

May 25 2022

SC Court of Appeals

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.

Marie Assa’ad-Faltas, MD, MPH, Appellant**Attorney Timothy L. Griffith’s Notice of PROVISIONAL
Appearance for Appellant and Motion to Allow
Provisional Appearance until Appellant’s Representation
Status is Updated By South Carolina’s Supreme Court**

Timothy L. Griffith, (“Attorney”) a member in good standing of the bar of this State, hereby respectfully enters his appearance on behalf of Defendant/Appellant Marie Assa’ad-Faltas, MD, MPH (“Dr. Assa’ad-Faltas” or “Dr. Faltas”) and, in fulfilment of the duty of candor to the tribunal, moves this Court to allow his appearance in this case to be on a provisional basis.

In support hereof, Attorney shows this Court that he practices criminal defense and represents PCR applicants in circuit court is currently appointed to represent Dr. Faltas as an applicant in four PCR cases, of which four, case 2019-CP-40-00112 challenges the same City of Columbia (“CMC”) conviction underlying this appeal. In that capacity, Attorney has become aware of the Defendant/Appellant’s view of the defects of the underlying conviction and is willing to assist the courts in redressing those issues. Please see; *e.g.*, *Mallard v. U.S. District Court for Southern Iowa*, 490 U.S. 296 (1989).

In his capacity as Dr. Faltas’ PCR counsel, Attorney has also moved for funding for, *inter alia*, a transcript of dual application to both this case and the Dr. Faltas’ PCR cases. A copy of that filed motion is attached hereto as Exhibit 1 and prayed to be accepted in lieu of the transcript order form. Attorney reviewed the transcripts of Dr. Faltas’ 22 February and 22 March 2022 *pro se* appearance (Exx 2 and 3 hereto) and would present to this Court Dr. Faltas’ optimism that South Carolina’s Supreme Court might may restore Dr. Faltas’ rights to *pro se* advocacy based on the changed circumstances of the evidence in SC Appellate Case 2021-000815.

Further, Attorney would present to this Court this motion so as to aid Defendant/Appellant’s desire for exhaustion of all available state remedies and to create in state court as complete as possible of a factual record in the event federal habeas is later needed and sought. Please see *yesterday’s* 6-3 opinion of the U.S. Supreme Court in *Shinn v. Martinez-Ramirez*, 596 __ U.S. (2022). Dismissal of this appeal for inability to hire a lawyer would deprive Dr. Faltas of her opportunities to seek redress for her legitimate grievance in state or federal fora.

Therefore, Attorney seeks to enter his *provisional* appearance until the transcript is obtained or until the South Carolina Supreme Court enters its decision of SC Appellate Case 2021-000815, whichever is earlier, because that is the limit of Attorney's *pro bono* availability for a client Attorney has come to respect and feels obligation to protect under the law.

WHEREFORE, this Court should accept Attorney's provisional appearance and refrain from dismissing this appeal until the transcript is received or South Carolina's Supreme Court decides Case 2021-000815, whichever is earlier; and then decide accordingly.

Respectfully submitted by email to ctappfilings@sccourts.org according to South Carolina's Supreme Court's ORDER 2022-05-06-03 (Ex. 4) **and served by email** on Mr. Marshall James, Counsel for Respondent City of Columbia at marshall.james@columbiasc.gov and on Dr. Faltas by email to [Marie Faltas@hotmail.com](mailto:Marie.Faltas@hotmail.com)

**[S/]Timothy L. Griffith, Attorney at Law
Provisional Attorney for Appellant
2338 Mount Vernon Dr., Sumter, SC 29154
Phone: (803) 499-2012**

Executed in, and served from, Sumter, South Carolina on May 25, 2022

EXHIBIT

No. 1

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Marie Assa'ad-Faltas, MD, MPH)

Plaintiff,)

vs.)

