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THE STATE OF SOUTH CAROLINA

In the Court of Appeals
Appellate Case No.: 2018-01751

APPEAL FROM RICHLAND COUNTY
Perry H. Gravely, Circuit Court Judge

Court of Common Pleas
Case No. 2018-CP-40-0963

Austin Woods Apartments,
v.

Respondent,

Marie Assa'ad-Faltas, MD, MPH,

Appellant.

RECEIVED
OCT 24 2018
SC Court of Appeals

APPELLANT'S PETITION FOR REHEARING/REHEARING *EN BANC* OF INDIVIDUAL JUDGE'S ORDER WHICH, AS TO THE MOTION TO APPOINT COUNSEL, MAY CAUSE DISMISSAL OF THE APPEAL SHOULD APPELLANT FAIL TO DO WHAT IS *TOTALLY* BEYOND HER CONTROL, WITH *SUGGESTION* THAT HER FILING FEES BE REFUNDED IF DENIAL OF *I.F.P.* STATUS IS REVERSED, OR, IN THE ALTERNATIVE, FOR AN EXTENSION OF TIME UNTIL THE SUPREME COURT OF SOUTH CAROLINA RULES ON *THIS* APPELLANT'S (RESPONDENT IN ANOTHER CASE) REQUEST FOR AT LEAST A PARTIAL LIFTING OF THE BAN ON HER *PRO SE* ADVOCACY BEFORE STATE APPELLATE COURTS, OR, AS ANOTHER ALTERNATIVE, MOTION TO REMAND IN LIGHT OF *REESE V. STATE*. AND, IN ALL EVENTS, MOTION TO SUSPEND THE TIMELINES OF THIS APPEAL PENDING RESOLUTION OF THIS PETITION FOR REHEARING. {Rules 221 (a), (c) and 240 (i-j), SCACR}

Within fifteen (15) days of an individual judge of this Court's 10 October 2018 ORDER, Appellant hereby *timely* seeks rehearing or rehearing *en banc* specially in light of today's ORDER by the Supreme Court of South Carolina in *Reese v. State* (SC Appellate Case 2017-001110). While said order issued in a PCR case, it leaves no doubt that its reasoning and expectations apply to all courts inferior to the Supreme Court of South Carolina. *Reese* has double relevance here.

First, the 10 October 2018 ORDER gives no reasoning for denial of *i.f.p.* status and denial of appointment of counsel and does not rule on any of Appellant's arguments for each relief sought. Second, Appellant's motion for appointment of counsel advised this Court of the circuit court's failures to: (1) secure a completer return from the magistrate and (2) rule on (a) Appellant's second supplement to her motion for reconsideration and (b) Appellant's Rule 60(a) motion for relief from judgment. According to the new *Reese, supra*, best practice, this Court should *sua sponte* remand to the circuit court to rule on the outstanding matters and thus avoid piecemeal review.

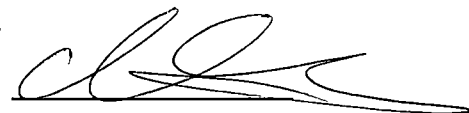
Additionally, although also in a PCR case wherein the appellant here is the respondent (19 October 2018 ORDER in SC Appellate case 2018-001290 is attached), South Carolina's Supreme Court appears **open to *the possibility*** of restoring at least some of Dr. Assa'ad-Faltas' rights to advocate *pro se*, with or without stand-by counsel, before South Carolina's two appellate courts. The 27 September 2017 ORDER, the sole basis of the 10 October 2018 ORDER hereby sought to be reconsidered, *might* be further modified. At best, Dr. Assa'ad-Faltas *might* be allowed to again advocate *pro se* before all South Carolina's appellate courts; the need for appointment or retention of a lawyer would thus be obviated. If assistance of stand-by counsel becomes a condition, Dr. Assa'ad-Faltas' *continuing* efforts to recruit volunteer counsel or retain one would be so focused.

Further, the circuit court granted Dr. Assa'ad-Faltas' motion to proceed *if.p.* as the defendant-appellant before that court in 2018-CP-40-00963; and SC's Supreme Court did not disturb her representation by Appellate Defense, to which only indigents are entitled, in SC Appellate case 2018-001290, *supra*. It is anomalous for this Court to deny a relief which a court inferior to this Court and two courts (the SC and US Supreme Courts) superior to this Court granted.

