

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	2019-CP-40-02217
COUNTY OF RICHLAND)	2019-CP-40-02218
)	2019-CP-40-02219
)	2019-CP-40-00112
)	
)	
MARIE-THERESE)	
ASSA'AD-FALTAS, MD, MPH,)	
Applicant,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
STATE OF SOUTH CAROLINA, AND)	
THE CITY OF COLUMBIA, SC,)	
Respondent.)	
_____)	



August 10, 2020
Via Web Conferencing

B E F O R E:

THE HONORABLE D. CRAIG BROWN, JUDGE

RECEIVED

Oct 21 2021

S.C. SUPREME COURT

A P P E A R A N C E S:

TIMOTHY LEE GRIFFITH, ESQ.
Attorney for the Applicant

SAMUEL KEY, ESQ.
Attorney for the Respondent

Transcribed by:
CHERYL A. SMITH
Circuit Court Reporter
from DCRP, Digital
Courtroom Recorder
Project

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There were no witnesses called.

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 9:40 a.m.)

THE COURT: Mr. Key, are you ready to proceed?

MR. KEY: Yes, Your Honor.

THE COURT: All right. Mr. Griffith, are you ready to proceed?

MR. GRIFFITH: Yes, Your Honor. But if it please the Court, Your Honor, Dr. Faltas has asked me to first inform the Court that there is a -- she had submitted a motion to relieve me as counsel. I haven't seen the motion. And I -- I would actually object to the motion. I think that I -- I don't know if the Court would hear that today or not, but I'm perfectly happy to represent her.

THE COURT: I'm going to hear that. But first, I'm going to ask Mr. Key if he would call the case and put whatever on the record he needs to put on the record to initiate these proceedings.

Mr. Key?

MR. GRIFFITH: Thank you, Your Honor.

APPLICANT ASSA'AD-FALTAS: Your Honor, may I enter an objection to -- hello?

THE COURT: Dr. Faltas, I'll come back -- don't talk right now. I'll come back to you in just a minute, okay? I want Mr. Key to at least give me the case caption, the case numbers before we proceed any further.

1 Go ahead, Mr. Key, please.

2 MR. KEY: May it please the Court.

3 THE COURT: Yes.

4 MR. KEY: We're here today for Dr. Marie
5 Assa'ad-Faltas vs. The State of South Carolina, Case
6 Numbers 2019-CP-40-0112, 2217, 2218, and 2219.

7 Dr. Faltas commenced her first PCR action today --
8 that's -- that's here for today, 0122, on January 7, 2019,
9 challenging her simple assault conviction in the City of
10 Columbia Municipal Court. Dr. Faltas commenced 2217,
11 2218, and 2219 on April 22, 2019. These three actions
12 challenge three separate contempt of court convictions
13 that occurred in the City of Columbia Municipal Court.

14 Dr. Faltas is present today and represented by
15 appointed counsel, Mr. Timothy Griffith.

16 On June 12, 2020, Dr. Faltas did file a pro se motion
17 to relieve Mr. Griffith in all four cases. The State has
18 moved to summarily dismiss all four of Dr. Faltas's cases.
19 If we want to get into that later, we can. But there is a
20 -- there is a filed motion to relieve Mr. Griffith in all
21 four of these cases.

22 THE COURT: All right.

23 APPLICANT ASSA'AD-FALTAS: May I speak now, Your
24 Honor?

25 THE COURT: Yes. I'll hear from you at this time,

1 Dr. Faltas, concerning your motion to relieve Mr. Griffith
2 as your lawyer.

3 APPLICANT ASSA'AD-FALTAS: First of all, Mr. Key did
4 not (audio interference) the correct case reference.
5 Number (audio interference) 2218 challenges a front yard
6 parking conviction in Columbia's Municipal Court. He did
7 not say that, at least I did not hear it.

8 One of the other two cases challenges one contempt of
9 court conviction. The other challenges two contempt of
10 court convictions. So we have three contempt of court
11 convictions, one front yard parking conviction, and one
12 simple assault conviction.

13 The second thing I wanted to put on the record if
14 Your Honor pleases is that I take very strong objection to
15 the attorney general usurping control of the PCR docket.
16 The docket should be controlled by the judge, not one --
17 not by one of the adverse parties.