State of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS
5TH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-40-0112, 2019-CP-40-2217
2019-CP-40-2218, 2019-CP-40-2219

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

2022 MAY 23 PM 12:00
FILED
CLERK OF COURT
RICHLAND COUNTY
SARAH L. W. MORRIS
C.P. 5

Plaintiff's Attorney: Timothy L. Griffith, Bar No. 77923 Address: 2338 Mount Vernon Dr, Sumter, SC 29154 Phone: 803-499-2012 Fax 803-728-3375 E-mail: tgriffith@tgriffith.com Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
---	--

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

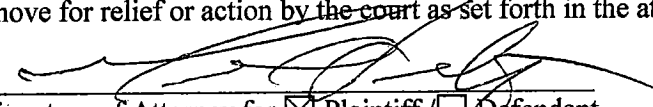
Nature of Motion: Ex Parte Motion for Funding Expense

Estimated Time Needed: _____ Court Reporter Needed: YES/ NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant

5/19/2022
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)

Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Marie Assa'ad-Faltas,)
v.)
STATE OF SOUTH CAROLINA)
DEFENDANT.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
INDICTMENT #s 2019CP40- 112
2019CP40- 2217, 2019CP40- 2218, 2019CP40- 2219

**EX PARTE MOTION
FOR FUNDING EXPENSE**

2022 MAY 2 PM 12:00
JENNIFER NEBRIDE
C.R.P. S.S.
RICHLAND COUNTY
FILED

NOW COMES THE PCR Plaintiff, by and through counsel, pursuant to SC. Code Ann. § 17-3-50, and petitions the Court to authorize Defendant's attorney to obtain transcripts related to the above titled case(s).

1. Applicant's copy of the 27 January 2022 PCR hearing by WebEx before Judge Brown in 2019-CP-40-00112. The former AAG in the case agreed to share a copy with me, and the Court Reporter mentioned that it would be ok with them for the AG to give us a copy. The current AAG declined to send a copy. If the AAG won't provide a copy, then; it is anticipated that the costs of these services will be approximately Forty Seven 00/100 (\$47.00) dollars.
2. The second transcript needed is of 28 January 2022 hearing, also by WebEx and also before Judge Brown in 2019-CP-40-01374. In that hearing, Judge Brown talked about 2019-CP-40-00112 (the PCR case) and other matters related to both cases. At this time, I have not information on what the cost would be, however the hearing was less than 30 minutes so I would anticipate, One Hundred Fifty and 00/100 dollars, (\$150.00).
3. The third transcript is of 21 August 2017 hearing before Judge Clifton Newman. This is estimated to be about 60 pages, so in the area of perhaps Two Hundred Fifty, and

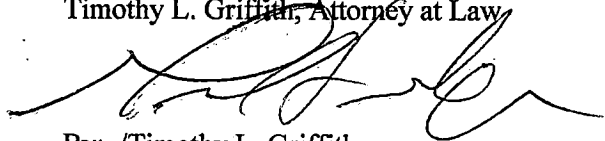
00/100 dollars, (\$250.00). Cases 2011-CP-40-2111; 2010-CP-40-7063 and 2010-CP-40-8650. The court reporter in that case was

PCR Plaintiff requests the transcripts to aid in her claims for PCR.

Plaintiff requests that the record be sealed as it pertains to this motion.

Respectfully submitted,

Timothy L. Griffith, Attorney at Law



By: Timothy L. Griffith

Timothy L. Griffith
Attorney for PCR Plaintiff
2338 Mount Vernon Dr.
Sumter, SC 29154
803 499-2012

Date: May 19, 2022

INDEX TO EXAMINATION

Dr. Marie Assa'ad Faltas

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INDEX TO EXHIBITS

There were no Exhibits Submitted during this Hearing

MS. K.A. SNELLING, CVR-M
Supreme Court, State of South Carolina
Office of Commission Counsel
1220 Senate Street, Suite 111, Columbia, South Carolina 29201

1 (Whereupon, the Hearing commenced at 1:35 p.m.
2 on the 22nd day of February, 2022)

3 CLERK OF COURT: All rise.

4 JUSTICE KITTREDGE: Please be seated. Thank you.
5 Good afternoon, we're on the record in the South Carolina
6 Supreme Court, this is In the Matter of Dr. Marie Faltas,
7 who is present. Chief Justice Beatty is not sitting, and
8 in his stead we're pleased to have Judge Lockemy with us.
9 Thank you, sir, for sitting with us here.

