

BEFORE THE SUPREME COURT OF SOUTH CAROLINA ("SC")

Appellate Case No. 2018-001290

On Petition for a Writ of *Certiorari* to RICHLAND COUNTY Court of Common Pleas,
Jean Hoefer Toal, sitting as Circuit Judge on Circuit Court Case No. 2016-CP-40-01444

Marie-Thérèse Assa'ad-Faltas, MD, MPH, Respondent,
v.
The State of South Carolina, Petitioner.

Timely SUPPLEMENT to Dr. Assa'ad-Faltas' Redrafted EMERGENCY Motions to
Relieve SC Appellate Defense ("SC App Def") and Appoint Outside Counsel for the Rehearing

Promptly after this Court's Clerk's 3 March 2020 letter, and without waiving any of Dr. Assa'ad-Faltas' prior positions and arguments in this and related cases, she shows that SC App Def has, not only failed to diligently pursue her valid (and likely winning) legal arguments, but also places SC App Def lawyers' personal vanities of over the fair and expeditious resolution of Dr. Assa'ad-Faltas' cases. To prove that without risking rejection of this supplement, she lists, with reference to the Amended Appendix the State filed in this case (Am App), all grounds to sustain her PCR grant which SC App Def refused to cite in its return to the State's petition for *certiorari* as a separate and severable Respondent's Appendix A. No lawyer beholden to this Court for continued licensure/state government payments would dare challenge the glaring unfairness inflicted on Dr. Faltas at the cost of subjecting this Court to the ridicule of outsiders as one which does not "know its own mind" as it issues in Dr. Faltas' cases, published or not, the opposite of its rulings in others.

So, only a lawyer retired from the bench, and preferably from another state, would have the independence and jealousy of the reputation of the courts to be "the grown up" against this Court's unseemly willingness to oppress Dr. Faltas and to approve of lower courts' oppression of her, as shown in severable Respondent's Appendix B. Retired U.S. Magistrate Judge Paul Trevor Sharp; Retired Chief U.S. District Judge Frank W. Bullock (both of whom are in North Carolina and have ruled sometimes for, sometimes against, Dr. Assa'ad's *pro se* advocacy); Retired U.S. District Judge Duffy; or Retired SC Chief Justice Pleicones, both active lawyers in good standing in this State, might be persuaded to assist here. This is a most unusual case because this Court, for no reason based in true facts, forced on Dr. Faltas, a series of six lawyers each of whom neglected what little the previous one did not. If, instead of letting Dr. Faltas represent herself on rehearing, this Court insists on a seventh lawyer, No. 7 must be one with enough self-respect to challenge the City of Columbia's absurdity, which this Court uncritically accepted in 2020-MO-4, that "clean" means "nothing but dirt" or "only soil remaining" even though "dirt" and "soil" are the opposite of "clean." *Vide infra*.

The six begin with Lupton, who overruled Dr. Assa'ad-Faltas' chosen defense, to which she is entitled per *McCoy v. Louisiana*, 584 U.S. __, 138 S.Ct. 1500 (2018), that all ordinances the City of Columbia threw at her are inapplicable to vacant land. Dr. Faltas supplemented her PCR application with proof that the City of Columbia itself does not maintain the vacant lots it owns. Am App pp 791-94. But instead of researching the limits of relevant ordinances and codes, Lupton sadistically insulted Dr. Faltas in e-mails as "a paranoid-delusional narcissist," "clearly guilty," and "one step away from needing a competency exam," and threatened to have her held in contempt of court if she called him to discuss her case or reasserted her right to keep, for legitimate purposes, innocuous items on the tiny vacant lot she co-owns with her mother. Am App pp 1056; 1058; 1029, line 20 to 1030, line 9; 1030, lines 17-19; 1032, line 8 to 1033, line 14; 1035, lines 20-24; 1037, lines 4-5 and 8-9; 1039, lines 4-7; 1041, lines 15-20; 1043, line 16 to 1044, line 2; 1044, lines 5-8 and lines 19-20. That forced her to take another lawyer, Briggs, who acknowledged that Dr. Faltas had nine "not frivolous" defenses but Briggs neglected them to obsess instead over the trial judge's dislike of Briggs.

The resulting conviction and sentence were collaterally challenged on jurisdictional, due process, equal protection, ineffectiveness of each of three forced lawyers Lupton, Briggs and Shaffer, and denial of appellate counsel before SC's Court of Appeals, grounds. Dr. Assa'ad-Faltas' fourth forced lawyer, Leah Moody, neglected most grounds because she mistakenly thought PCR limited to ineffective assistance of counsel and, at that, limited to what the lawyer omitted, not his gross active misbehavior at trial. When Dr. Assa'ad-

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Page 1 of 2 exclusive of attachments filed and to be filed and of incorporation by reference of all matter available for judicial notice

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Faltas still won PCR and the State sought *certiorari*, this Court forced on her a fifth and sixth lawyer, Robert Dudek and Jessica Saxon, who neglected even what Moody had preserved below because Dudek and Saxon could not adapt to their client *in this case* (unlike most of their others) having won, not lost, below.

Without even a whisper of astonishment, much less challenge, by "the forced six," who parroted Fernandez' "clean-up" pretext and thus signaled this Court to accept it and the conviction, on 25 April 2013, then-Columbia-Assistant-City-Attorney ("CACA"), now-Assistant SCAG ("SCAAG"), David Fernandez said:

Am App p 567, lines 16-24: "ultimately the city would love to be able to have her clean it up on her own without us having to go over there or without us having to file a civil action. And the only way to accomplish that is through court order. **What my recommendation would be is fifteen days in jail on the front end so let her get a taste of jail which she likely will not be happy about.** Then fifteen on the back end that could be suspended on her cleaning and maintaining clean property for a year - **clean being grass and soil.** I think if that's the carrot and the stick type thing that may, that may work although this will likely be tied up in appeals for some time. A civil action may be, may be necessary anyways but that's the only thing I could think of that might encourage her to clean it up."

