

Oct 27 2021

SC Court of Appeals

Marie Assa'ad-Faltas, MD, MPH
P.O. Box 9115, Columbia, SC 29290

Phone (803) 783-4536 (preferred) Cell (330) 232-4164 (for use if no response from land line)
e-mail: Marie_Faltas@hotmail.com, and MarieAssaadFaltas@GMail.com

27 October 2021

The Honorable James E. Lockemy, Chief Judge
And Ms. Jenny Abbott Kitchings, Clerk
South Carolina's ("SC") Court of Appeals ("CoA")
1220 Senate Street, Columbia, SC 29201

Submitted by e-mail to ctappfilings@sccourts.org
With copies to Mr. Davidson at michaeldavidson@scag.gov
and to *Maitresses* Saxon and McCallister, respectively, at
jsaxon@sccid.sc.gov and lmccallister@scag.gov

**Re: Reply to Ms. Kitchings' 26 October 2021 Letter to Me in SC Appellate Case 2019-000807
And Request for Chief Judge Lockemy to Address Incoming SC CoA Chief Staff Counsel McCallister's
Role in this Court's Pending PCR Cases Under those Parts of the Judicial Code of Conduct
Applicable to Judicial Law Clerks and to Other Assistants to Judges**

"Yes, Lord," she said, "even the dogs eat the crumbs that fall from their master's table." "O woman," Jesus answered, "your faith is great! Let it be done for you as you desire." And her daughter was healed from that very hour." [Matthew 15:27-28](#)

"And I will give you shepherds according to My heart, who will feed you with knowledge and understanding." [Jeremiah 3:15](#)

Your Honors:

Even if you delight in mistreating me as southerners did their slaves and scolded them to not speak unless spoken to, I have been "spoken to" in Ms. Kitchings' 26 October 2021 letter to me. **In reply thereto, I note that SC's Supreme Court ("SC S Ct") earlier in this very case treated denial of my motion to relieve counsel as subject to reconsideration, whether as a final order or as an order within one or more of the recognized exceptions to finality for reviewability purposes.** As this reply asks Ms. Kitchings to submit my petition for reconsideration to this Court *en banc*, the exhibits to this letter are numbered serially to the exhibits in my 20 October 2021 petition for *en banc* rehearing of single SC CoA Judge McDonald's denial of my motion to relieve counsel. Therefore, for your ready reference, I attach, as Exhibit 29 hereto, SC S Ct's 20 November 2019 ORDER on reconsideration.

As my case is *still* held in abeyance, I recap that one Marion Oneida Hanna, who was later sanctioned by SC's Commission on Judicial Conduct (Exhibit 30) based on my complaint, had on 28 March 2011 thrown me in jail for 25 days because I had a broken knee and could not stand when her glory entered the pretend-courtroom of Columbia's Municipal Court ("CMC") but courageously *and correctly* told her CMC has no civil jurisdiction. I appealed from jail and sought a release bond. **After I had served that sentence with good-time and work credits, Hanna retroactively, in violation of the Amend. V, and of SC's criminal laws, lengthened my sentence by ordering my jailer to revoke my credits.** Hanna then imposed a release bond on me with impossible conditions and later held me in contempt for my inability to do the impossible: force a psychiatrist to treat me weekly for a year for some unspecified mental illness **which exists only in Hanna's deranged imagination.** My motion to appoint a lawyer stayed unheard for 4 years; and after it was granted, I was allowed to proceed *pro se* anyway.

I won my PCR *twice pro se* but SC's Attorney General's ("SCAG") staff want to make me suffer eternally for "the crimes" of having defeated known-false criminal charges *pro se*. **SCAG initiated this appeal on 29 April 2019; and now, 2.5 years later, which is 10.5 years after Hanna's conscience-shocking oppression of me, there is no sign this Court will ever dispose of SCAG's useless appeal.**

That is why I need to brief unappealability of PCR grants in principle and against the reality of delays.

Now, I am informed and believe that SCAG Deputy Lindsey McCallister is set to, God willing, join this Court as its chief of staff counsel to replace Ms. Pat Howard, who left to become SC S Ct's Clerk.

But this Court's workload is *easily* 12% PCR cases in which Ms. McCallister was involved as a supervisor (Exx 31-33) or counsel of record; *e.g.*, Exx 34-a to 36 and SC S Ct's 2018-MO-003 and 037. Ms. McCallister is adverse in this case and personally initiated this appeal out of vindictiveness. (Exx 37, 38)

A reasonable observer would predict Ms. McCallister's use of her new position to engineer a summary reversal of Judge Gravely's heroic and unexceptionable ruling and pretend this appeal was justified.

Rule 1.11 of SC's Rules of Professional Conduct and the Comments thereon provide in relevant part:

**SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT
GOVERNMENT OFFICERS AND EMPLOYEES**

(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

[[COMMENT] 5] When a lawyer has been employed by one government agency and then moves to a second government agency, it may be appropriate to treat that second agency as another client for purposes of this Rule, as when a lawyer is employed by a city and subsequently is employed by a federal agency. However, because the conflict of interest is governed by paragraph (d), the latter agency is not required to screen the lawyer as paragraph (b) requires a law firm to do. The question of whether two government agencies should be regarded as the same or different clients for conflict-of-interest purposes is beyond the scope of these Rules. See Rule 1.13 Comment [6].

This system's general history; *e.g.*, indulging then-SC-Circuit Judge Rodney Peoples' *perjury* about his having drawn a will from a stranger to profit the judge's daughters then using judicial stationery to augment the estate; *and continuing conduct* of indulging objectively-documented subornation of perjury against me by Ms. McCallister's office mate Heather Weiss, *rob all pretense of "Chinese-walling" Ms. McCallister* from my cases or from any PCR appeals *she* took *of all feasibility or credibility*.