10 The proceeding today arises from a Rule to Show
11 Cause Contempt Action against Dr. Marie Faltas. Dr.
12 Faltas is present, as is Mr. Zelenka from the Attorney
13 General's Office on behalf of the movant. The limited
14 purpose of today's hearing is to confirm what appears to
15 be Dr. Faltas' desire and decision to proceed *pro se* in
16 this contempt proceeding.

17 And Dr. Faltas, we thank you, ma'am, for being here
18 today. We understand from your submissions that you wish
19 to represent yourself, and we understand that and respect
20 that. The law requires that a Court ensure that an
21 accused is properly informed of her rights before waiving
22 the right to legal counsel and granting a request to
23 proceed *pro se*, in other words, self-representation.

24 Dr. Faltas, you're going to be asked questions from
25 the Court, primarily, if not exclusively, from Justice

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1 Few. And it's necessary for us to ensure that
2 whatever decision you choose to make, you do so freely
3 and voluntarily of your own free will.

4 I will tell those in the Courtroom if you wish to
5 remove your mask, you're free to do so at this time.

6 DR. FALTAS: Judge --

7 JUSTICE KITTREDGE: It's also necessary that I place
8 you under oath before we begin the questions about your
9 decision for legal representation or your desire to
10 proceed *pro se*. So at this time, Dr. Faltas, I'd ask if
11 you'd raise your right hand please, ma'am?

12 DR. FALTAS: No, sir, I do not swear for religious
13 reasons. And I also handed to the Clerk a motion for
14 this hearing, and it includes documented that both my
15 knees are fractured. So I need at least permission to
16 address the Court from a seated position, unless this is
17 going to be a torture Star Chamber.

18 JUSTICE KITTREDGE: No, ma'am, you can remain seated
19 the whole time, there's no reason for you to stand. And
20 we will certainly review the motion that you have filed
21 with the Court.

22 Do you affirm that the statements and testimony you
23 give to the Court today will be truthful?

24 DR. FALTAS: Yes, sir.

25 JUSTICE KITTREDGE: Thank you, ma'am. That is

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1 sufficient for the oath, so now the oath has been
2 administered. At this time I'll turn it over to Justice
3 Few.

4 Justice Few?

5 DR. FALTAS - EXAMINATION BY JUSTICE FEW:

6 Q: Dr. Faltas, as you know, you have the right to
7 be represented by an attorney. As you also know, you
8 have the right to represent yourself. As Justice
9 Kittredge mentioned, you have fairly clearly indicated
10 that you wish to represent yourself in this contempt
11 proceeding. To represent yourself however you must make
12 a valid waiver of your right to have an attorney
13 represent you.

14 Now I'm going to talk to you about some of the
15 things that we need to talk about today, and I want you
16 to be cooperative with me. Because if representing
17 yourself is what you want, then the purpose of this
18 hearing is to enable you to do that. I'm aware that you
19 are very familiar with all of these things that we're
20 going to talk about because you've been through these
21 hearings before.

22 But I'm going to talk to you about some of the
23 things that I and the other members of this Court, first,
24 must ask you in order to know after you've heard
25 everything that I'm going to talk to you about do you

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1 still want to represent yourself? And second, if you
2 want to represent yourself we need to know that you are
3 making a valid waiver to your right to counsel.

4 So there are several subjects that are important to
5 your waiver of your right to counsel, and I'm going to
6 discuss those with you now. Your educational background
7 is important to this question. I am aware that you are
8 highly educated. In fact, you have multiple degrees
9 including a Master's in Public Health from the University
10 of North Carolina. You have a graduate degree in
11 medicine from a university in Cairo. You have, in fact,
12 practiced medicine professionally, and you actually
13 taught preventative medicine at the University of South
14 Carolina School of Medicine. This educational background
15 indicates that you are a highly intelligent woman. And I
16 will note that you have listed that you are self-employed
17 as a consultant in medical legal issues. And you have
18 told the Court before that you speak four languages.

