

Oct 01 2021

Before THE SUPREME COURT OF SOUTH CAROLINA
On CERTIORARI TO THE COURT OF APPEALS

S.C. SUPREME COURT

Appellate Case No. 2020-000891

MICHAEL ELDERS, Respondent,
v.
STATE OF SOUTH CAROLINA, Petitioner.

PROPOSED *amicus*' MOTION to Appoint Counsel to Submit to this Court *amicus*' Very Relevant Medical, Biostatistical, and Real-life-experience Knowledge, without which Grave Injustice Risks being Done in this Case and in ALL Similar South Carolina Cases.

The insanity of this motion should not distract this Court or the parties from the building catastrophe of so-called "experts" in cases similar to this one *repeatedly* testifying that one in five girls and one in twenty boys will be sexually abused, synergized by statutory amendments making life confinement an available sentence for even digital penetration or mere touching.

In South Carolina, one of the United States of America which fought a 20-year war in Afghanistan to *inter alia* enable Afghani females to get educated *and speak/decide for themselves*, Marie Assa'ad-Faltas, MD, MPH, a quadrilingual physician, surgeon, and epidemiologist/biostatistician finds herself *forbidden* from speaking for herself and from sharing her knowledge with those who lack it but need it; *i.e.*, **finds herself without freedom of speech or of conscience.**

But if a doctor needs to have the "supreme" wisdom of South Carolina appoint a lawyer for her to tell that lawyer medical and biostatistical knowledge (s)he does not have for him/her to retell that knowledge to five other lawyers who became judges, *all instead of the doctor telling that knowledge directly to the five lawyers who became judges*, **and all because, in 21st Century USA, five lawyers who became judges decreed that an Egyptian female doctor may not directly speak for herself to any lawyer who became a judge, or to the non-lawyer employee of such judge, except through another lawyer who did not become a judge**, this motion is submitted because Dr. Assa'ad-Faltas' conscience compels her to leave no path untrodden to share the knowledge by which she was blessed with those who lack it but need it.

Dr. Assa'ad-Faltas first learned of Mr. Elders' case on 13 April 2013 after SC Attorney Tristan M. Shaffer e-mailed the transcript to, and asked, Dr. Assa'ad-Faltas to review it as a medical expert. (Exhibits 1-5) Dr. Assa'ad-Faltas was horrified at the sloppiness of the pre-trial investigation and her "blood ran figuratively cold" at the realization that the fabrication of child sex abuse cases has become an industry to the profit of all involved, including defense and PCR lawyers, **all except the innocent mostly-men who got 30-year, now-life, sentences.**

But Shaffer refused to use Dr. Assa'ad-Faltas' testimony because it was "too positive" and later concealed from Mr. Elders Judge Dickson's denial of PCR, *partly due* to absence of expert testimony from the PCR evidentiary hearing. (Exhibit 6). Dr. Assa'ad-Faltas continued to pray for, and follow public documents on, Mr. Elders. Also, in studying PCR law for her own cases, Dr. Assa'ad-Faltas came across, and read cover-to-cover the records of, tens of other PCR cases involving, almost solely, child sex abuse or murder associated with convenience store robbery. Dr. Assa'ad-Faltas came to scientific conclusions she needs to share with this Court *now*.

I. On Child Sex Abuse Cases

A. It may be “Normal to be Normal” but it is also “Stupid to be Stupid.”

1. All that glitters is not gold; and all that is moist is NOT “mucous membrane.”

Tens, if not hundreds, of innocent men are imprisoned in South Carolina (“SC”) for decades or life after their juries heard supposed experts testify that anal and/or vaginal penetration of even small-bodied virgin girls by grown men’s penises can leave no *physical* evidence because the mucous membrane, unlike the skin, heals without trace. The fallacy of that is that human skin varies histologically; and non-hairy, non-keratinized skin that is moistened by secretions from *separate* glands, not from goblet cells which only true “mucous membranes” have, are *colloquially* called “mucous membranes” when they are *histologically* skin and heal, like skin, *with scar tissue* if the cut reaches the dermis. The human lips, outer nostril, *labia minora*, and hymena are lined by skin, not mucous membranes. Because that skin is non-hairy and lightly keratinized, it does not conceal the underlying rich blood supply and looks red; but it is skin.²

2. Assumptions Affect Results

For example, if in the pre-DNA era, a study were conducted to determine if a certain disease were genetically transmitted, that study would necessarily compare the incidence of the disease in the off-spring of affected parents with that in non-affected parents. **But it the study assumes the social offspring are the biological offspring**, the study may find no genetic link *when in fact there is one*, because the absence of genetically-transmitted disease among the social but not biological children *dilutes* the genetically-transmitted percentage.