18 Now, State vs. Langford was a straight criminal case,
19 but there was an action that ---

20 THE COURT: Dr. Faltas -- Dr. Faltas -- Dr. Faltas, I
21 want you to address, please ---

22 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor.

23 THE COURT: I want you to please address the issue of
24 the motion that you filed to have Mr. Griffith removed as
25 your attorney, okay? So let me hear from you on that,

1 please, ma'am.

2 APPLICANT ASSA'AD-FALTAS: May I speak now, Your
3 Honor?

4 THE COURT: Yes, ma'am.

5 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor.

6 Okay. I think in Martinez vs. Ryan and cases prior
7 to it and after it, the U.S. Supreme Court has now
8 extended the right to effective counsel at least to the
9 initial collateral challenge in state courts.

10 So Mr. Griffith has been totally ineffective. And
11 one of the tests of effectiveness is whether the lawyer
12 subjected it to adversary exposition. Mr. Griffith came
13 out and told me that he wants to be able to get along with
14 the attorney general. And, of course, the attorney
15 general wants me to lose those cases. Mr. Griffith has
16 done nothing -- nothing to challenge any assertion by the
17 attorney general. Number two, to make a clean record that
18 would be available on appeal; number three, to understand
19 my theory of the cases and the ---

20 THE COURT: Understand what? I'm sorry.

21 APPLICANT ASSA'AD-FALTAS: My theory, T-H-E-0 ---

22 THE COURT: Your theory?

23 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor.

24 THE COURT: Okay.

25 APPLICANT ASSA'AD-FALTAS: Of the cases. And

1 remember as it stands today, the latest version of the
2 State Supreme Court, it is against me is that I may
3 initiate PCR cases pro se, but I may not prosecute them
4 pro se. That wasn't the case previously. But as it
5 stands now, I initiated those cases pro se, and that is
6 cool with the State Supreme Court.

7 As of this morning, Mr. Griffith has not even read my
8 PCR applications. All he had done is read the State's
9 characterization of my PCR applications. The most
10 important thing is that Mr. Griffith has absolutely no
11 sense that justice delayed is justice denied.

12 The -- the simple assault conviction, the allegation
13 was on September 11, 2009. That's 11 years ago. It did
14 not get tried until April 2013. That's seven years ago.
15 And then only after then Chief Justice Toal issued an
16 order saying that my cases should be tried expeditiously.
17 The appeal was not heard until December 2013, and the
18 ruling on it was not heard -- was not issued -- the first
19 ruling from the Circuit Court was not issued until April
20 2015. And then the State Supreme Court did not issue its
21 ruling on the appeal until June 2017, and the hearing
22 until August 2017.

23 In the meanwhile, I had as early as December 2013 and
24 January 2014 filed a motion for a new trial based on
25 after-discovered evidence.

1 THE COURT: Dr. Faltas, I don't mean ---

2 APPLICANT ASSA'AD-FALTAS: That ---

3 THE COURT: Dr. Faltas, I don't mean to cut you off,
4 but is that -- what you're giving me is a history. Are
5 you getting to the point on any other argument that you
6 have to have Mr. Griffith removed?

7 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor. He is
8 not at all pushing or even sympathetic or even cognizant
9 of my right to have those matters adjudicated in a timely
10 manner. He -- even this morning he said, oh, the attorney
11 general just scheduled the motions to dismiss.

12 I said the attorney general does not control the
13 judge. The judge is not a potted plant. The judge --
14 please ask the judge. Once he denies the motion to
15 dismiss to please hear at least the three little PCR cases
16 because the merits is apparent on the record. You don't
17 need my credibility. You don't need anyone's credibility.
18 The actual order from Judge Barber in September 2011 said
19 Dr. Faltas tried to have a lawyer, she did not get -- was
20 unable to get a lawyer, so I am dismissing her cases
21 because she doesn't have a lawyer. He never offered me an
22 appointed lawyer.

23 So part of my PCR is that I was denied appellate
24 lawyer. It's not even that that appellate lawyer was
25 ineffective. It's that there wasn't one at all. I wasn't

1 even given a chance to ask for one. While they were
2 saying I cannot proceed without one, and they were aware
3 that I was unable to hire one on my own, they did not even
4 offer to consider appointing one for me.