19 Your understanding of legal principles and
20 procedures is important to this question. We are aware
21 that you have been involved in extensive litigation over
22 many years at all levels of Court here in South Carolina,
23 both federal and state. From my review of those cases
24 over the years, and from my review of the motions and the
25 returns and the other documents that you have filed in

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1 this case it is my impression that you have a broad
2 and deep understanding of legal principles and
3 procedures.

4 Your mental health is important to this question.
5 In one of the cases that you have currently on appeal
6 here at this Court you were interrogated by Judge Marion
7 Hanna about whether you had ever been evaluated for
8 mental illness. You told Judge Hanna on March the 28th,
9 2011 that you had been evaluated for mental health issues
10 and you have no mental health issues.

11 Now Dr. Faltas, so far is there anything that I have
12 said that you disagree with?

13 A: Yes, sir. You said that I have been through
14 these hearings, in the plural, before.

15 Q: Excuse me?

16 JUSTICE KITTREDGE: Just one second. I want to make
17 sure the Court Reporter can hear because we're on the
18 record. Can you hear?

19 JUDGE LOCKEMY: Probably need to move that
20 microphone up.

21 JUSTICE KITTREDGE: Which microphone is yours, Madam
22 Court Reporter?

23 COURT REPORTER: The silver one, if she could --

24 JUSTICE KITTREDGE: All right, let's try to move
25 both of them closer. And if you need assistance in doing

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1 that we'll certainly accommodate you, Dr. Faltas.

2 JUSTICE FEW: Let's move the other one up too.

3 JUSTICE KITTREDGE: Madam Clerk, let's see if we can
4 move the other one closer to Dr. Faltas? (Microphones
5 moved closer to Dr. Faltas).

6 Q: Okay. Now I didn't hear what you said, so
7 could you repeat?

8 A: You're asking me if there is something that
9 needs correction. And I said yes, there are things that
10 need correction.

11 Q: Tell me what it is?

12 A: Okay. First you said I have been through those
13 hearings, in the plural, before. I have not. I have
14 been through only one hearing where Judge then South
15 Carolina Circuit Judge Barber gave me the Faretta
16 inquiry. And I consider it a travesty, that he admitted
17 that he agrees that I have a constitutional right to
18 represent myself, but he said something to the effect
19 that his hands are tied because of what you all ordered.

20 I think judges take oath to the Constitution, not to
21 the South Carolina Supreme Court. And I am indignant at
22 what has been done to me. I think it is no better than
23 Jim Crow when you have had at least 400 lawyers who
24 either were suspended definitely, publicly reprimanded,
25 indefinitely suspended, disbarred, debarred. And all 400

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1 of them, including one who had consumed drugs or
2 alcohol and killed somebody, and you did not take their
3 rights to speak for themselves.

4 I consider it a violation of my human rights, basic
5 human rights, forget about Faretta and all that stuff,
6 it's a basic human right to speak for oneself. And I
7 consider what you're doing to me Jim Crow revisited on
8 lawful immigrants. And because my conscience requires me
9 to tell the truth, that is part of the truth, so I've
10 been only to one hearing where the Faretta --

11 Q: So I used the plural when I described the
12 Faretta Hearings that you had been through before, and
13 you've corrected me that you've only been through Faretta
14 one time?

15 A: Yes, sir.

16 Q: Okay.

17 A: The other thing is you said Marion Hanna
18 questioned me. Marion Hanna is obsessed, obsessed with
19 trying to get people to get mentally examined. And
20 that's why I made the motion for your Court to take
21 possession of her two so-called novels which are easily
22 the worst ever written in English language. Because that
23 is morbid.