While Dr. Assa'ad-Faltas managed, under duress, to pay filing fees for the appeal and rehearing, the standard for granting motions to proceed *if.p.* is not absolute pennilessness but falling below certain guidelines, which Dr. Assa'ad-Faltas, through no lack of education, character or diligence on her part, does, for she is a present-day proof of ***Ecclesiastes 9:11*** "I saw something else under the sun: The race is not to the swift, nor the battle to the strong; neither is the bread to the wise, nor the wealth to the intelligent, nor the favor to the skillful; rather, time and chance happen to all."

WHEREFORE, rehearing should be granted, Appellant should receive *if.p.* status and be refunded all fees she paid under duress to avoid dismissal of her appeal, counsel should be appointed OR the decision on appointment of counsel *vel non* should await SC's Supreme Court further action in SC Appellate Case 2018-001290. In all events, this Court should *sua sponte* remand to the circuit court to rule on pending matters and/or stay the timelines of this appeal pending reconsideration and pending receipt of the complete return from the magistrate below.

Respectfully submitted on October 24, 2018



Marie-Thérèse Assa'ad-Faltas, MD, MPH, Defendant/Appellant *pro se* for purposes of this submission
P.O. Box 9115, Columbia, SC 29290 Phone: (803) 783-4536
e-mail: Marie_Faltas@hotmail.com Cell: (330) 232-4164

CERTIFICATE OF SERVICE OF THE PETITION FOR REHEARING

I certify that, on 24 October 2018, I served this Petition for Rehearing on Respondent, Austin Woods Apartment, by hand-delivering a copy of it to Austin Woods Apartments' Rental Office located at 7648 Garners Ferry Road, Columbia, SC 29209, and there and then handing it to a person of sound age and discretion and known to me to be an agent of Austin Woods Apartments, all God so willing.

October 24, 2018



Marie-Thérèse Assa'ad-Faltas, MD, MPH, Defendant/Appellant *pro se* for purposes of this submission
P.O. Box 9115, Columbia, SC 29290 Phone: (803) 783-4536
e-mail: Marie_Faltas@hotmail.com Cell: (330) 232-4164

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The Supreme Court of South Carolina

Marie Assa'ad-Faltas, Respondent,

v.

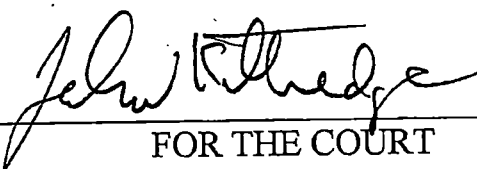
State of South Carolina, Petitioner.

Appellate Case No. 2018-001290

ORDER

Petitioner is currently represented by the Division of Appellate Defense. She has filed a motion to relieve Appellate Defense and allow her to proceed *pro se* either with standby counsel from outside Appellate Defense or without counsel.

We decline to rule on this motion until the State files the petition for a writ of certiorari and the appendix. The State shall proceed to serve and file the petition and appendix. Thereafter, this case shall be held in abeyance as provided by Rule 240(b) of the South Carolina Appellate Court Rules until this Court rules on the motion to relieve Appellate Defense.


A.C.J.
FOR THE COURT
Beatty, C.J., not participating

Columbia, South Carolina
October 19, 2018

cc: Johnny Ellis James, Jr., Esquire
Robert Michael Dudek, Esquire
Dr. Marie Assa'ad-Faltas

Marie Assa'ad-Faltas, MD, MPH
P.O. Box 9115, Columbia, SC 29290
Phone (803) 783-4536
24 October 2018

The Honorable Clerk, SC Court of Appeals
The Honorable Elizabeth Carter, Deputy Clerk
1220 Senate Street, Columbia, SC 29201

hand-delivered to Ms. Carter

Re: Grace period for filing fees

Your Honors:

I read the order increasing the filing fees as grand-fathering-in all appeals, and the motions therein, *filed* before 15 October 2018. I understand that you read it differently; but I am also informed and believe you have instituted a grace period through today whereby only the pre-hike motion fee of \$25.00 need be paid for my contemporaneously-file petition for rehearing in 2018-001751. Per your request for me to write a letter explaining my tender, please accept this as my explanation with my thanks for your cooperation.

Thanks again for everything and God bless.

Gratefully Yours,  Marie Assa'ad-Faltas, MD, MPH

c.c.: Austin Woods Apartments

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