

Original

Before THE COURT OF APPELLATE JUDICIAL JUSTICE OF THE STATE OF SOUTH CAROLINA ("SC") ("SC CoA")
RECEIVED
MAY 11 2022
SC Appellate Case: 2022-000339
From RICHLAND County No. 2019-CP-40-01374

CITY OF COLUMBIA, Respondent **SC Court of Appeals**

v.
Marie Assa'ad-Faltas, MD, MPH, Appellant

Appellant's Timely Motion for en banc Partial Rehearing of SC CoA Chief Judge Williams' 25 April 2022 ORDER to the extent it requires Dr. Assa'ad-Faltas to find counsel on her own as such ORDER effectively Ends this Appeal.

On the 15th day which is not a Saturday, Sunday, or Holiday, from SC CoA Chief Judge Williams' 25 April 2022 ORDER in this case ("25 April 2022 ORDER"), Appellant Marie Assa'ad-Faltas, MD, MPH ("Dr. Assa'ad-Faltas" or "Dr. Faltas") *timely* moves this Court *en banc* to reconsider, reverse and eliminate 25 April 2022 ORDER's requirement for a lawyer to enter an appearance in this appeal by 25 May 2022 or the appeal will be dismissed.

First, the part of 25 April 2022 ORDER sought to be reconsidered relies *entirely* on SC Supreme Court's ("SC S Ct") 27 September 2017 ORDER in SC Appellate Case 2013-000862 ("SC S Ct 27 September 2017 ORDER"), which is NOT binding on this Court since it NOT a published precedent nor is it the law of *this* case. SC's Constitution Article V, Section 9's reference to "decisions" clearly means *judicial*, not administrative, decisions:

SECTION 9. Jurisdiction of Court of Appeals; binding effect of Supreme Court decisions.
The Court of Appeals shall have such jurisdiction as the General Assembly shall prescribe by general law. The decisions of the Supreme Court shall bind the Court of Appeals as precedents. (1985 Act No. 9.)

No jurisdiction ever vested in SC S Ct to deny Dr. Assa'ad-Faltas' *pro se* advocacy rights, or to force that denial "**right or wrong**" on the lower *trial* courts by citing *State v. Cheeks*, 400 S.C. 329, 733 S.E.2d 611 (Ct. App. 2012), which followed a *published* judicial decision, not a secret discriminatory *administrative* order motivated solely by an improper desire to promote lawyer employment.

Second, SC S Ct 27 September 2017 ORDER is invalid as contrary to public policy as stated in non-discrimination statutes. Even if Dr. Assa'ad-Faltas *arguendo* became frivolous *overnight* after SC S Ct on 7 April 2011 "**appreciate[d] Dr. Faltas' good faith attempt to opine on a legal matter pending before the Court,**" and *arguendo* sprouted vex and frivolity only 14 months after then-presiding SC Circuit Judge Clifton Newman complimented Dr. Assa'ad-Faltas' conduct and advocacy as "**most pleasant and gracious [but] not frivolous at all,**" SC Code of Laws **does not exclude frivolous people** from these sections:

SECTION 14-1-100. Rights in court shall not be affected by race or color. Whenever authority has heretofore been conferred by law upon any free white person or persons to institute any suit or proceedings or to prefer any information or complaint in any matter, civil, penal or criminal, the same rights shall be enjoyed by and the same remedies shall be applicable to all persons whatsoever, regardless of race or color, **subject to the same conditions and none other.**

Any *frivolous* white person may plead his own case in SC's Courts:

SECTION 40-5-80. Citizen may prosecute or defend own cause. This chapter may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires.
HISTORY: 1962 Code Section 56-102; 1952 Code Section 56-102; 1942 Code Section 326; 1932 Code Section 326; Civ. P. '22 Section 282; Civ. C. '12 Section 3922; Civ. C. '02 Section 2819; G. S. 2167; R. S. 2295; 1721 (7) 173; 1868 (14) 97; 2002 Act No. 307, Section 2

The only *approved* tools against vex/frivolity are Rule 11, SCRPC, and § 15-36-10, SC code. No SC state *trial* or appellate court used either tool against Dr. Assa'ad-Faltas before 8 April 2011, and she had by then won all closed civil cases she had brought there *pro se* and prosecuted to conclusion. In the 22 March 2022 *quasi*-trial in SC Appellate Case 2021-000815 before SC S Ct, Dr. Assa'ad-Faltas challenged the validity of SC S Ct 27 September 2017 ORDER mainly for the absence of an underlying case or controversy and the absence of SC S Ct's acquisition of subject matter and/or personal

jurisdiction over Dr. Assa'ad-Faltas. **Then-Acting-SC-Chief-Justice Kittredge orally held SC S Ct 27 September 2017 ORDER valid but also promised a written ruling which has so far NOT issued.** It is elementary that oral rulings may be modified or retracted anytime until a final ruling disposing of all the rights and liabilities of all parties issues in a civil case, or until a sentence is imposed in a criminal case. Therefore, this Court should NOT act under SC S Ct 27 September 2017 ORDER, even if it were *arguendo* binding on this Court, until the challenge to said ORDER is decided with finality, including by appeal to the U.S. Supreme Court or by federal habeas.

