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JUL 13 2018

S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

July 12, 2018

The Honorable Daniel E. Shearouse
Clerk – South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

Re: Marie Assa'ad-Faltas, Respondent v. State of South Carolina, Petitioner
Case No. 2016-CP-40-1444

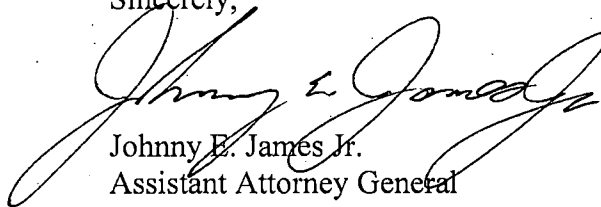
Dear Mr. Shearouse:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

1. A copy of the order which is to be challenged on appeal.
2. Proof of service of notice of appeal on the Respondent.

A copy of the State's request for the post-conviction relief hearing transcript has also been submitted for filing on today's date.

Sincerely,



Johnny E. James Jr.
Assistant Attorney General
SC Bar # 101260

JEJ/can
Enclosures

cc: Leah B. Moody, Esquire
Richland County Clerk of Court
Solicitor Daniel E. Johnson
Office of Appellate Defense
Victim Advocacy Division

STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

JUL 13 2018

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Jean H. Toal, Acting Circuit Court Judge

Case No. 2016-CP-40-01444

Marie Assa'ad-Faltas,Respondent,

v.

State of South Carolina,Petitioner.

NOTICE OF APPEAL

The State of South Carolina appeals the Honorable Jean H. Toal's order dated and filed June 14, 2018, granting post-conviction relief to the Respondent. The State filed a motion to reconsider, which was denied on June 29, 2018, and received by the State that same day. A copy of the orders on appeal is attached to this notice.

[signature page to follow]

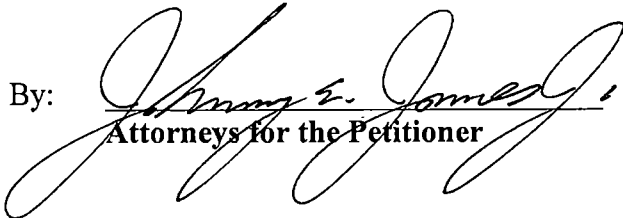
Respectfully submitted,

ALAN WILSON
Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General
S.C. Bar #101260

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

By:


Attorneys for the Petitioner

Columbia, South Carolina

July 12, 2018

Other counsel of record:

**Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
Post Office Box 1015
Rock Hill, South Carolina 29731**

STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

JUL 13 2018

APPEAL FROM RICHLAND COUNTY S.C. SUPREME COURT
Court of Common Pleas

The Honorable Jean H. Toal, Acting Circuit Court Judge

Case No. 2016-CP-40-01444

Marie Assa'ad-Faltas,Respondent,

v.

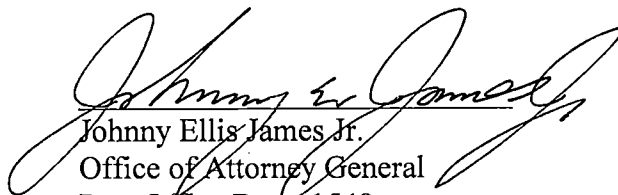
State of South Carolina,Petitioner.

PROOF OF SERVICE

I, Johnny Ellis James Jr., Counsel for the Petitioner, certify that I have today served the within notice of appeal upon the Respondent by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record:

Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
Post Office Box 1015
Rock Hill, South Carolina 29731

I further certify that all parties required by Rule to be served have been served this 12th day of July, 2018.


Johnny Ellis James Jr.
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
Attorney for the Petitioner

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Marie Assa'ad-Faltas,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)
)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

C/A No: 2016-CP-40-01444

Order Granting Post-Conviction Relief

2018 JUN 14 PM 3:45
 COURT CLERK

#1
 8/27

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 24, 2014. Applicant sought to overturn her conviction for the violation of a City of Columbia ordinance regulating the storage of rubbish, debris, and trash on Applicant's rental property. A hearing was convened at the Richland County Courthouse on December 7, 2016 and June 14, 2017. Applicant, Maria Assa'ad-Faltas, was present and represented by Leah B. Moody, Esquire. Respondent, State of South Carolina, was represented by Jessica E. Kinard, Esquire. Applicant's previous counsel, Orin Briggs and Theodore Lupton, were present and testified at the hearing. This Post-Conviction Relief hearing only addressed Applicant's charge of violation of the City of Columbia rubbish, trash, and debris ordinance.