Because certiorari is NOT a matter or right but is reserved for matters of public importance, all pending certiorari applications to review PCR grants now-pending in this Court must be denied or transferred to SC S Ct before Ms. McCallister starts her formal heading of this Court's office of staff counsel. Any current informal involvement by Ms. McCallister should be investigated.

Thanks for your consideration and God bless.

[s/] Marie Assa'ad-Faltas, MD, MPH



Enc.: Exhibits 29-38 *seriatim* to Exhibits 1-28 in my petition for rehearing *en banc*

c.c.: All persons and entities to whom my motion to reconsider had been e-mailed

The Supreme Court of South Carolina

Marie Assa'ad-Faltas, Respondent,




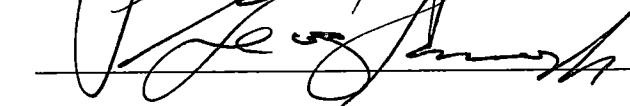
v.

State of South Carolina, Petitioner.

Appellate Case No. 2019-000708

ORDER

This Court denied the requests by Respondent and the South Carolina Commission of Indigent Defense, Division of Appellate Defense (Appellate Defense) to relieve Appellate Defense as counsel for Respondent in this matter in an order dated September 18, 2019. Respondent now asks the Court to reconsider its order indicating "she wishes to be heard for herself or not heard at all." Accordingly, Respondent again asks to represent herself. In addition, Respondent contends Justice James should be recused in this matter. We deny the motion for reconsideration, the request to proceed *pro se*, and the motion to recuse Justice James.


_____ J.

_____ J.

_____ J.

_____ J.

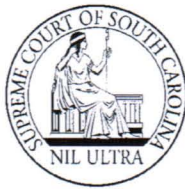
Beatty, C.J., not participating

Columbia, South Carolina

November 20, 2019

cc:

Johnny Ellis James, Jr., Esquire
Christopher Stephen Truluck, Esquire
Robert Michael Dudek, Esquire



The Supreme Court of South Carolina

OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Joseph P. Turner Jr.
Assistant Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Fax: (803) 734-1964

June 28, 2012

PERSONAL AND CONFIDENTIAL

Marie A. Faltas
P.O. Box 9115
Columbia, SC 29290

EXHIBIT

No. 30

RE: NOTICE OF FINAL DISPOSITION

Judge: Municipal Court Judge Marion Oneida Hanna
Matter Number: 11-DE-J-0092

Dear Dr. Faltas:

You previously filed a complaint with the Commission on Judicial Conduct concerning Municipal Court Judge Marion Oneida Hanna. This matter was concluded on September 27, 2011. Your complaint was not dismissed, but the disposition is confidential under the provisions of the Rules for Judicial Disciplinary Enforcement, Rule 502, SCACR.

This constitutes final disposition of the proceedings in this matter. Your cooperation with the Commission and this office is appreciated. I apologize for my oversight in not getting this letter to you sooner.

Sincerely,

Joseph P. Turner Jr.



EXHIBIT

No. 31

ALAN WILSON
ATTORNEY GENERAL

September 17, 2018

The Honorable Scott S. Harris
Clerk of Court, Supreme Court of the United States
1 First Street, N.E.
Washington D.C. 20543

Re: Juan Carlos Vazquez v. the State of South Carolina, Docket No. 18-5071

Dear Mr. Harris:

I am counsel of record for Respondent, the State of South Carolina, in the above-referenced matter. Pursuant to Rule 15.3 and Rule 30.4, undersigned counsel respectfully requests a thirty day extension of time from the current filing date of October 1, 2018, to file the Brief of Respondent. This extension request is necessitated by a heavy workload. Undersigned counsel supervises the Post-Conviction Relief section of the Office of the Attorney General for the State of South Carolina, and in that role, directly supervises a staff of ten attorneys and numerous support staff. Undersigned counsel also carries a statewide case load in both South Carolina appellate and circuit courts and has recently appeared in the South Carolina Court of Common Pleas for hearings in the Fifth Judicial Circuit, Ninth Judicial Circuit, the Tenth Judicial Circuit, the Eleventh Judicial Circuit, and the Sixteenth Judicial Circuit. Additionally, undersigned counsel has filed numerous circuit and appellate filings. Therefore, undersigned counsel respectfully requests additional time to prepare a responsive brief which properly addresses all the issues raised in the Petition. This is Respondent's first application to extend the filing date to file the Brief in Opposition.

Therefore, undersigned counsel respectfully requests this Court extend the time for Respondent to file its Brief in Opposition for a period of thirty days to and including October 31, 2018. Undersigned counsel is serving a copy of this letter upon Petitioner contemporaneously with the filing of this letter.

Sincerely,

Megan Harrigan Jameson
Senior Assistant Deputy Attorney General
Office of the Attorney General for the State of South Carolina
Counsel of Record for Respondent

cc: Juan Carlos Vazquez

PCR CIRCUIT ASSIGNMENTS

PCR Line: (803) 734-3737

Supervisor: Senior Assistant Deputy Attorney General Megan Harrigan Jameson
Assistant Deputy Attorney General Lindsey McCallister**FIRST JUDICIAL CIRCUIT**

(Calhoun, Dorchester, Orangeburg)

Attorneys: Benjamin Limbaugh & Samantha Weidauer

Legal Assistant: Katie W.

SECOND JUDICIAL CIRCUIT

(Aiken, Bamberg, Barnwell)

Attorneys: Brianna Schill & Michael Neubauer

Legal Assistant: Kaitlyn S.

THIRD JUDICIAL CIRCUIT

(Clarendon, Lee, Sumter, Williamsburg)

Attorneys: Brianna Schill & Michael Neubauer

Legal Assistant: Kaitlyn S.