Third, this Court *en banc* should *independently, conscientiously, and fairly* consider that: (1) Dr. Assa'ad-Faltas is ready, willing and able to prosecute this appeal *pro se*; (2) she previously prosecuted *pro se* another criminal appeal *before this very Court, including oral argument, prevailed unanimously*, (2007-UP-193, decided 26 April 2007) <https://www.sccourts.org/opinions/unpublishedopinions/HTML-files/COA/2007-UP-193.htm> and *successfully defended pro se her pro se win before the panel against the Prosecution's petitions for rehearing en banc and for certiorari from SC S Ct*; (3) this Court *routinely hears pro se appeals even from convicted murderers; and* (4) in the most recent case involving Dr. Assa'ad-Faltas before this Court, 2019-000708, Dr. Assa'ad-Faltas was the *pro se* prevailing party below (*Assa'ad-Faltas v. SC*, 2017-CP-40-06831) and **prevailed again before this Court.**

Fourth and foremost, an *uncontested* allegation in the case underlying this appeal is that Charlene Crouch, the City's second of only two witnesses against Dr. Assa'ad-Faltas, had **lied** in Dr. Assa'ad-Faltas' trial about Crouch's criminal record. Dr. Assa'ad-Faltas also presented *prima facie* evidence that Dinah Gail Steele, the City's first witness against Dr. Assa'ad-Faltas **had lied** (or at least provided inconsistent testimony) in the same trial about Steele' claimed mental injury. Further, and to the extent SC S Ct 27 September 2017 ORDER, relied on "reports" that Dr. Assa'ad-Faltas had carried "placards" to disrupt unrelated cases, Dr. Assa'ad-Faltas submitted that such "reports" (never disclosed to her) are false and may come under the crime of false reports to law enforcement. **If Dr. Assa'ad-Faltas' allegations or perjury by at least three persons have any truth, this Court should not hasten to dismiss this appeal under pretext of preserving "the dignity" of courts.** Nothing is or can be more destructive of the dignity of the courts or of public confidence in the judiciary **than the fact or appearance of courts' tolerance of perjury.**

WHEREFORE, this Court *en banc* should reconsider and eliminate 25 April 2022 ORDER's requirement that a lawyer enter an appearance in this case by 25 May 2022. **At the very least, this Court should await the conclusion of all proceedings in 2021-000815, including likely modifications of SC S Ct 27 September 2017 ORDER, before and by SC S Ct and federal courts.**

Sincerely submitted and served the same day by hand-delivery to Mr. Marshall Schumpert James, Counsel for the City, at his office location for the City of Columbia's Legal Department at 1401 Main Street, (corner of Main and Washington) Columbia, SC 29201, and as added courtesy by email to him at marshall.james@columbiasc.gov all on 11 May 2022, all God so willing.



s/Marie Assa'ad-Faltas, MD, MPH, Defendant/Appellant
P.O. Box 9115, Columbia, SC 29209

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Supporting documents (suggested for viewing by the Court from official records):

- 1.** All records of SC Appellate Cases 2013-000862 and 2021-000815 on *non-public* C-Track;
- 2.** All records of *Assa'ad-Faltas v. Kittredge*, federal case 3:22-cv-00923-TLW-SVH (DSC) and
- 3.** All records of *Assa'ad-Faltas v. Kittredge*, federal case 22-1464 (USCA for the Fourth Circuit).

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Before THE COURT OF APPEALS ("CoA") of the STATE OF SOUTH CAROLINA ("SC") ("SC CoA")
SC Appellate Case: 2022-000339
From RICHLAND County No. 2019-CP-40-01374

CITY OF COLUMBIA, Respondent

v.

Defendant/Appellant's Timely Response to Deficiency Letter

Marie Assa'ad-Faltas, MD, MPH, Appellant

Defendant/Appellant Marie Assa'ad-Faltas, MD, MPH ("Dr. Assa'ad-Faltas" or "Dr. Faltas") hereby *timely* moves this Court to accept this response as satisfying the concerns in the 25 March 2022 deficiency letter. First, to the extent this Court's inquiry about the date the 9 February 2022 ORDER was received by Dan Addison probes the timeliness of this appeal, this case's own records show SC Circuit Judge Brown's 11 March 2022 ORDER on Dr. Assa'ad-Faltas' 22 February 2022 *timely* motion to reconsider, which stays the timelines of the appeal. Since this appeal was filed on 15 March 2022, *i.e.*, within four (4) days of the 11 March 2022 ORDER, it is timely regardless of when the 9 February 2022 ORDER had been received by Dan Addison. Second and third, per the new procedures for SC appeals, SC appellate courts may, and do, look to the trial courts' public indices. The public index of Richland County Circuit Court of Common Pleas shows the appeal was also timely filed in 2019-CP-40-01374 on 15 March 2022 *electronically and simultaneously served also electronically on Marshall James, counsel for the City of Columbia, that same day.*

Sincerely submitted and served the same day by hand-delivery to Mr. Marshall Schumpert James, Counsel for the City, at his office location for the City of Columbia's Legal Department at 1401 Main Street, (corner of Main and Washington) Columbia, SC 29201, and *as added courtesy by email to him at marshall.james@columbiasc.gov all on 11 May 2022, all God so willing.*

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e-mail: Marie.Faltas@hotmail.com and MarieAssaadFaltas@GMail.com

Supporting documents (suggested for viewing by the Court from public records):

- 1.** 25 March 2022 deficiency letter;
- 2.** Proof of electronic filing of Notice of Appeal in circuit court and electron service on City; and
- 3.** Notice of appeal filed in circuit court.

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