At the outset, this Court takes note of the Supreme Court of South Carolina decision regarding Applicant issued on June 21, 2017. In *City of Columbia, Respondent, v. Marie-Therese Assa'ad-Faltas, Appellant*, 420 SC 28, 800 S.E.2d 782 (2017), the Court describes in detail Applicant's persistent abuse of the judicial system by way of excessive filings, abusive behavior, and disruptive actions. In that case, the Supreme Court was reviewing Dr. Faltas' conviction for simple assault arising out of her refusal to allow her landlord to inspect, with City of Columbia officials, her residential rental property. Dr. Faltas' ultimate conviction of the rubbish and trash


ordinance is the subject of the present matter. In this case, Applicant repeatedly attempted to contact the presiding judge with contentious and invasive communications, all in violation of numerous Supreme Court Orders detailed in the above cited opinion.

This Court conducted a post-conviction relief hearing on this matter and attempted to focus in on the only issue of merit: whether Applicant's counsel was deficient for not addressing the issue of whether the local ordinance was preempted by state law and state Department of Health and Environmental Control (DHEC) regulations. This Court finds Counsel was deficient for not raising this issue at trial. A Motion to Dismiss based on this issue could have changed the outcome of the case and the failure to make said motion prejudiced Applicant. All other issues raised by Applicant are patently without merit.

#2
This Court has grave reservations about whether or not a dispute in Municipal Court regarding the validity of a city rubbish ordinance is a matter for post-conviction relief. Nevertheless, this Court has proceeded on the assumption that the Application for Post-Conviction Relief was proper based on Orders from the Supreme Court of South Carolina assigning this matter to Circuit Court for post-conviction relief, and the failure of the State to present arguments on this ground challenging the propriety of the proceeding. The State did move to dismiss on other grounds, and its motions were denied

On the merits, this Court finds Applicant is entitled to a new trial on the issue of Applicant's conviction for violation of the city's ordinance regarding rubbish.

AND IT IS SO ORDERED.


Jean H. Toal
Chief Justice, Retired
Acting Circuit Court Judge

June 14, 2018

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2016CP4001444**

Marie Assaad Faltas		State Of South Carolina	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit);
 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm. vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

2018 JUN 14 PM 12:33
 CLERK OF COURT
 RICHLAND COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

6/14/2018

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

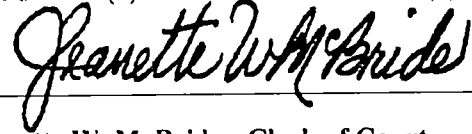
This judgment was entered on . and a copy mailed first class or placed in the appropriate attorney's box on **June 14, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

Marie Assaad Faltas
Leah B. Moody 235 E. Main St., Ste 115 PO Box 1015 Rock
Hill, SC 29730

Lindsey Ann McCallister PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Jeanette W. McBride - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Marie Assa'ad-Faltas,)
)
)
)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
)
Respondent.)
_____)

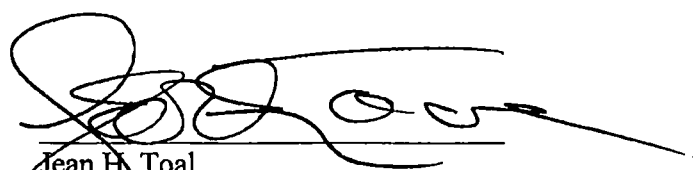
IN THE COURT OF COMMON PLEAS
C/A No. 2016-CP-40-001444

**ORDER DENYING RESPONDENT'S
MOTION TO ALTER OR AMEND
THE JUDGMENT**

2018 JUN 29 AM 11:57
JEAN H. TOAL
RICHLAND COUNTY

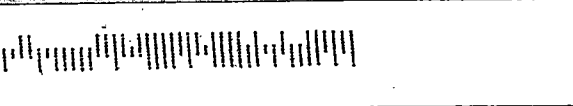
After careful consideration of the Respondent's Motion and the record in this case, this Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or facts not appropriately considered. Accordingly, this Court hereby DENIES Applicant's Motion pursuant to Rule 59(e) SCRPC to Alter or Amend Judgment of this Court's Order entered on or about June 14, 2018. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

AND IT IS SO ORDERED.



Jean H. Toal
Chief Justice, Retired
Acting Circuit Court Judge

June 29, 2018



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07/12/2018

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Lindsey A. McCallister, AAG
SC Attorney General's Office
Post Office Box 11549
Columbia, South Carolina 29211-1549

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Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211