5 So the merits of the PCRs 2217, 2218, and 2219 is
6 apparent on the record. And these have been pending for
7 many, many, many years. So part of Mr. Griffith's
8 ineffectiveness and failure to subject the State to the
9 adversary process is that he -- he is acquiescing to this
10 hearing being limited to the State's motions to dismiss.
11 Justice delayed is justice denied. That is pretty much
12 the only cliché that I subscribe to.

13 So -- and, again, I kept compelling him to please
14 look at the record. Now there is a public index, and also
15 there is -- there is C-track. Not all my cases are on
16 C-track as far as the appellate courts, but all the
17 underlying cases are on the public index. And I kept on
18 pleading with Mr. Griffith to look at the public index and
19 also to forward to Your Honor the (audio interference)
20 documents. He did not do that. In fact, he prepared a
21 miserable opposition to the State's motions to dismiss,
22 and it's grammatically embarrassing. He did not even
23 serve it on the attorney general, and did not file it with
24 the Circuit Court. He may have sent it to Your Honor ex
25 parte. Or I don't know. He didn't copy me. He doesn't

1 keep me informed of anything, and he doesn't inform me
2 himself of -- of -- of the actual state of the record.
3 And particularly now that the State Supreme Court said in
4 future appeals in PCRs and others, there won't be
5 necessary -- excuse me -- to -- to prepare appendices.
6 The State Supreme Court will get it from the Internet from
7 the public index.

8 It is very important for the record before the
9 Circuit Court to be clean. He doesn't do any of that. I
10 don't know what it is that he does except just tell me
11 that -- that I cannot speak for myself, which is a
12 violation of my basic human rights.

13 And frankly, Judge, now with the Black Lives Matter,
14 it's not enough to be not racist. You have to be
15 antiracist. It's not enough for you to not discriminate
16 against me. You have to be antidiscrimination. Those
17 orders from the State Supreme Court are xenophobic,
18 discriminatory against me, and, frankly, at least two
19 judges -- justices who are participating should be
20 recused. Number one, Justice James's son is in the law
21 firm that orchestrated my false arrest on December the 2nd
22 29 -- 2009 for the client to get an unfair advantage in
23 civil litigation.

24 Justice Kittredge is mentored by now retired formerly
25 Fourth Circuit judge Billy Wilkins. And Billy Wilkins is

1 now a lawyer with the Nexsen Pruet law firm, the Nexsen
2 Pruet law firm when I was nontenured faculty at USC school
3 of medicine. And I have that in writing, and it's filed
4 in the federal court. You don't need to take my word.
5 You need to take the record. It's -- she -- one of the
6 lawyers there, her name is Victoria Eslinger. She wrote
7 to USD [sic]: Fire Dr. Faltas, and when she sues you,
8 hire me at taxpayer expense to defend the lawsuit.

9 This is how much corruption there is, and it's not
10 enough for Your Honor, Judge Craig Brown, to not be
11 corrupt. You have to stand against corruption and against
12 discrimination.

13 Not one judge before whom I appeared can in good
14 conscience say that I was frivolous or nondecorous or
15 anything. In fact, Judge Clifton Newman, I defended the
16 false harassment charges before him in a five-day jury
17 trial. And in the middle, I asked him point blank: Did I
18 offend Your Honor?

19 He said -- and that's transcribed: Not in any way.
20 You have always been most pleasant and gracious, and your
21 motions are not frivolous at all.

22 So the only reason I am being given those horrible
23 restrictions is that when I represent myself pro se, I
24 win. And that is not in the interest of people who are
25 related to the justice system, or at least to some of

1 them. And, in fact, in another PCR cases, Judge Jocelyn
2 Newman allowed me to proceed pro se, and I won that case
3 twice. I one it before Judge Goldsmith, and then I won it
4 again before Judge Gravely.

5 THE COURT: All right.

6 APPLICANT ASSA'AD-FALTAS: So there is no reason for
7 me not to proceed pro se, but if I have to have an
8 appointed counsel, he needs to effectively defend my
9 interest, not be totally beholden to the state attorney
10 general.

11 THE COURT: All right. Thank you, Dr. Faltas.

12 All right. Mr. Griffith, anything you want to add in
13 response?

14 MR. GRIFFITH: Your Honor, I can only say that I am
15 trying to be always, of course, courteous to the attorney
16 general, but I do not kowtow to the Attorney General's
17 Office, of course.