FOURTH JUDICIAL CIRCUIT

(Chesterfield, Darlington, Dillon, Marlboro)

Attorneys: Chelsey Marto & William Ray

Legal Assistant: Eva C.

FIFTH JUDICIAL CIRCUIT

(Richland, Kershaw)

Attorneys: Yasmee Klein & Michael Davidson

Legal Assistant: Erik M.

SIXTH JUDICIAL CIRCUIT

(Chester, Fairfield, Lancaster)

Attorneys: Michael Davidson & Yasmee Klein

Legal Assistant: Erik M.

SEVENTH JUDICIAL CIRCUIT

(Cherokee, Spartanburg)

Attorneys: Chelsey Marto & William Ray

Legal Assistant: Eva C.

EIGHTH JUDICIAL CIRCUIT

(Abbeville, Greenwood, Laurens, Newberry)

Attorneys: Brianna Schill & Michael Neubauer

Legal Assistant: Hannah B.

NINTH JUDICIAL CIRCUIT

(Berkeley, Charleston)

Attorneys: Benjamin Limbaugh & Samantha Weidauer

Legal Assistant: Jennifer J.

TENTH JUDICIAL CIRCUIT

(Anderson, Oconee)

Attorneys: Lilly Meadows & Taylor Smith

Legal Assistant: Camille H.

ELEVENTH JUDICIAL CIRCUIT

(Edgefield, Lexington, McCormick, Saluda)

Attorneys: Lilly Meadows & Taylor Smith

Legal Assistant: Camille H.

TWELFTH JUDICIAL CIRCUIT

(Florence, Marion)

Attorneys: Michael Davidson & Yasmee Klein

Legal Assistant: Katie W.

THIRTEENTH JUDICIAL CIRCUIT

(Greenville, Pickens)

Attorneys: Taylor Smith & Lilly Meadows

Legal Assistant: Hannah B.

FOURTEENTH JUDICIAL CIRCUIT

(Allendale, Beaufort, Colleton, Hampton, Jasper)

Attorneys: Benjamin Limbaugh & Samantha Weidauer

Legal Assistant: Katie W.

FIFTEENTH JUDICIAL CIRCUIT

(Georgetown, Horry)

Attorneys: Chelsey Marto & William Ray

Legal Assistant: Camille H.

SIXTEENTH JUDICIAL CIRCUIT

(Union, York)

Attorneys: Brianna Schill & Michael Neubauer

Legal Assistant: Kaitlyn S.

STATE GRAND JURY PCRs

Attorney: SADAG Megan Harrigan Jameson & ADAG Lindsey McCallister

Legal Assistant: Jennifer J.

PCR CIRCUIT ASSIGNMENTS

PCR Line: (803) 734-3737

Supervisor: Senior Assistant Deputy Attorney General Megan Harrigan Jameson
Assistant Deputy Attorney General Lindsey McCallister

EXHIBIT

No. 33

FIRST JUDICIAL CIRCUIT

(Calhoun, Dorchester, Orangeburg)
Attorneys: Samantha Weidauer & Lauren Mims
Legal Assistant: Katie W.

THIRD JUDICIAL CIRCUIT

(Clarendon, Lee, Sumter, Williamsburg)
Attorneys: Lindsey McCallister & Michael Neubauer
Legal Assistant: Kaitlyn S.

FIFTH JUDICIAL CIRCUIT

(Kershaw, Richland)
Attorneys: Yasmeeen Klein & Michael Davidson
Legal Assistant: Katie W.

SEVENTH JUDICIAL CIRCUIT

(Cherokee, Spartanburg)
Attorneys: Chelsey Marto & William Ray
Legal Assistant: Eva C.

NINTH JUDICIAL CIRCUIT

(Berkeley, Charleston)
Attorneys: Lauren Mims & Samantha Weidauer
Legal Assistant: Vickie H

ELEVENTH JUDICIAL CIRCUIT

(Edgefield, Lexington, McCormick, Saluda)
Attorneys: Lilly Meadows & Taylor Smith
Legal Assistant: Hannah B.

THIRTEENTH JUDICIAL CIRCUIT

(Greenville, Pickens)
Attorneys: Taylor Smith & Lilly Meadows
Legal Assistant: Hannah B.

FIFTEENTH JUDICIAL CIRCUIT

(Georgetown, Horry)
Attorneys: Chelsey Marto & William Ray
Legal Assistant: Grayson H.

STATE GRAND JURY PCRs

Attorney: Megan Harrigan Jameson & Lindsey McCallister
Legal Assistant: Jennifer J.

SECOND JUDICIAL CIRCUIT

(Aiken, Bamberg, Barnwell)
Attorneys: Megan Jameson & Michael Neubauer
Legal Assistant: Kaitlyn S.

FOURTH JUDICIAL CIRCUIT

(Chesterfield, Darlington, Dillon, Marlboro)
Attorneys: Chelsey Marto & William Ray
Legal Assistant: Eva C.

SIXTH JUDICIAL CIRCUIT

(Chester, Fairfield, Lancaster)
Attorneys: Michael Davidson & Yasmeeen Klein
Legal Assistant: Erik M.

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(Abbeville, Greenwood, Laurens, Newberry)
Attorneys: Michael Neubauer & Lindsey McCallister
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Legal Assistant: Grayson H.

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(Florence, Marion)
Attorneys: Michael Davidson & Yasmeeen Klein
Legal Assistant: Erik M.

FOURTEENTH JUDICIAL CIRCUIT

(Allendale, Beaufort, Colleton, Hampton, Jasper)
Attorneys: Samantha Weidauer & Lauren Mims
Legal Assistant: Vickie H.

