS Rule 39.8, and SCOTUS' denial of waiver to Dr. Assa'ad-Faltas, **are expressly limited to non-criminal matters.**

The U.S. Constitution recognizes every criminal defendant's right to a full defense and plenary appeal opportunities. In fact, Dr. Assa'ad-Faltas thereafter filed TWO *pro se* petitions, Nos. 16-329 and 16-1061 before the U.S. Supreme Court. SCOTUS denial of *certiorari* does NOT reflect on the merits; *U.S. v. Carver,* 260 U.S. 482, 490 (1923), recently quoted in U.S. Chief Justice Roberts' 15 May 2017 statement in No. 16-833. Please also see, *e.g., United States v. Chisholm* (unpublished 2005):

> Pursuant to the plan adopted by the Fourth Circuit Judicial Council in implementation of the Criminal Justice Act of 1964, 18 U.S.C. § 3006A (1994), this court requires that each counsel inform his client, in writing, of his right to petition the Supreme Court for further review. **If requested by his client to do so, counsel should prepare a timely petition for writ of certiorari.** If [...] counsel believes that such

> a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client.

II. Opinion 27723's note 1 betrays its authors' reliance on total irrelevancies.

Had a prosecutor implied to a jury of that a tenant's loss of an appeal of an eviction brought *by a landlord* makes same tenant guilty of assaulting *a different landlord,* a fair court would have found prosecutorial misconduct. **Opinion 27723's** opening with citations to civil cases ***with no possible probative value of whether Dr. Faltas did or did not assault Dinah Steele on 11 September 2009*** is **"a partisan seeking combat's"** blow, not a neutral and self-disciplined adjudicator's sound logic. This Court's own actual irrelevancies aggravate Opinion 27723's prophesies that Dr. Assa'ad-Faltas *would have* "bombarded" the trial court with irrelevancies. **Who is bombarding whom?**

III. Opinion 27723's page 2's "unrelenting litigation and harassment" phrasing betrays its authors viewing Dr. Faltas as guilty *after having been proven innocent.*

The *only* two harassment counts (including one by Dinah Steele, the false accuser in *the* assault case) **ever** brought against Dr. Assa'ad-Faltas were dismissed **with prejudice on 13 August 2012. Opinion 27723's** condemnation of one already proven innocent is a deliberate use of incorrect legal standards.

On 11 September 2009, only two civil actions were pending between Faltas and Steele: an eviction brought by the latter and a civil suit brought by the former, a 1-1 tie in a "litigation match." **Opinion 27723's** branding the one action brought by Appellant as "unrelenting litigation," while ignoring the action brought by the false accuser **and mentioned in her call to police,** *proves justice blind* ***but only in one eye*** the eye under which all facts favorable to Dr. Assa'ad-Faltas were placed.

IV. Dr. Faltad's refusal to "go away" before delivering her letter is NOT an assault.

Respondent's brief and Opinion 27723's page 3 describe the *totality* of relevant events thus:

> Appellant repeatedly and forcefully shoved the papers into Landlord's chest and stated in a loud, hostile manner "You got it! You got it!" Landlord immediately called the police. Appellant was charged with simple assault by way of a courtesy summons.

That is NOT assault by any definition; and a fair court would have *sua sponte* reversed.

All concerned admit that Dr. Faltas neither offered to, nor did, *physically* injure Steele. Nor would a reasonable person fear *any* injury from an older lady with only a piece of paper in her hand. Even if fear were *initially* aroused by not knowing what writing is on the paper, **any reasonable person *would have been reassured* upon reading a letter which *only* sought to reschedule an inspection.** Lupton never challenged the reasonableness of Steele's claim that the momentary uncertainty about the writing on the paper caused same Steele to start therapy four months later but insisted that he did all that is necessary by pointing out the obvious: that January 2010 is four months after September 2009.

"Adept" Lupton took as gospel Steele's pretense that she *actually* saw "the doctor" and filled a four-year prescription. *Inquiry into medical effects is standard discovery in such cases; yet Lupton never objected to non-receipt of a discovery response* or to admission of testimony that was not disclosed in discovery. Lupton's only objection was to *his client's* objection.