24 And that is really another travesty that your Office
25 of Disciplinary Counsel did something to her, but it was

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1 -- you are supposed to protect the public from women
2 like her. Just as you're supposed to protect the public
3 from incompetent and ineffective and selfish and
4 treasonous lawyers. And I do not think you're rising to
5 this duty.

6 And you are wanting me to suppress my conscience, I
7 will not do that. I will not suppress my conscience.

8 Now the reason I told Marion Hanna that I, and that was

9 --

10 Q: Ma'am, the reason I brought up Judge Hanna was
11 simply to --

12 A: She's not a judge, I'm sorry.

13 Q: -- simply to point out the context in which you
14 made the statement that you had been evaluated and you
15 didn't have any mental health issues.

16 A: The reason --

17 Q: Let me follow up on that if you don't mind?
18 I'm going to ask you three questions right here, these
19 are yes or no questions. Depending on your answers an
20 explanation might be warranted. But I would like if you
21 don't mind, would you give me a yes or no answer to these
22 questions. And then we'll see whether an explanation is
23 necessary.

24 A: Yes, sir.

25 Q: Have you taken any alcohol, medication, or

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1 drugs in the last 24 hours?

2 A: Sir, I take, every day I need to take a
3 replacement thyroid hormone.

4 Q: So medication. And it's by prescription?

5 A: Yes, sir.

6 Q: And when you take that medication have you
7 taken it consistent with the prescription that was given
8 to you by the doctor who prescribed it?

9 A: I have had that condition for 42 years now.
10 And it is just, it's almost equivalent of insulin for
11 diabetics.

12 Q: But let me repeat my question, and I want to
13 remind you this is a yes or no question. When you've
14 taken this medication that you just referred to over the
15 last few weeks, have you taken it according to the
16 prescription that the doctor gave you?

17 A: Yes, sir, every day.

18 Q: Okay. Now how about alcohol or any illegal
19 drugs?

20 A: (Moves head from side to side).

21 Q: I understand. You're shaking your head no.

22 A: No, no.

23 Q: Okay. So are you under the influence today of
24 any drugs or medication or alcohol?

25 A: No, sir.

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1 Q: Have you been evaluated for your mental
2 health since that incident that I referred to where you
3 told -- you mentioned that you'd been evaluated before,
4 have you been evaluated since?

5 A: Yes, sir.

6 Q: Did those evaluations as far as you know reveal
7 any mental health concerns?

8 A: At different times I was very depressed.

9 Q: Depressed?

10 A: Depressed, yes. And the depression happens
11 even classically in people who have been wrongly
12 incarcerated. And once they are released there is a
13 euphoria of the release, but after that when you look
14 back on how much of your life is lost you do get
15 depressed. To the day, to the day, on 22 February, 2010
16 I started the five-day jury trial before Judge Clifton
17 Newman.

18 Q: Ma'am, let's stay focused, okay? And we'll try
19 to get through this as simply and easily as we can. I'm
20 asking, my question for you is since March of 2011 have
21 you been evaluated for your mental health?

A: I have been depressed since then.

23 Q: Okay. But --

24 A: But it doesn't affect my ability to understand
25 things. And most importantly, sir, one of the cures for

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1 depression is creativity. And one of the things, and
2 I tell the joke which is true, that I got admitted to
3 medical school in Egypt at age 17 is because I proved I
4 was superbly qualified to be an engineer. So one of the
5 things that cure my depression are the engineering
6 inventions that I work on on my own and that this farce
7 is taking me away from.

8 Q: So I think what you said a second ago is that
9 the depression that you just mentioned is not affecting
10 your ability to understand. Are there any other mental
11 issues right now that are affecting your ability to
12 understand?

13 A: I don't think they affect my ability. But I'm
14 very afraid of you all, I really am.

15 Q: But you do have the ability to understand?

16 A: Absolutely.

17 Q: Okay. Now what I'm going to do, it's also
18 important to a valid waiver of counsel that you be aware
19 of the dangers of representing yourself, and that you
20 understand how and in what way a lawyer can help you on
21 many of these issues.