3. The “It’s Normal to be Normal” Study Assumed ALL Legal Convictions Resulted from Actual Physical Assaults and Penetrations.

Coerced confessions and admission of non-existent guilt to facilitate plea negotiations occur, especially where pre-trial detention approaches or exceeds the penalty. Thus, the “It’s Normal to be Normal” study included subjects who had **not** suffered *physical* assault but accused persons who later got convicted or confessed anyway. Those non-victim “victims” diluted the observed percentage of *physical* signs observed in true victims; and it became a self-fulfilling fallacy ever-after as more experts relied on the “It’s Normal to be Normal” study which was exaggerated to say that *physical* penetration of a virgin child *never* leaves *physical* injury.

B. “The is no Estrogen before Menarche” is Equivalent to “the Earth is Flat.”

Yet, in this very case, a nurse insisted the adolescent girl’s labia were red because they had been rubbed raw several days earlier and “there is no estrogen before puberty.” What starts at puberty is progesterone, not estrogen, which is found even in *in utero* boys and girls; and the labia minora are *always* pink or red *because* the *skin* lining them is not heavily keratinized.

C. Bodily Sphincters are the Equivalent One-Way Valves.

Most false experts equate absence of *physical* injury after false allegations of anal penetration with general lack of injury after defecation. But anyone who tried to take a child’s temperature anally knows that the anal sphincter relaxes from the inside out, **not the reserve**.

II. On Murders Associated with Convenience Store Robberies

Dr. Assa'ad-Faltas discloses that she is morally opposed to the death penalty but that does NOT affect her *scientific* conclusion that prevention of murders of convenience-store clerks associated with robberies of those stores cannot be achieved by insisting on the death penalty for the robbers-murderers but by lightening the penalty on robberies, thus reducing the incentives for the robbers to murder the witnesses. Simple question to every jurist father of a daughter, after wishing absolute safety for all the daughters in the world: **"If your daughter were, God forbid, kidnapped, would you rather she be Samantha Josephson or Elizabeth Smart?"** The latter was likely raped and even impregnated by her kidnappers; but she was returned to her parents **alive** and able, with love, prayers, and science, to be cured of even the painful memories. But where the penalty for kidnapping approaches the penalty for murder, the kidnapper has no incentive to spare the life of the victim.

III. Substantive Due Process includes True Scientific Knowledge and Should be Viewed as within every Jurist's Rights and Duties.

Mere words, repeated *solely because*, some lawyer(s) who became judge(s) wrote them years, decades, or even centuries ago, no longer suffice to solve the problems of a complex, connected *and informed* world. The Judiciary better performs its role *and inspires more public confidence* when it seeks conclusion derived from *scientific rigor*, not self-admitted "elastic" words.

WHEREFORE, it is time for this Court to stop hating Dr. Assa'ad-Faltas and stop making her humiliation and discredit a purpose higher than even this Court's standing in the eyes of those outside its sphere of influence or even within its influence sphere but with the courage to form independent thoughts. Dr. Assa'ad-Faltas has much that is timely and very useful to say and asks this Court to consider it, preferably directly from her, but through the wasteful and unnecessary appointment of a lawyer to transmit it if this Court is stuck on that. What matters is that truth be known and that innocents not remain behind bars. Hopefully this Court finds no "vex" or "frivolity" in those purposes of Dr. Assa'ad-Faltas'.

Certificate of Service

Sincerely submitted by e-mail to suptfilings@sccourts.org and served the same day by e-mail to Mr. Gillian at tgilliam@sccid.sc.gov, and *maîtresses* Meadows and Jameson at lillymeadows@scag.gov and mjameson@scag.gov, respectively on 1 October 2021, all God so willing.

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