Dr Faltas' forced appellate counsel did not even raise those painstakingly-preserved issues.

Opinion 27723 overlooks that **Steele, not her lawyer, had scheduled inspection by a letter from Steele, not her lawyer. Inspection would have been contact by Steele with Dr. Faltas *in the small confines of Dr. Faltas' then-apartment.*** Lupton, Appellate counsel, and **Opinion 27723**, all ignore the irreconcilable contradiction between Steele **"running as fast as I could"** to avoid contact with Dr. Faltas out in the open on 11 September 2009 *while insisting on entering her closed small apartment on 14 September 2009.* **Steele knocked on Dr. Faltas' door three days after the alleged assault but was not allowed in by Dr. Faltas. *(R.p. 107, lines 17-23).*** Who feared contact with whom? The logical explanation is that *Steele* planned to *physically* injure Dr. Faltas after cornering her in her apartment.

V. There is no basis in fact of in law to have *ever* denied Dr. Faltas' *Faretta* rights.

A. Dr. Faltas' contacts with this Court in its administrative capacity were necessary and proper.

Opinion 27723's page 4 recites administrative/ceremonial requests obtainable *only* from this Court:

> During the last six months, Appellant has requested that this Court grant her permission to sit for either the July 2017 or February 2018 bar examination without paying an application fee or obtaining a law school degree; she has asked to be appointed the Director of South Carolina Court Administration to implement an initiative applying scientific principles to the administration of justice; [...] and she has asked this Court to make a public show of support for Coptic Christians in Egypt in the wake of recent violent attacks targeting the religious group.

yet claims:

> these matters are typical of Appellant's frequent submissions which fall outside this Court's purview.

Wrong! The bar exam in SC is administered *solely* by this Court. A director of SC court administration is appointed *solely* by this Court. This Court also regularly performs ceremonies, such as putting up a Christmas tree in its hall, naming a room in honor of a public servant, receiving students and answering their questions monthly. Paris' mayor ordered the Eiffel Tower dimmed for the most recent Coptic martyrs. **This Court should have emulated the touching gesture by lowering the state flag over its building *as it has authority to do.* Opinion 27723's** authors should not *even have known* of Dr. Faltas' administrative contacts, much less penalized her for them by improperly ruling on her case.

B. Dr. Faltas' *pro se* advocacy as a civil plaintiff or defendant is totally irrelevant to *Faretta*.

Dr. Faltas could not have initiated any criminal case against herself. The volume of criminal-charge-related submissions prove *the system abused Faltas, not the reverse*. In criminal *trial* practice, defenses are not "frivolous" or serious, only successful or failed a determination made by a jury, not an appellate court. Whatever is said of Dr. Assa'ad-Faltas' *pro se* civil advocacy, her criminal trial *pro se* defenses were successful. That history is the only one relevant to the *Faretta* inquiry.

C. Opinion 27723's recitation of Dr. Assa'ad-Faltas' litigation conduct IS INCORRECT.

What **Opinion 27723 pages 4-5** quote **was *rescinded and cancelled* in June 2016**, as having been based on *ex parte* reports without notice or opportunity for Dr. Faltas to respond. Stories of "placards" and "offering opinion," like the story of the false accuser herein, get worse with every retelling.

VI. There is no basis for maintaining the gap in denial of Dr. Faltas' *Faretta* rights.

Opinion 277223 admits Dr. Assa'ad-Faltas' *Faretta* rights were restored **on 6 November 2013, after this Court acknowledged its prior orders violated *Faretta*.** Either the 8 April 2011 and October 2012 orders were correct because Dr. Faltas' prior conduct came under a *Faretta* exception or the 6 November 2013 order was correct in acknowledging the error of denying Dr. Faltas her *Faretta* right absent a *Faretta* exception. Newer supersedes older; and specific supersedes general. So, the November 2013 specific restoration of Dr. Faltas' right to self-representation in criminal cases puts fault to the prior general denial of her right to self-representation. **If it was correct to deny Dr. Faltas' *Faretta* right, that right should not have been restored. If it was it was error to have denied that right of hers *ab initio*, *the assault conviction* was in structural error.**