22 On February 17th of this year in a document that you
23 called Respondent's Emergency Response to this Court's
24 February 22nd order, which is the order -- I'm sorry,
25 February 15th order, which is the order setting this

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1 hearing, you wrote "Dr. Assa'ad Faltas reiterates
2 that she heard the dangers of self-representation
3 previously recited and understands what the judges mean
4 by them."

5 I have no doubt that you understand the dangers of
6 representing yourself, but I'm still going to go over
7 some of them now. And at the end I'm going to ask you if
8 you understand all those dangers. There are
9 jurisdictional issues at stake here, and you have raised
10 some of these jurisdictional issues already. A lawyer
11 could help you to better understand those jurisdictional
12 issues.

13 You have raised recusal issues, there may be other
14 issues that you want to raise regarding recusal. And a
15 lawyer could help you to better understand those issues.

16 In every proceeding, certainly this one, there are
17 going to be procedural issues, and you have already
18 raised a few of the procedural issues. A lawyer could
19 help you to better understand those procedural issues.

20 We have to operate in this Courtroom by rules of
21 Court, they bind us, they bind Mr. Zelenka, and they will
22 bind you. A lawyer could help you better to understand
23 those rules of court and what conduct is permitted and
24 what conduct is not permitted according to those rules.

25 In every proceeding such as the one we're going to

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1 have there are going to be evidentiary issues. A
2 lawyer could help you to better understand those
3 evidentiary issues.

4 There are substantive issues regarding contempt, and
5 those relate particularly to what the state would have to
6 prove and what this Court would have to find in order for
7 you to be found in contempt of court. There may be
8 defenses that you could assert to the contempt charge. A
9 lawyer could help you to understand better all of the
10 substantive issues, including whether or not there are
11 any defenses to the charge of contempt.

12 There are constitutional issues that might be at
13 stake. In fact, you have already raised constitutional
14 issues and you've done it here today. And I just want to
15 make sure you understand that there are many times when
16 even the judges on this Court don't understand the
17 constitutional issues, so a lawyer could certainly help
18 you to better understand those constitutional issues.

19 And if you are found guilty of contempt, there
20 could, there are going to be punishment issues. And as
21 you are aware, if the Court finds you guilty of Contempt
22 of Court the Court may choose to fine you, may choose to
23 place other restrictions on you, and even imprison you
24 for a term of up to six months. A lawyer could help you
25 to understand the potential consequences of a finding of

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1 contempt and help you to mitigate or perhaps even
2 eliminate those consequences.

3 Now is there anything that I just explained to you
4 in the way of the dangers of self-representation that you
5 do not understand?

6 A: What I do not understand is whether you're
7 talking about a hypothetical, rarified, romanticized
8 lawyer who maybe graduated top of her class from Yale, or
9 the average lawyer that is likely to be imposed on me,
10 who works against me, who sometimes some lawyers have
11 been described, at least one by U.S. District Judge
12 Gergel as exhibiting stunning ignorance of the law. So I
13 do not understand whether you mean that all lawyers have
14 the same ability or you agree that there is a range of,
15 number one, competence, and number two, devotion to the
16 client?

17 Q: As far as I know to answer your question, as
18 far as I know there's really been no discussion about who
19 the lawyer would be if you chose to be represented by a
20 lawyer. And as you point out, there is a spectrum of
21 quality of lawyering. We would certainly hope that we
22 would find someone who could do what I just talked to you
23 about, which is to help you to better understand all of
24 the issues that I discussed which are what I was
25 referring to generally as the dangers of self-

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1 representation.

2 Now setting the quality of the lawyer aside, do you
3 understand all of the dangers of self-representation that
4 I just went over with you?

5 A: I even understand some that you have not
6 mentioned.

7 Q: So I understand your answer to be yes, and I
8 understand more than what you were telling me?

9 A: Yes.

10 Q: Okay, good. Now do you have any questions for
11 me about your right to counsel or your right to represent
12 yourself?