SIXTEENTH JUDICIAL CIRCUIT

(Union, York)
Attorneys: Michael Neubauer & Megan Jameson
Legal Assistant: Jennifer J.

Updated August 17, 2021

EXHIBIT

No. 34-a

RECEIVED

Oct 12 2021

S.C. SUPREME COURT

From: [Yasmeen Klein](#)
To: [Supreme Court Filings](#)
Cc: [Charles Grose](#); [Katie Wade](#)
Subject: Arthur Macon v. State of South Carolina - Appellate Case No.: 2021-000946
Date: Tuesday, October 12, 2021 10:28:54 AM
Attachments: [image003.png](#)
[MACON Arthur - Change of Counsel Letter \(02782027xD2C78\).PDF](#)

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Good Morning,

Attached please find a substitution of counsel letter for this matter. Should you have any questions please feel free to contact me. Opposing Counsel is copied on this email.

Thank you,

YASMEEN E. KLEIN, Assistant Attorney General
South Carolina Attorney General's Office
Post-Conviction Relief | Office 803-734-2875
P.O. Box 11549 | Columbia, SC 29211
scag.gov



This email, along with any attachments, is considered confidential and may be legally privileged. If you have received it in error please notify the sender immediately by reply email and then delete this message from you system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. This email, and attachments, are subject to FOIA requests. Thank you for your cooperation.



RECEIVED

Oct 12 2021

S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

October 12, 2021

EXHIBIT

No. 34-b

The Honorable Patricia A. Howard
Clerk of the South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211
(Via *Electronic Filing System*)

Re: Arthur Macon v. State of South Carolina
Appellate Case No.: 2021-000946

Dear Ms. Howard:

Please substitute undersigned counsel as counsel of record for the State in this post-conviction relief appeal and remove Lindsey Ann McCallister, who will be leaving our office, as counsel of record for the State. Thank you for your consideration of this request, and please contact me at (803) 734-3737 if you have any questions or concerns.

Sincerely,

Yasmeen E. Klein
Assistant Attorney General
SC Bar No. 104681

YEK/kw

cc: E. Charles Grose, Jr., Esquire (by email only)

RECEIVED

Oct 14 2021

S.C. SUPREME COURT

From: [Megan Jameson](#)
To: [Supreme Court Filings](#)
Cc: [Dayne Phillips](#); [Lindsey McCallister](#)
Subject: Jerry Lee Shaeffer v. State - Letter of Representation
Date: Thursday, October 14, 2021 4:10:31 PM
Attachments: [image001.png](#)
[Shaeffer v. State Letter of Representation \(MHJ\) \(02785770xD2C78\).PDF](#)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Attached please find a letter of representation for Jerry lee Shaeffer v. State, Appellate Case No. 2021-001164.

Thank you,

MEGAN HARRIGAN JAMESON, Senior Assistant Deputy Attorney General
South Carolina Attorney General's Office
Post-Conviction Relief | Office 803-734-3319
P.O. Box 11549 | Columbia, SC 29211
scag.gov



EXHIBIT

No. 35-a

This email, along with any attachments, is considered confidential and may be legally privileged. If you have received it in error, please notify the sender immediately by reply email and then delete this message from your system. Please do not copy it, use it for any purposes, or disclose its contents to any other person. This email and attachments are subject to FOIA requests. Thank you for your cooperation.

EXHIBIT

No. 35-b



RECEIVED

Oct 14 2021

S.C. SUPREME COURT

ALAN WILSON
ATTORNEY GENERAL

October 14, 2021

The Honorable Patricia A. Howard
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211
(via electronic filing system)

Re: Jerry Lee Shaeffer v. State of South Carolina
Appellate Case No.: 2021-001164

Dear Ms. Howard:

Please substitute undersigned counsel as counsel of record for the State in this post-conviction relief appeal and remove Lindsey A. McCallister, who will be leaving our office, as counsel of record for the State. Thank you for your consideration of this request, and please contact me at (803) 734-3737 if you have any questions or concerns.

Sincerely,

Megan Harrigan Jameson
Senior Assistant Deputy Attorney General
SC Bar No. 100108

MHJ/ks

cc: Dayne C. Phillips, Esquire (via email only)

EXHIBIT

No. 36



RECEIVED
Oct 14 2021
SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

October 14, 2021

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
(via ctappfilings@sccourts.org)

Re: Christopher Russell v. State of South Carolina
Appellate Case No.: 2017-002256

Dear Ms. Kitchings:

Please substitute undersigned counsel as counsel of record for the State in this post-conviction relief appeal and remove Lindsey A. McCallister, who will be leaving our office, as counsel of record for the State. Thank you for your consideration of this request, and please contact me at (803) 734-3737 if you have any questions or concerns.

Sincerely,

Megan Harrigan Jameson
Senior Assistant Deputy Attorney General
SC Bar No. 100108

MHJ/hb

cc: Wanda H. Carter (via email only)

EXHIBIT

No. 37



ALAN WILSON
ATTORNEY GENERAL

RECEIVED

APR 29 2019

S.C. SUPREME COURT

April 29, 2019

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. 2017-CP-40-06831

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.

Sincerely,

Johnny Ellis James, Jr.
Assistant Attorney General
SC Bar #101260

JEJ/can
Enclosures

cc: Chris S. Truluck, Esquire
Jessica Mangum, Esquire
Richland County Clerk of Court
Victim Advocacy Division

STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APR 29 2019

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Perry H. Gravely, Circuit Court Judge

Case No. 2017-CP-40-06831

Marie Assa'ad-Faltas,Respondent,

v.

State of South Carolina,Petitioner.