18 But Dr. Faltas is a unique person. She's a very
19 well-knowledged and intelligent lady. I don't have any
20 problem at all with representing her. If she can
21 represent herself, that would be a different matter. But,
22 Your Honor, because the Court has made a ruling that she
23 could not, unless Your Honor were to change that for these
24 cases, then she needs an attorney. And I believe that I
25 can certainly represent her and would do my best. But, of

1 course, it would be up to Your Honor whether you decide to
2 dismiss or not or relieve me or not.

3 THE COURT: Mr. Key, anything you want to add, sir?

4 MR. KEY: Your Honor, it's clear from the State
5 Supreme Court's 2019 order that Dr. Faltas has to have an
6 attorney representing -- to represent her in PCR actions
7 after she has filed the initial application. She can file
8 a PCR action pro se, and she can move to relieve counsel
9 or appointed counsel pro se. She can't do anything else
10 pro se. And in the 2019 order, they clarified that that
11 is what they meant by their 2017 order that said that
12 Dr. Faltas cannot represent herself pro se in any civil
13 proceeding in state courts.

14 Mr. Griffith is Dr. Faltas's third appointed attorney
15 in this case. She previously had Cassie Brewer, who you
16 ordered Cassity -- or Ms. Brewer to be relieved. Right
17 after that she was appointed Ola Johnson, who, at some
18 point in time in the early 2000's, worked for Nexsen
19 Pruet. Mr. Johnson moved to be relieved in that case --
20 or moved to be relieved because of that. Judge Lee
21 granted the motion to be relieved, and then Mr. Griffith
22 was appointed her attorney. So now we're at her -- we're
23 at her third appointed attorney, and the State would just
24 oppose her proceeding pro se. And that's all.

25 THE COURT: This is what I'm going to do with regards

1 to -- I'm going to go back and look at those orders from
2 the Supreme Court. I remember Dr. Faltas being in front
3 of me before with Ms. Brewer and remember and recall the
4 facts and circumstances under which I relieved Ms. Brewer
5 as attorney for Dr. Faltas. For some reason I thought
6 Mr. Griffith at that point was appointed then, but
7 evidently, Mr. Johnson was.

8 Mr. Key, are you still there?

9 MR. KEY: Yes, sir, Your Honor.

10 THE COURT: Okay. I just lost your picture here.

11 But in any event, I do recall reviewing the orders
12 from the Supreme Court indicating that Dr. Faltas was
13 prohibited from representing herself in civil matters, and
14 I do recall reviewing the prior order -- or, excuse me --
15 the subsequent order wherein the Supreme Court indicated
16 that that also applied to postconviction relief matters.
17 So based ---

18 APPLICANT ASSA'AD-FALTAS: Your Honor, may I ---

19 THE COURT: No, ma'am. I'm talking now.

20 Based upon what I've heard here today, I'm going to
21 respectfully deny Dr. Faltas's motion to have Mr. Griffith
22 relieved as her attorney. So that motion is denied.

23 All right. Mr. Griffith -- excuse me -- Mr. Key, I
24 notice on the roster that you have these motions to
25 dismiss. Are you ready to proceed on those?

1 MR. KEY: Yes, sir, I am. Yes, Your Honor.

2 THE COURT: All right. Let me from you, Mr. Key.

3 MR. KEY: I'll start first with 2019-CP-40-0112.

4 Dr. Faltas was charged with simple assault in the City of
5 Columbia Warrant Number L066971. That was issued
6 September 11, 2009. She was represented by Theodore
7 Lupton on that charge.

8 On April 25, 2013, she proceeded to a bench trial
9 before the Honorable Carl Solomon in the Columbia
10 Municipal Court. She was convicted and sentenced by Judge
11 Solomon to confinement for a period of 20 days.

12 She filed a timely notice of appeal in the Circuit
13 Court on April 25, 2013. A hearing on the matter was held
14 before the Honorable Allison Lee on December 13, 2013, at
15 which time Dr. Faltas appeared pro se.

16 Applicant then filed a motion for a new trial based
17 on after-discovered evidence on December 23, 2013.
18 Without ruling on the motion for a new trial, on April 17,
19 2015, the Circuit Court affirmed applicant's conviction.