13 A: I wanted to tell you that I also understand
14 that the judges' perception that the lawyer is better or
15 smarter or whatever than the *pro se* person is itself an
16 advantage -- a disadvantage and a risk of self-
17 representation. And to that extent, the same brilliant
18 legal argument could come from a lawyer and you would say
19 oh, that's brilliant, that's new, that gives us food for
20 thought. But it would come from me and you would say
21 it's frivolous and say no more than that.

22 And I've had a natural experiment. Do you know what
23 a natural experiment is?

24 Q: Well ma'am, I'm going to want us to -- we're
25 almost done, and you're doing great. But I want to make

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1 sure we stay focused. Do you have any other
2 questions that you want to ask me?

3 A: Yes. Do you promise to be as receptive to my
4 *pro se* advocacy as you would be to a lawyer considering
5 that my objective record so far is better than a lawyer?
6 For one thing, for one thing I *pro se*, thank God, won a
7 PCR case which withstood the state's --

8 Q: So let me answer your question. It's really
9 not my role to make promises here. But I will remind
10 you, as I'm sure you know, that it is our duty to do what
11 you just said. It's actually part of the oath that we
12 all take as judges to listen fairly to every person who
13 comes in here to raise a position. So that's my answer
14 to your question. Are there any other questions that you
15 have?

16 A: Yes. In this proceeding you are my accusers.
17 Do I have the right to confront you? And I have a
18 suspicion that you want to impose a lawyer on me because
19 you want that lawyer to force me to give up that choice.

20 Q: My answer to your question is that that is one
21 of the procedural and constitutional issues that could be
22 raised at the trial of these contempt charges, and a
23 lawyer could help you to better understand those
24 procedural issues. Are there any other questions that
25 you have?

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1 A: I'm sorry, sir, you have not answered my
2 question.

3 Q: Ma'am, you might not be satisfied with my
4 answer, but I gave you my answer. Now I'm going to ask
5 you again, are there any other questions that you have?

6 A: Yes. If you could please look at the motion
7 that I just served?

8 Q: As Justice Kittredge indicated at the beginning
9 of the hearing, we will look at the motion. Yes, ma'am.
10 Are there any other questions?

11 A: Will I be allowed to require discovery from Mr.
12 Zelenka, and will you promise to ensure that he responds
13 to discovery within the limited time that I have? I mean
14 what I'm trying to --

15 Q: I can answer that question by telling you again
16 that's one of the procedural issues that could be raised.
17 And it is our duty to rule according to the law, and so
18 we will follow that duty. So are there any other
19 questions?

20 A: No, thank you. And thank you for being
21 pleasant today.

22 Q: All right, ma'am.

23 A: I really was afraid that if I smiled you'd say
24 you're taking the procedure as a joke, you're in
25 contempt. If I didn't smile you would say she has a

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1 hostile look on her face, she's in contempt. Because
2 this is exactly, exactly what Marion Hanna did to me.
3 And for 12 years you all failed your duty to protect the
4 public from that. So I was afraid of you. But I want to
5 thank you for being pleasant.

6 Q: So having heard everything that I had to say to
7 you, do you want this Court to appoint a lawyer for you
8 or do you want to represent yourself?

9 A: I God willing want to represent myself more
10 than ever. However, having reviewed Faretta, the Court
11 does have the right to appoint standby counsel over my
12 objection. So if you want to appoint standby counsel you
13 could do that, it would be over my objection. But I just
14 was, you know, wanting you to have your heart at ease
15 about having done everything possible.

16 Q: So to be clear, in response to what you just
17 said, you would object to standby counsel?

18 A: But Faretta says the Court has the right to do
19 standby counsel over --

20 Q: But let me make sure I have this, you object to
21 it though, right?

22 A: Yes.

23 Q: Okay. Now I want to ask you one more question.
24 Has any person or any other circumstance put pressure on
25 you or forced you in any way to make the decision to

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1 represent yourself, or in your mind can you tell me
2 that you are doing this freely and voluntarily?