NOTICE OF APPEAL

The State of South Carolina appeals the order issued by the Honorable Perry H. Gravely dated November 19, 2018, and filed November 27, 2018, granting post-conviction relief to the Respondent. The State filed a motion to reconsider, which was denied on March 28, 2019, and received by the State on April 1, 2019. A copy of the order 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

April 29, 2019

Other counsel of record:

Chris S. Truluck, Esquire
1720 Main Street, Suite 104
Columbia, South Carolina 29201

RECEIVED

APR 29 2019

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

Case No. 2017-CP-40-06831

Marie Assa'ad-Faltas, Respondent,

v.

State of South Carolina, Petitioner.

PROOF OF SERVICE

I, Lindsey McCallister, 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:

Chris S. Truluck, Esquire
1720 Main Street, Suite 104
Columbia, South Carolina 29201

I further certify that all parties required by Rule to be served have been served this 29th day of April, 2019.



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

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

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

RICHLAND COUNTY
 FILED
 2018 NOV 27 AM 9:19
 JEANETTE W. MCBRIDE
 C.C.P. & G.S.

ORDER

C.A. No. 2017-CP-40-06831

This matter comes before the Court upon the Petition for Post-Conviction Relief filed by Marie Assa'ad Faltas (Hereinafter "Applicant") arising out of her conviction for contempt by the Columbia Municipal Court (CMC) on May 18, 2011 as set forth in an Order issued June 15, 2011 by Magistrate Marion O. Hanna (hereinafter "Contempt Order"). On August 10, 2018, this Court heard the present Motions for Summary Judgment filed by the Applicant and the State. Present at the hearing were the Applicant along with Christopher S. Truluck, who had been appointed as stand-by Counsel for Applicant and Johnny James, from the Attorney General's office on behalf of the State. Due to the substantial record, the Court needed additional time to consider all of the evidence and applicable law, but now submits this Order.

Motion to Recuse

Before addressing the substantive Motions for Summary Judgment, the Court needs to rule on the Applicant's Motion to Recuse which was filed on August 23, 2018 following the hearing on August 10, 2018. The primary ground for this Motion appears to be the assertion that the Court's "current law clerk has too many personal connections with lawyers in the PCR section of SC's Attorney General's Office." Applicant further states that this judge had improper

¹
 DJR

communications with someone and could not be fair. The Applicant failed to provide any evidence or basis for these allegations and the Court is not aware of any reason which supports these assertions nor would be a basis for recusal or not considering this matter impartially and pursuant to the Code of Judicial Conduct. Therefore, Applicant's Motion to Recuse is denied.

Procedural History

Now, back to the Motions for Summary Judgment filed by the Applicant and the State. This case has a very tortured procedural history which is outlined below and reminds this author of the fictional case of *Jarndyce v. Jarndyce* in Charles Dickens' *Bleak House*. Unlike Dickens, this author has attempted to mete out the most equitable justice for all involved and bring this case to an abrupt end, so that the parties may pursue other quixotic engagements. But first, let's relive this tortured procedural history and how this case came to this bench.

Procedural History

On March 28, 2011, Applicant was convicted of 2 separate counts of contempt of court by the CMC and was sentenced to a total of 25 days in jail. Applicant appealed her convictions on March 30, 2011 and requested that she be released from jail during the pendency of her appeal. On April 6, 2011 the CMC held a hearing on the Applicant's request to be released and ordered that she be released under conditions set forth in its Order of April 11, 2011 (hereinafter "Bond Order") pursuant to which Applicant was released from jail on April 12, 2011. Subsequently, the CMC issued a Rule to Show Cause for Applicant's failure to comply with the conditions of the Bond Order and a hearing was held on May 18, 2011, at which time the Applicant was found in contempt of court for violating the terms of Bond Order which is the basis for the Applicant's PCR. On May 31, 2011, Applicant filed a Notice of Appeal of her contempt conviction, although the Contempt Order was not issued by the Court until June 15,

2011. On May 9, 2012, Applicant's appeal was heard in Circuit Court by Judge Allison Lee who issued an Order on September 17, 2012 denying Applicant's appeal on various grounds.

Applicant filed a Motion to Alter Judge Lee's Order on the same day. This Motion to Alter was denied by Order of Judge Lee issued on October 17, 2012. On November 8, 2017, the Applicant filed her Application for Post-Conviction Relief for the proceedings on which the Contempt Order was based and filed an Amendment on January 23, 2018. By Order of Judge Clifford Newman, Christopher S. Truluck was appointed as stand-by Counsel for this PCR. On March 22-23, 2018, Judge Brooks Goldsmith held a full evidentiary hearing. By Order issued April 10, 2018, Judge Goldsmith granted the Applicant's PCR and the State filed a Motion to Reconsider on April 20, 2018. On May 21, 2018, Judge Goldsmith issued an Order granting the State's Motion and vacated his previous Order and remanded for further proceedings. On May 22, 2018, Applicant filed her Motion for Summary Judgment and on July 31, 2018, the State filed its Motion for Summary Judgment and a hearing was held on August 10, 2018 for oral argument on these Motions.

Standard for Motion for Summary Judgment and PCR

The Uniform Post-Conviction Procedure Act (S.C. Code Sec 17-27-10, et. seq.) provides for such matters to be heard by "summary disposition." Under S.C. Code § 17-27-70(c):

The Court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

Further, when considering such a motion under Rule 56(a), SCRPC, the courts have found that summary judgment is appropriate if "there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law." "In determining whether any triable issues of fact exist for summary judgment purposes, the evidence and all the inferences that can

be reasonably drawn from the evidence must be viewed in the light most favorable to the moving party.” Medical University of South Carolina v. Arnaud, 360 S.C. 615, 602 S.E.2d 747, 749

(2004). Further, Rule 56(e), SCRCP, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

Under the Uniform Post-Conviction Procedure Act (S.C. Code Sec 17-27-10, et.seq.), a person may file an application for post-conviction relief as follows:

- (A) Any person who has been convicted of, or sentenced for, a crime and who claims:
- (1) That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
 - (2) That the court was without jurisdiction to impose sentence;....