20 Dr. Faltas then filed a timely notice of appeal with
21 the South Carolina Supreme Court. She was represented in
22 that action by John H. Strom, formerly an appellate
23 defender. Following submission of briefs, the Supreme
24 Court affirmed the conviction.

25 She then filed a petition for writ of certiorari in

1 the United States Supreme Court. On October 1, 2018, the
2 United States Supreme Court denied certiorari.

3 Dr. Faltas filed a petition for a rehearing on
4 November 29, 2018. And the United States Supreme Court
5 denied the petition for a rehearing on January 7, 2019.

6 The State's motion to dismiss in this action is based
7 on the -- there is still a pending -- or there's still an
8 appeal from the previously pending motion for a new trial.
9 That case is -- the appeal from the motion for a new trial
10 based on newly discovered evidence is on appeal in the
11 Circuit Court. The case number of that appeal is
12 2019-CP-40-1374.

13 It appears that the last judicial action in that case
14 was Judge Clyburn Pope continued that matter and ordered
15 for the magistrate to issue a return. It also appears
16 that in April of this year -- sorry. I believe Judge
17 Clyburn Pope -- or Clyburn Pope's order was in December of
18 2019. And then in April of 2020 this year, Dr. Faltas
19 moved for her counsel in that case to be relieved.

20 That is the most up-to-date actions in that case.

21 The appeals of her denial of her motion for a new
22 trial based on newly discovered evidence still has not
23 been heard. Therefore, the State would move for
24 Dr. Faltas's case 2019-CP-40-0112 to be -- to be dismissed
25 without prejudice until that case becomes final.

1 THE COURT: All right. Mr. Griffith, I want to hear
2 from you, please, sir.

3 MR. GRIFFITH: Your Honor, that case was a magistrate
4 case, started a magistrate case. And the appeals were
5 timely fashioned, timely submitted. There is a magistrate
6 judge who was ordered by that court as specified by the
7 assistant attorney general to render an order and to issue
8 a return. And he rendered an order. And so the order has
9 been stated. He has not submitted a return to the appeals
10 court. But there is no more hearings that would be
11 pending in that case where that magistrate court could
12 make a ruling, et cetera. And we would ask that -- that
13 the motion to dismiss be denied in that justice has been
14 delayed, of course. And so, of course, as Dr. Faltas
15 states many times, justice delayed is justice denied. And
16 so we would ask that this case be able to proceed with her
17 PCR.

18 The PCR issues in this case are -- there -- she
19 issued 20 in that particular case -- are many having to do
20 with things other than those -- that one particular issue
21 that has not yet returned from the appeals court because
22 she's been denied -- the Magistrate's Court has refused to
23 submit that return to the Court. So, basically ---

24 THE COURT: Let me ask you this -- let me ask you
25 this, Mr. Key. In Judge Pope's order -- I think you said

1 back in December of last year; is that right?

2 MR. KEY: Yes, sir.

3 THE COURT: Was she asked for a return at that point?
4 Is that right?

5 MR. KEY: Yes, sir, she did.

6 THE COURT: Was there any kind of time frame within
7 Judge Pope's order for that return to be submitted?
8 Because I can tell you what I'd do.

9 MR. KEY: I don't believe so.

10 THE COURT: I give a magistrate 30 days to file a
11 return as required by the statute or the conviction's
12 reversed.

13 MR. GRIFFITH: If it please the Court. Your Honor,
14 yes, he has had an ample time to return. This is now
15 August of 2020, and that order was issued 2019. Of
16 course, you're aware that the Court does keep track
17 generally of those returns, whether or not they were made.
18 And so he's had ample time to return and has, basically,
19 according to what Dr. Faltas and I have discussed, he's
20 refused to make a return.

21 THE COURT: And this was a requested return from the
22 trial that was in April of 2013; is that right?

23 MR. KEY: Your Honor, it's a return on the motion for
24 a new trial based on newly discovered evidence that was
25 filed on the trial of 2013.

1 THE COURT: When was the motion for a new trial based
2 upon newly discovered evidence? When was that motion
3 filed in the Magistrate's Court?

4 MR. KEY: December 23, 2013.

5 THE COURT: And so there's never been a return since
6 December of 2013 on this?

7 MR. KEY: Well, the hearing didn't occur, I believe,
8 until 2019.

9 THE COURT: Hold on. I'm sorry. Tell me that again,
10 Mr. Key.

11 MR. KEY: I believe the motion for a new trial based
12 on newly discovered evidence was filed on December 23,
13 2013. The hearing on that motion did not occur, I
14 believe, until 2019.