VII. Hybrid representation does NOT cure denial of self-representation.

"The right to speak for speak for oneself entails more than the opportunity to add one's voice to a cacophony of others." *McKaskle* v. *Wiggins*, 465 U.S. 168, 177 (1984), followed in *State v. Rivera*, 741 SE2d 694 (SC 2013). The little Dr. Faltas was allowed to say for herself at the assault trial was spent correcting errors or filling gaps left by Lupton, which would have been unnecessary had Dr. Faltas

been allowed to plan and present her own defense alone. Lupton's expected hostile body language, an extension of the hostility evident in the e-mail chain forwarded to this Court on 21 April 2013 in a plea to be rescued from Lupton, forced forfeiture of jury trial "under duress." A jury unaware of the forced representation situation, would have blamed Dr. Faltas for choosing Lupton, a lawyer so disdainful of his client. Such concerns are upheld in ***United States* v. *Gonzalez-Lopez,*** 548 U. S. 140 (2006):

> If and when counsel's ineffectiveness "pervades" a trial, it does so (to the extent we can detect it) through identifiable mistakes. We can assess how those mistakes affected the outcome. To determine the effect of wrongful denial of choice of counsel, however, we would not be looking for mistakes committed by the actual counsel, but for differences in the defense that would have been made by the rejected counsel—in matters ranging from questions asked on *voir dire* and cross-examination to such intangibles as argument style and relationship with the prosecutors. **We would have to speculate upon what matters the rejected counsel would have handled differently— *or indeed, would have handled the same but with the benefit of a more jury-pleasing courtroom style or a longstanding relationship of trust with the prosecutors.* And then we would have to speculate upon what effect those different choices or different intangibles might have had. The difficulties of conducting the two assessments of prejudice are not remotely comparable.**

Dr. Faltas' transcript-documented *successful pro se* defense against harassment charges – a defense complimented by the presiding judge, **is the *only* reliable predictor** of how she *would have* defended against the assault charge if completely *pro* se.

VIII. Appellate Case 2015-000941 was a proper case to challenge this Court's orders.

Dr. Faltas' notice of appeal in that case *to this Court* advocated by-passing the Court of Appeals *because* only this Court can overrule itself. **Contrary to Opinion 27723's page 18, it was *the* case to challenge this Court's *erroneous suspension*** of Dr. Faltas' *Faretta* rights from October 2012 to November 2013 ***because* the assault conviction is *the convictiona concrete complete injuryfrom that interim.***

All other criminal charges against Dr. Faltas were successfully defended *pro se* before October 2012, ended in acquittal *despite* forced counsel in March-April 2013, or PCR was granted on any resulting conviction. The assault appeal was **a** proper and necessary procedural avenue. **Even if, *arguendo*, the trial court had to follow this Court "right or wrong," *this Court does not have to follow itself when wrong.*** It was not an appeal from this Court to the municipal court, it was an appeal to this Court from its own interim suspension of *Faretta* and from the circuit court's choice of an incorrect standard.

To the extent **Opinion 27723** relied on Dr. Assa'ad-Faltas' advocacy in *civil* cases *before and after* the assault charge was made and tried, it was also proper to challenge this Court's erroneous views.

IX. This Court had no basis for claiming that an "altered" transcript was submitted.

Dr. Faltas declared under penalty of perjury that she accurately transcribed the audio provided to her. **Opinion 27723's** use of the word "altered" is both inaccurate, in that no other transcript was created, and irresponsible, in that it can be later manipulated to falsely claim that Dr. Faltas forged a transcript. The transcript Dr. Faltas prepared should have been accepted as authentic and dispositive of the issue-preservation question or an official transcript of that hearing should have been ordered as a supplement to the record of rehearing. The three orders then-Municipal-Judge Solomon made part of the record should also have been obtained and filed to comply with *Chessman* v. *Teets,* 350 U.S. 3 (1955).