S.C. Code Sec 17-27-20.

The Courts have recognized that one of the grounds for PCR can be the ineffective assistance of counsel and in order to establish this as a basis for relief, the applicant must show that: (1) counsel failed to render reasonably effective assistance under prevailing professional norms, AND (2) that the applicant was prejudiced by counsel's ineffective assistance. Legge v. State, 562 S.E.2d 618. (S.C. Sup Ct 2002). The effective assistance of counsel is a necessary requisite of due process of law, Rogers v. State, 199 S.E.2d 761 (S.C. Sup Ct 1973), thus the ineffective assistance of counsel is a violation of due process of law.

In considering the Motions by both parties, the Court has reviewed a very substantial record which included the pleadings, various exhibits, portions of the transcript from the evidentiary hearing on March 22-23, 2018 and applicable law. Based on this review, the Court has determined that Applicant's Motion for Summary Judgment and PCR should be granted for the reasons outlined below.

1. The validity of CMC's conviction for contempt on May 18, 2011.

The Applicant was previously held in contempt on March 28, 2011 and filed an appeal to Circuit Court. This contempt conviction is not the basis of this PCR application. While this appeal was pending, applicant requested that she be released and a hearing was held on April 6, 2011 at which time Applicant was represented by Counsel, Orin Briggs. Based on the Bond Order, Applicant had waived her right to be present and was not at the hearing. *See Bond Order, Exhibit 1 to State's Motion for Summary Judgment.* On April 11, 2011, the CMC issued its Bond Order which contained the following conditions:

- 1) payment of \$1000 cash;
- 2) requiring the Applicant "to participate in regularly weekly sessions with a psychiatrist for period of one (1) year or until the conclusion of the pending appeal"; and
- 3) requiring Applicant to surrender her passport.

Under S.C. Code §14-25-95, a party has the right to appeal a sentence of the municipal court, at which time "the party appealing shall enter into a bond, payable to the municipality, to appear and defend the appeal at the next term of the Court of Common Pleas or shall pay the fine assessed." This statute allows an Appeal Bond to be issued by posting a monetary bond or payment of the fine, but does not provide for the imposition of any other conditions. Further, the Court is not aware of any authority which allows a municipal judge to impose additional conditions in an appeal bond from Municipal Court.

The sole purpose of an appeal bond from Municipal Court, under S.C. Code §14-25-95, is to assure a defendant's attendance at the subsequent hearing on the appeal in Circuit Court. The remedy for the failure to appear would be a bench warrant. See Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 344, 713 S.E.2d 278, 284 (2011) (where the Court found in analyzing S.C. Code § 14-25-95 "[i]f an appellant fails to comply with these provisions, the municipality may issue a

bench warrant to address any delinquency on the part of the appellant"). The additional conditions imposed by the Bond Order clearly go beyond assuring that the Applicant will attend her appeals hearing. (The Court would note that based on the review of the record and the Applicant's history with the Court system, the Court finds that there was very little risk that this Applicant would not show up for any hearing.)

The State argues that the Applicant waived her objection to the terms of her Bond Order by consenting to the bond upon her release from jail. First, there is no evidence before this court that such terms were accepted, except a signed receipt of the \$1,000 paid to the CMC. But the receipt did not contain the terms of the bond. **"Receipt", Exhibit 4 to State's Motion for Summary Judgment.** One of the statutes which applies to the issuance of bonds (i.e. release from jail pending the trial of the case) requires that "the person released shall acknowledge his understanding of the terms and conditions of his release and the penalties and forfeitures applicable in the event of violation thereof on a form to be prescribed by the Attorney General". S.C. § 17-15-40. Other than a receipt for payment, the Court is not aware of any document showing that the Applicant acknowledged her "understanding of the terms and conditions of [her] release." Therefore, the unacknowledged conditions would violate the statute governing bond conditions.

Accordingly, this Court finds that the CMC exceeded its statutory authority in issuing an Appeal Bond which added conditions other than a monetary bond or payment of the fine as required by §14-25-95. Additionally, the State has not presented any evidence that the Applicant acknowledged her "understanding" of the terms of the Bond Order as required by §17-15-40. Thus the Court finds that the CMC did not have jurisdiction to issue the Bond Order and

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the Bond Order and subsequent contempt conviction based on the Bond Order is null and void and the conviction vacated. Thus, Summary Judgment is appropriate on this basis.

2. The validity of the bond conditions.

As additional basis for Summary Judgment, the Court finds that the CMC had no authority to issue any conditions relating to psychiatric treatment. The Bond Order issued by the CMC included very specific requirements for the Applicant:

1. The Defendant is to participate in regular weekly sessions with a psychiatrist for a period of one (1) year, or until the conclusion of the pending appeal for this matter, whichever shall come first in time. The Defendant shall make available to the psychiatrist all of her criminal and civil litigation files. The Defendant is to provide this Court with proof of her initial compliance with this condition within ten (10) days of the date of this Order and shall provide to the Court regular monthly proofs of her visits to the psychiatrist. Both of those proof requirements may be made by the psychiatrist's office to this court.