15 THE COURT: When in 2019?

16 MR. KEY: That . . .

17 THE COURT: Sir?

18 MR. KEY: I'm not completely sure. I can look at my
19 records.

20 THE COURT: Okay. See if you can get that date to
21 me.

22 MR. KEY: Yes, sir.

23 THE COURT: You can email that date to me, and copy
24 Mr. Griffith on that when you do so, please.

25 All right. Anything else, Mr. Key, on your motion to

1 dismiss with regards to 0112?

2 MR. KEY: No, sir, Your Honor.

3 THE COURT: All right. Mr. Griffith, did you have
4 anything else to add with regards to that particular case?

5 MR. GRIFFITH: Nothing -- nothing to add, Your Honor.

6 THE COURT: All right.

7 APPLICANT ASSA'AD-FALTAS: May I add something, Your
8 Honor?

9 THE COURT: No, ma'am. Not right now. No. No,
10 ma'am.

11 All right. Mr. Key, let me hear from you on the next
12 motion, please.

13 MR. KEY: Okay. All right. In Case Number
14 2019-CP-40-2217 ---

15 THE COURT: 2217?

16 MR. KEY: 2217. Yes, sir.

17 THE COURT: Okay. Yes, sir.

18 MR. KEY: On October 13, 2010, the City of Columbia
19 Municipal Court issued an order directing Dr. Faltas to
20 have limited contact with the Municipal Court and the City
21 of Columbia -- the City of Columbia City Attorney's
22 Office. Subsequently, a rule to show cause was issued
23 against Dr. Faltas on March 28, 2011, for violating that
24 order.

25 Dr. Faltas appeared at the hearing pro se. After

1 taking testimony in the matter, Judge Mary Ann Hanna
2 (phonetic) sentenced applicant to ten days of jail -- in
3 jail for one contempt of court, and 15 jails -- 15 days in
4 jail on a second contempt of court.

5 Dr. Faltas appealed to the Circuit Court on March 30,
6 2011. She filed a pro se notice of appeal in that case.
7 Thereafter, on April 8, 2011, the South Carolina Supreme
8 Court issued an order prohibiting Dr. Faltas from filing
9 pro se actions in South Carolina courts.

10 THE COURT: When was that in 2011?

11 MR. KEY: April 8, 2011.

12 THE COURT: That's the Supreme Court?

13 MR. KEY: Yes, sir.

14 THE COURT: All right. I'm sorry. Go ahead.

15 MR. KEY: Dr. Faltas's appeal was called for a
16 hearing on September 16, 2011, at which Dr. Faltas
17 appeared pro se. The Circuit Court issued an order
18 granting applicant, Dr. Faltas, an additional 30 days to
19 obtain counsel before it ruled on her appeal.

20 On November 1, 2011, the Circuit Court issued an
21 order dismissing Dr. Faltas's appeal for failure to
22 prosecute.

23 On July 11, 2013, Dr. Faltas filed a motion
24 requesting appointment of counsel to help her perfect her
25 appeal of the Circuit Court's denial of relief.

1 On November 8, 2017, the Circuit Court issued an
2 order denying Dr. Faltas's motion for appointment of
3 counsel. On November 9, 2017, Dr. Faltas filed a motion
4 for partial reconsideration of that court's order.

5 Judge Clifton Newman issued the order, the
6 November 8, 2017, order denying Dr. Faltas's motion to
7 appoint counsel for her to pursue her appeals.

8 The motion for partial reconsideration that was filed
9 on November 9, 2017, is still pending before Judge Clifton
10 Newman. Because that motion has not been ruled on, the
11 State would move to dismiss Dr. Faltas's -- would move for
12 this case to be dismissed without prejudice because it has
13 not become final.

14 THE COURT: Hold on. So you're waiting on a ruling
15 from Judge Newman on a motion for partial reconsideration
16 on not appointing counsel to assist in perfecting her
17 appeal; is that right?