X. Published Opinion 27723 made bad law which penalizes *truthful* testimony.

If witnesses are immune from damage suits for their testimony, *a fortiorori,* truthful testimony cannot be made a basis for denial of *Faretta* right to self-representation. A witness may be punished only by: (1) contempt if (s)he repeatedly disobeys a judge's orders to stop talking or to avoid certain areas and/or (2) a charge of perjury if (s)he demonstrably testifies falsely. But to deny a witness her constitutional right to self-representation in a criminal matter simply because her testimony was "rambling," combative,

boring or repetitive is unprecedented, unprincipled and unfair. The right to self-defense is not a prize for winning a witness-charm contest, it is a right which may be forfeited *after* some concrete act of abuse ***of the self-defense in the actual criminal case*** actually observed by the trial court, not because of some prophesy made by an appellate court. Moreover, Opinion 27723's authors have no idea how Dr. Assa'ad-Faltas' testimony **would have** flowed in a *pro se* setting to jurors she would have selected herself and addressed herself in opening and closing arguments and thereby made a rapport with them.

XI. The talented Dr. Assa'ad-Faltas is treated worse than Dillon Roof in South Carolina.

Dillon Roof had admitted killing the nine Charleston saints before his trial began; yet he was allowed to represent himself at trial, change his mind and reinstate counsel, then proceed to sentencing without counsel - hybrid representation at its fullest. Apparently, Dr. Assa'ad-Faltas' having won her own case *pro se,* **even if she occasionally boasts about having done so,** is a worse crime than Dillon Roof's.

Opinion 27723's note 9's conflict with Chief Justice Beatty' prior disapproval of Lupton (R.p. 14, lines 5-13) suggests Dr. Faltas is caught in a feud between this Court's Associate Justices and Chief Justice Beatty, who is unable to protect Dr. Faltas *precisely* due to awareness of Lupton's misconduct.

XII. The documented harm from a series of forced lawyers compels the restoration of Dr. Assa'ad-Faltas' plenary right to self-representation.

Prior to Briggs' displaying for the world attorney-client privileged communications between himself and Dr. Faltas, a David Henry Rogers of Raleigh, NC, had similarly breached Dr. Faltas' trust. Rogers later lost his law license and is now incarcerated for having shot someone with intent to kill. At least two SC lawyers, Randy Chastain and Charles Cushman, who had also disparaged and injured Dr. Faltas at different times, lost their law licenses and were convicted of crime(s). Dr. Faltas does NOT believe that divine retribution gets visited *on earth* on whoever injures her. She believes that this Court's indulgence, even encouragement, of those who disparage and injure Dr. Faltas emboldens the tort-feasors with a sense of impunity that allows them to commit progressively worse crimes. It all begins with the suspension of logic amply displayed in this Court's unfair branding of Dr. Faltas and in Opinion 27723.

Orin Briggs' blatantly illogical, self-superior, motion to be relieved as counsel is an alarm bell.

Dr. Faltas does not presume to tell this Court how to deal with members of its own bar who breach attorney-client confidentiality without justification *under this Court's own eyes.* **She only asks this Court to take a new *and conscientious, non-xenophobic* look at Dr. Faltas' talents, sincerity, and dignity and to allow her the basic human right to speak for herself, *specially in this case.***

For the above reasons, to change course from "All the Oppression We Choose" to "Pure Justice," and for this Court to prove itself wise and righteous enough to love those who reprove it to improve it, Dr. Faltas' plenary rights to *pro se* advocacy **in all matters** must be restored immediately *starting with this case.*

WHEREFORE, *certiorari* should be granted and Dr. Assa'ad-Faltas should be allowed to brief and orally argue this case *pro se.* This Court needs its legacy to include innovative remedies for wrongly-accused/wrongly-convicted criminal defendant as did, *e.g.,* North Carolina's Retired Chief Justice I. Beverly Lake in establishing that state's Actual Innocence Commission. *Vide Ghost of the Innocent Man* by Benjamin Rachlin. Dr. Assa'ad-Faltas' personal experience and scientific background would be of great assistance to this Court in such endeavor. This Court should be the better half of Proverbs 9:8.

Submitted on 12 September 2017 and served by personal delivery of a copy hereof to the office of SC's Attorney General and by e-mail on Orin Briggs, who unequivocally agreed to waive hard-copy service, all God so willing.

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