This appears to be a very extensive psychiatric treatment plan which the Applicant was Ordered to attend, all of which is contained in an Order for an Appeal Bond for a conviction of contempt. The Court is not aware of any Motions filed requesting such a condition or bringing this matter properly before the Municipal Court, nor any affidavits affidavit or sworn testimony showing that such treatment was needed or even recommended. There is nothing in the record presented to this Court which warrants any such findings or authority to issue such an Order. The Order does not require the evaluation a licensed professional to make a recommendation regarding a treatment plan but imposes its own judgment as to the type of psychiatric treatment which the Applicant needs—all for the purpose of assuring that the Applicant will make it to the hearing on her appeal to Circuit Court. Without statutory authority, such conditions for an Appeal Bond or

any other type of Order would not be proper.¹ Therefore, the Court finds that the CMC did not have jurisdiction or authority to issue such conditions and the Bond Order and the subsequent Contempt Order based on the Bond Order are declared null and void and the conviction is hereby vacated. And thus, Summary Judgment is appropriate on this basis as well.

3. Ineffective assistance of counsel.

Applicant also alleges that her counsel was ineffective at her bond hearing on April 6, 2011 which constituted a violation of her Due Process rights protected by the State and Federal constitutions. First, based on the record before the Court, it does not appear that the Applicant was at the hearing to determine the bond and the Magistrate Court and Circuit Court (on her appeal) found that she had waived her presence. Applicant was represented by counsel, Orin Briggs, who appeared to negotiate an appeal bond on behalf of his client. The record appears to suggest that Applicant's attorney tacitly accepted certain terms offered by the City or at least failed to adequately object to the terms. It appears that the terms as discussed between counsel were altered slightly by the CMC without any further input by the Applicant. Applicant adamantly refutes that she waived her right to allow the Court free rein on approving conditions for her release. The attorney, without specific authority, should not have even conceded or even allowed the consideration of any terms beyond the scope of an appeal bond as provided for in S.C. Code §14-25-95. Although Applicant's counsel raised this argument at the May 18, 2011 hearing, there is no evidence that it was raised or objected to in the underlying hearing on April 6, 2011 from which the Bond Order was issued and these conditions were the foundation for the

¹ The Court is not aware of any authority which would support such a finding by the CMC. The Court is aware of a formal process for Judicial Commitment allowed by S.C. Code Ann. 44-17-510, et. seq. which allows for the Court to order certain out-patient treatment under specific circumstances and after a finding by clear and convincing evidence. And even then, the remedy for failure to follow the treatment plan is a supplemental hearing for further determination by the Court.

downward spiral of constitutional deprivations from which the later appeal and PCR applications were based.

In a PCR action, the "burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." *Frasier v. State*, 570 S.E.2d 172 (2002). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler v. State*, 334 S.E.2d 813 (1985). In considering whether Counsel was ineffective in a PCR application, the Court looks at 2 factors: (1) whether the Applicant's counsel failed to render reasonably effective assistance under prevailing professional norms, AND (2) was the applicant prejudiced by counsel's ineffective assistance. See *Legge v. State*, 562 S.E.2d 618. (S.C. Sup Ct 2002). Upon review of the record, there appears to be some confusion on how the conditions on the bond came about—whether there was some initial consent by Applicant's attorney or not, but clearly, Applicant's counsel did not assert proper objections to the conditions except to state that Applicant did not consent to the conditions. ***See Transcript of Record for hearing on March 22-23, 2018, pages 53-66.*** The Court finds that counsel's acceptance or failure to adequately object to the improper terms of the Appeal Bond is clearly ineffective and not within prevailing professional norms. And as seen by the subsequent contempt charges, the Applicant was prejudiced by this failure. Thus, the Court finds that there is no genuine issue of material fact as to the ineffective assistance of counsel and as a result, the Applicant's Due Process right were violated and the Applicant is entitled to Summary Judgment on her Application for PCR.

Conclusion

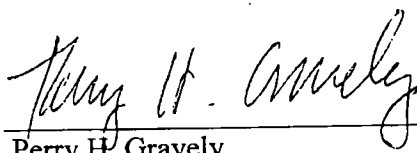
Based on the above findings, this Court finds that there is no genuine issue of material fact on the issues set forth above and the Applicant is entitled to Summary Judgment on her PCR Application. The Bond Order and Contempt Order are declared null and void and vacated and the conviction for contempt is hereby vacated and dismissed. Further, the Court remands the case back to the Columbia Municipal Court to vacate the conviction of contempt of May 18, 2011 and dismiss the charges. In light of this ruling, the State's Motion for Summary Judgment would be denied. The Applicant has requested additional remedies relating to the return of her bond and fines money, but those will need to be addressed to the CMC.

The Courts, parties, municipal court and everyone who has touched this matter has been dealing with this albatross for many years with little or no progress. This Court has adopted the analysis of the late Chief Justice Bruce Littlejohn, one of South Carolina's finest jurist, who with his usual wit and logic, compared the solving of a particularly complex factual and legal issues before the court as "attempting to unscramble an egg. The court strives to do justice which oftentimes must be only approximate. When justice cannot be meted out exactly, we do that which is next best—try to bring an end to the dispute." Roundtree Villas Ass'n, Inc. v. 4701 Kings Corp., 282 S.C. 415, 321 S.E.2d 46 (1984).

Therefore, the Applicant's Motion for Summary Judgment and Application for PCR are granted on the basis set forth above; and the State's Motion for Summary Judgment is denied. It is so Ordered.

November 19, 2018

Pickens, South Carolina



Perry H. Gravely
Presiding Judge

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2017CP4006831

Marie Assaad Faltas		State Of South Carolina	City Of Columbia Sc
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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), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; 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:

RICHLAND COUNTY
 FILED
 2018 NOV 27 AM 9:39
 JEANETTE W. HOBBS
 C.C.P. & G.S.

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.