Am App p 570, line 21 to 571, line 4: "Ultimately, the city's interest is having the place cleaned up **and by clean we mean only grass and soil remaining.** To, to the extent we think that that's able to be accomplished, the city would recommend fifteen days in jail on the front end. Once service of that is completed, a fifteen day sentence remaining on the back end, suspended on cleanup of the property and maintaining the cleanup for one year. If those terms are accomplished then the fifteen days on the back end would not need to be served."

Am App p 572, line 24 to 573, line 3: "The recommendation from the city will be fifteen days service in jail on the front end. The remaining fifteen days be suspended upon cleaning up the property, removing all objects **leaving only soil and grass** suspended on cleaning up the property for one year."

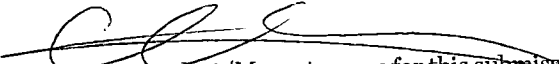
To which Faltas sincerely asked. **"I am very unclear what is that they don't want. He says nothing but grass and dirt. Does this mean that I have to also remove the sign that says private property, no trespass?"** That vacant lot also has at least one healthy useful tree the City presumably wants uprooted to accomplish its **feigned dream of cleanliness by leaving nothing but grass and dirt!** But the municipal judge, after having betrayed at Am App pp 468-9 his intent to sentence Dr. Faltas to jail **due to her perceived inability to pay a fine**, retaliated against her assertion of constitutional issues and rights by explaining, at Am App p 591, the sentence he chose:

I'm here about Dr. Faltas. **And all that I hear from Dr. Faltas is we don't have the authority to be here, it's unconstitutional,** the stuff is not what they say it is to be and if you are going to tell me to do something then I need even greater specificity on what that means. **Saying grass and dirt is not enough,** I need to know exactly what they want me to do. For the reasons of my concern about my ability to properly draft a suspended sentence that would be clear enough so that we wouldn't have misunderstandings and alleged ambiguities, the Court is not going to do a suspended sentence["] I am going to impose a sentence of thirty days. I am going to give the defendant the opportunity at the conclusion of what else takes place here to file a notice of appeal and I will immediately have a hearing on an appellate bond so that all that can be addressed before we leave today and assume bond posted Dr. Faltas does not have to start any of her sentence until the appeal is concluded. And if she's right on one or more of the issues that she's raised then that will take care of itself at that time.

Open fields NEED NOT be maintained by their owners because wherever no buildings or structures are in NATURE's way, Nature keeps itself "clean." Vermin do NOT thrive in open fields or vacant lots *because* their natural predators prey on them and are in turn controlled by their more powerful predators all the way up the *natural* food chain. SC municipalities are allowed to enforce **building codes** only. These codes regulate what may be stored in and around **buildings** because *the buildings* break *Nature's* cycle of control.

If a result so absurd and tyrannical as this Court calling a vacant lot "residential property," is allowed to stand, the quality of lawyering and of judging in this State may be irreparably damaged. So, if this Court will not let Dr. Assa'ad-Faltas represent herself on rehearing, a lawyer with the courage and intelligence to say what really needs to be said, or to at least preserve the issues for federal review, must be appointed.

Submitted on 13 March 2020 **and contemporaneously served** on SC's Attorney General and on Ms. Saxon by hand-delivery to their respective offices, all God so willing.


Marie-Thérèse Assa'ad-Faltas, MD, MPH, Respondent/Movant *pro se* for this submission
P.O. Box 9115, Columbia, SC 29290 Phone: (803) 783-4536 e-mail: Marie.Faltas@hotmail.com

RE: [External] Really, what's up Ms. Saxon?

Saxon, Jessica <jsaxon@sccid.sc.gov>

Wed 2020-01-08 9:47 AM

To: Marie Faltas <Marie_Faltas@hotmail.com>; Marie Assa'ad-Faltas <marieassaadfaltas@gmail.com>

Good Morning Dr. Faltas,

I apologize for not responding sooner – I ended up going home early yesterday as I did not feel well.

The case is being held in abeyance due to the motion you filed. I thought they had already ruled on it but was mistaken. Hopefully a ruling will come soon and the case can proceed.

I cannot ask the Attorney General's Office to drop the cases against you. That office has made a determination that, for whatever reason, the cases are worth pursuing and they will not heed any request from me. While there may be no bad outcome for you, such a request would damage my professional relationship with that office.

Have a good day.

Regards,

Jessica M. Saxon
Assistant Appellate Defender
SC Commission on Indigent Defense
1330 Lady Street, Suite 401
P.O. Box 11589
Columbia, SC 29201
Office: 803-734-1330

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S.C. SUPREME COURT

From: Marie Faltas <Marie_Faltas@hotmail.com>

Sent: Tuesday, January 7, 2020 12:55 PM

To: Marie Assa'ad-Faltas <marieassaadfaltas@gmail.com>; Saxon, Jessica <jsaxon@sccid.sc.gov>

Subject: [External] Really, what's up Ms. Saxon?

With my laptop computer screen flickering wildly, and my continuing to experience the light flashes indicative of at least vitreous hardening, I still have to type an e-mail to ask you what is the worst that can happen if you talk to Ed Salter, III and ask him to authorize Johnny to withdraw the State's cert petitions.

Do that for me on my Coptic Orthodox Christmas.

Thanks and God bless./Marie

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