18 MR. KEY: Yes, sir.

19 And just for clarity, that -- Judge Newman's
20 November 8, 2017, order, that deals with cases 2217, 2218,
21 and 2219. The order actually addressed four separate
22 cases. There was a fourth case where Judge Newman did
23 appoint counsel to represent her in perfecting that appeal
24 or PCR. They appointed an attorney in that case. She --
25 Dr. Faltas pursued PCR. That is one of the cases that --

1 Judge Gravely granted PCR in that case. That case is now
2 on appeal before the -- the South Carolina Supreme Court
3 has recently transferred that case to the Court of Appeals
4 to be decided, the -- the fourth case from that November
5 2017 order.

6 THE COURT: And so Judge Newman, there's three cases
7 that are outstanding where she didn't have appointed
8 counsel to aid and assist her in her appeal.

9 MR. KEY: Yes, Your Honor. He denied appointing
10 counsel to aid her in pursuing an appeal in those three
11 cases.

12 THE COURT: Okay. So he did make a ruling on it. He
13 denied it; is that right?

14 MR. KEY: Yes, sir.

15 And then in these three underlying convictions,
16 Dr. Faltas filed a motion for partial reconsideration, I'm
17 assuming, because he granted her an appointment of counsel
18 in one of the four cases, but not in the other three.

19 THE COURT: Right. What was the case number on the
20 one he appointed; do you recall?

21 MR. KEY: I know the appellate case number. I can
22 find ---

23 THE COURT: What's the appellate case number?

24 MR. KEY: That is 2019-000708 -- 708.

25 THE COURT: Okay.

1 APPLICANT ASSA'AD-FALTAS: May I give Your Honor the
2 other case numbers related to your question?

3 THE COURT: Hold on just a minute, okay, Dr. Faltas?
4 I'm writing here. Hold on a minute.

5 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor.

6 THE COURT: All right. You can give me those case
7 numbers, Dr. Faltas.

8 APPLICANT ASSA'AD-FALTAS: Your Honor, the one in
9 which Judge Clifton Newman granted appointment of counsel
10 was Circuit Court Case 2011-3572 -- I'm sorry -- 3275.
11 I'm sorry. And then the application (indiscernible) to do
12 a (indiscernible) to do a timely PCR.

13 THE COURT: Dr. Faltas, hold on a minute.

14 APPLICANT ASSA'AD-FALTAS: The PCR -- the PCR Case
15 Number is 2017-CP-40-6831.

16 THE COURT: What was the other case number? That was
17 the case number he appointed someone on?

18 APPLICANT ASSA'AD-FALTAS: I'm sorry?

19 THE COURT: The 6831 is ---

20 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor.

21 THE COURT: Let me finish my question, okay?

22 APPLICANT ASSA'AD-FALTAS: Yes. 2017. Okay. Sorry.
23 Sorry.

24 THE COURT: The 2017-6831, that's the case that Judge
25 Newman appointed counsel on?

1 APPLICANT ASSA'AD-FALTAS: Yes, Your Honor. But, of
2 course, at that time that case did not exist. That is the
3 case that became the PCR case after he appointed a lawyer
4 on. But, in fact, as it turned out, I initiated that case
5 pro se. And later Judge Jocelyn Newman allowed me to
6 prosecute it pro se.

7 And the current appeal which Mr. Key gave you the
8 number is the State's appeal ---

9 THE COURT: Right.

10 APPLICANT ASSA'AD-FALTAS: --- not my appeal. But
11 the underlying case on which Judge Clifton Newman granted
12 the appointment of counsel is 2011-35 -- I'm sorry --
13 3475. And that is City of Columbia vs. Marie
14 Assa'ad-Faltas.

15 THE COURT: Okay.

16 APPLICANT ASSA'AD-FALTAS: Now, while I have the mic
17 on the phone, Mr. Keys said that I cannot represent myself
18 in any civil action in South Carolina state court. That's
19 not correct. The State Supreme Court said specifically I
20 can represent myself in all civil cases in which I am a
21 defendant.

22 THE COURT: All right. Well, this is what I'm going
23 to do. Listen, Dr. Faltas. I'm going to review those
24 orders, and I'll make a ruling on it from there.

25 Mr. Key, anything further with regards to the State's

1 motion to dismiss on each of these cases?

2 MR. KEY: No, sir. No, sir, Your Honor. Just that
3 all four of the cases still have pending matters below.
4 They're not ripe for PCR.