11/27/2018

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 November 27, 2018, to attorneys of record or to parties (when appearing pro se) as follows:

Christopher Stephen Truluck 1720 Main Street, Suite 104
Columbia, SC 29201

Lindsey Ann McCallister PO Box 11549 Columbia, SC
29211-1549
Hervery B. O. Young PO Box 11433 Columbia, SC
29211-1433
Johnny Ellis James Jr. PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter


Jeannette 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,)
)
-vs-)
)
State of South Carolina)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

ORDER DENYING MOTION
TO ALTER/AMEND, RECONSIDER
ORDER OF 11/27/18

C.A. No. 2017-CP-40-06831

FILED
2019 APR -1 PM 3:50
RICHLAND COUNTY

This matter comes before the Court upon the State's *Motion to Alter/Amend, Reconsider* Order issued November 27, 2018 granting the Applicant's Motion for Summary Judgment for Post-Conviction Relief. The Order inspired an artfully drafted Motion with eloquent arguments by the State and saintly accolades from the Applicant. After review of all matters and for the reasons stated below, the State's Motion is denied and the underlying Order is affirmed.

The State argues that the findings in Sections 1 and 2 of the Order "constitute free-standing grounds for relief" since the issues should have been addressed on an appeal and not in a PCR Application and the constitutional issues should have been framed as ineffective assistance of counsel. The Court asserts that these grounds are not free standing, but deal with an important cornerstone of our judicial system: whether the underlying court had the authority or jurisdiction to issue a Contempt Order. This Court cannot pass on a Municipal Court's order which is beyond the Municipal Court's constitutional and statutory authority -i.e. subject matter jurisdiction. Subject matter jurisdiction may be raised at any time even in an Application for a PCR when it was not raised in the underlying court or appeal. See Edwards v. State, 372 S. C. 493, 642 S.E.2d 738 (S.C. Sup. Ct. 2007). Further, the Court's analysis of the constitutional issues were framed as ineffective assistance of counsel in Section 3 of the Order and the Court found that the failure of

Applicant's Counsel to raise and preserve these constitutional issues was ineffective assistance of counsel and a basis for granting the Applicant's PCR.

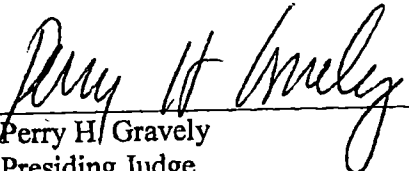
As set forth in the underlying Order, this Court found that the Municipal Court did not have subject matter jurisdiction and stands by this finding as the basis for granting the Applicant's Motion for Summary Judgment.

The State also asserts that the Court erred in not addressing each issue presented by its Motion for Summary Judgment. Since the Court granted the Applicant's Motion for Summary Judgment and found that the Municipal Court lacked subject matter jurisdiction, the State's Motion was moot. As set forth in Ballenger v. Bowen, 313 S.C. 476, 443 S.E.2d 379 (S.C. Sup. Ct. 1994) (footnote 1), Rule 52, SCRPC, does not require findings of fact and conclusions of law in denying a motion for summary judgment. Further, the Court does not find that the requirements of S.C. Code § 17-27-80 and cases interpreting this rule apply to the Court's denial of the State's Motion for Summary Judgment when it was based on the Court's granting of the Petitioner's Motion for Summary Judgment on the grounds set forth above. The case law cited by the State stands for the proposition that a Court cannot summarily deny an Application for PCR since it would not give the appellate courts the basis for addressing the findings of the underlying Court. This is not the case presented in this matter.

The State also argues that the Order of the Municipal Court was based on civil contempt and not criminal contempt, thus not subject to the Uniform Post-Conviction Procedure Act, S.C. § 17-27-10, et. seq. (The PCR Act). In this particular case, the Contempt Order of the Municipal Court was based on a bond condition in a criminal matter and required the Applicant to, among other things, submit to evaluation and treatment by a psychiatrist. Therefore, the nature of the action clearly brings it within the criminal realm and subject to the PCR Act. S.C. Code § 17-27-

20 provides that the PCR Act is available for: "(A) [a]ny person who has ... been sentenced for, a crime and who claims... (2) [t]hat the court was without jurisdiction to impose sentence."

Therefore, this Court denies the Respondent's *Motion to Alter/Amend, Reconsider* and affirms the Order of November 27, 2018 granting Summary Judgment in favor of Applicant and denying Respondent's Motion for Summary Judgment


Perry H. Gravely
Presiding Judge

March 28, 2019
Pickens, S.C.



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Perry H. Gravely
Judge

Post Office Box 219
Pickens, SC 29671
Phone: (864) 898-5790
Fax: (864) 898-5792
pgravelyj@sccourts.org

March 28, 2019

The Honorable Jeanette McBride
PO Box 2766
Columbia, SC 29202

Re: 2017-CP-40-06831- Marie Assa'ad-Faltas v State of South Carolina

Dear Ms. McBride:

Please file the enclosed Order signed by Judge Perry H. Gravely regarding the above referenced matter.

Please contact me if you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Laura D. Colwell".

Laura D. Colwell
Administrative Assistant to
Judge Perry H. Gravely
13th Judicial Circuit

/ldc

Enclosure



EXHIBIT

No. 38

ALAN WILSON
ATTORNEY GENERAL

March 20, 2020

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

RECEIVED

MAR 20 2020

S.C. SUPREME COURT

Re: Marie Assa'ad-Faltas v. State of South Carolina
Appellate Case No. 2019-000708
Lower Court Case No. 2017-CP-40-06831

Dear Mr. Shearouse:

Please substitute undersigned counsel as counsel of record for the State in this post-conviction relief appeal and remove Johnny Ellis James, Jr., as counsel of record for the State. Thank you for your consideration of this request, and if you have any questions, please do not hesitate to contact me.

Sincerely,

Samuel L. Key
Assistant Attorney General
SC Bar No. 103206

SLK/cc

cc: Robert M. Dudek, Esquire