5 THE COURT: Okay. Mr. Griffith, let me hear from
6 you, please, sir.

7 MR. GRIFFITH: Your Honor, in those cases, back when
8 those cases were initiated and she was denied -- the case
9 was dismissed after some of her filings, the State did not
10 provide an attorney for PCR cases other than they only
11 provided attorneys for criminal cases. Subsequently,
12 later on the State did start providing PCR attorneys, and
13 so she tried to hire four attorneys who would not
14 represent her. And so then, of course, those cases were
15 dismissed because she did not -- for failure to prosecute
16 because she couldn't get an attorney. But then later,
17 once the State decided that she could have an appointed
18 attorney for those cases, she timely filed, everything was
19 filed as it should have been as far as time is concerned.

20 The matter of the appeal that's pending, that's the
21 State's motion. She has exhausted her ability to proceed
22 in those cases. The State has an appeal open, but it's
23 not her motion. And so she's exhausted everything except
24 for this PCR. And the PCR should continue in that she has
25 been denied, and the cases have been confirmed throughout

1 all the appeals, et cetera. And so she would ask that the
2 Court allow these cases to continue, all three of them.

3 THE COURT: All right. This is what I'm going to do.
4 I'm going to -- Mr. -- the State has provided me with a
5 substantial amount of documentation and information
6 pertaining to these cases of Dr. Faltas. I am going to
7 meticulously go through every bit of what has been
8 provided to me. And as I go through this information in
9 making a determination on the State's motion to dismiss, I
10 may have some questions. And if I do, Mr. Griffith, I
11 will email you and Mr. Key, both of you, based upon what
12 questions I may have in reviewing this information.

13 With regards to the State's motion to dismiss as to
14 each of these pending postconviction matters, I am going
15 to take them under advisement, and I will let you all
16 know. I may -- Judge Lee, I believe, is the chief
17 administrative judge currently in the Fifth Judicial
18 Circuit. What I may do is -- I don't want -- you know, we
19 as Circuit Court judges have traditionally traveled in and
20 out of circuits, okay, and that has somewhat been affected
21 by what's going on with the pandemic. What I don't want
22 to have happen to Dr. Faltas is I'm going to get up to
23 speed on everything that's going on on all of these cases.
24 And what I may do is, if Judge Lee wants me to, I'm going
25 to at least volunteer to see these matters through to

1 their conclusion, at least at the Circuit Court level so
2 that there's not a potential of some other judge coming in
3 here and not having an opportunity get up to speed on
4 everything that's going on in these cases. You know,
5 unless, of course, you all have an objection to that.

6 Anything from you, Mr. Key, on that?

7 MR. KEY: No objection from the State, Your Honor.

8 THE COURT: Mr. Griffith?

9 MR. GRIFFITH: Your Honor, absolutely no objection.
10 I'm sorry. Absolutely no objection. I'm sorry.

11 THE COURT: And I would give you -- why don't you do
12 this. Why don't you talk to Dr. Faltas separate and apart
13 from me too, and you can email me and Mr. Key if there are
14 any concerns or anything.

15 But I am going to take these motions to dismiss under
16 advisement. And I'm going to go back and go through all
17 of the documentation information that's been provided to
18 me, and I'll make a decision on it and I'll let you all
19 know, okay?

20 Anything else, Mr. Griffith?

21 MR. GRIFFITH: No. Thank you, Your Honor.

22 THE COURT: Mr. Key, anything further?

23 MR. KEY: No, sir, Your Honor.

24 THE COURT: All right. That will conclude this
25 hearing today. I will be in touch with you all and let

1 you know what my ruling on these motions and dismissal,
2 okay?

3 MR. GRIFFITH: Thank you, Your Honor.

4 THE COURT: Thank you.

5 (WHEREUPON, proceedings concluded at 10:32 a.m.)
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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF RICHLAND)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 digitally recorded proceedings had from the DCRP, Digital
12 Courtroom Recorder Project, and evidence introduced in the
13 trial of the captioned case, relative to appeal, in the
14 Court of Common Pleas for Richland County, South Carolina,
15 on the 10th day of August, 2020.

16 I do further certify that I am neither of kin,
17 counsel, nor interest to any party hereto.

18
19 June 21, 2021

20
21
22 *Cheryl A. Smith*

23 Cheryl A. Smith, CVR-M

24 Court Reporter

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