3 A: Freely and voluntarily.

4 JUSTICE FEW: Okay. Thank you, ma'am.

5 DR. FALTAS: Thank you.

6 JUSTICE KITTREDGE: Thank you, Justice Few.

7 And Dr. Faltas, thank you, ma'am.

8 DR. FALTAS: Thank you.

9 JUSTICE KITTREDGE: I will on behalf of the entire
10 Court echo what Justice Few said about our duty to treat
11 all litigants, represented and unrepresented fairly,
12 equally, and in accordance with the law, both
13 procedurally and substantively.

14 Are there any questions from other members of the
15 Court? (No response). Hearing none, that concludes this
16 matter. Thank you all for being here today. We'll issue
17 an order in accordance with our ruling.

18 (Whereupon, the hearing concluded at 2:01 p.m. on
19 the 22nd day of February, 2022)

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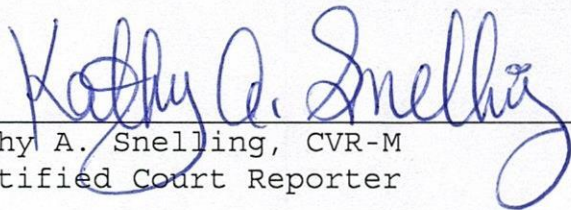
CERTIFICATE OF REPORTER

I, the undersigned K.A. Snelling, Official Court Reporter for the Office of Commission Counsel and Notary Public for the State of South Carolina, do hereby certify:

That the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and any evidence introduced in the captioned matter on the 22nd day of February, 2022.

I do further certify that I am neither related to nor counsel for, nor interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto affixed my hand this 23rd day of February, 2022.



Kathy A. Snelling, CVR-M
Certified Court Reporter

Notary Public for South Carolina

My Commission Expires: May 16, 2028

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MS. K.A. SNELLING, CVR-M
Supreme Court, State of South Carolina
Office of Commission Counsel
1220 Senate Street, Suite 111, Columbia, South Carolina 29201

Court News ...

The Supreme Court of South Carolina

RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022)

Appellate Case No. 2020-000447

ORDER

(a) Purpose. Pursuant to Rule 262(a)(3) and (c)(3) of the South Carolina Appellate Court Rules (SCACR), this Court may by order establish methods for the electronic filing and service of documents. For the purpose of this order, "Appellate Court" means the Supreme Court of South Carolina or the South Carolina Court of Appeals.

(b) Electronic Methods of Filing. Filings with an appellate court may be made electronically using the methods listed below.

(1) Electronic Filing by Lawyers. Lawyers who are licensed to practice law in South Carolina may utilize OneDrive for Business to electronically submit documents for filing with the Supreme Court and the Court of Appeals, and *lawyers are strongly encouraged to use this method of filing*. More information about this method, including registration and filing instructions, is available in the Attorney Information System (<https://ais.sccourts.org/AIS>) under the tab "Appellate Filings."

(2) Filing by E-mail. Filings may be made by e-mail. For the Supreme Court, the e-mail shall be sent to suptcfilings@sccourts.org; for the Court of Appeals, the e-mail shall be sent to ctappfilings@sccourts.org. This method may not be suitable for large documents, and if it becomes necessary to split a document into multiple parts, the e-mail shall identify the part being sent (i.e., Record on Appeal, Part 1 of 4). A document filed by this method must be in Adobe Acrobat portable document format (.pdf). Filers shall not utilize any other file format or a file-sharing service when e-mailing documents for filing. The clerk of the appellate court may reject any document submitted by e-mail in a format other than .pdf or using a file-sharing service.

(3) Faxing Documents. A document may be filed by an electronically transmitted facsimile copy. The fax number for the Supreme Court is 803-734-1499. The fax number of the Court of Appeals is 803-734-1839. While this method is well suited for relatively small documents, depending primarily upon the limitations of the sending fax machine, it may not be possible to send large documents, such as a record on appeal, in a single transmission. If it becomes necessary to split a document into multiple parts to make the fax transmission, a separate cover sheet should be used on each part to identify the document (i.e., Brief of Appellant, Part 1 of 4). In the event the facsimile copy is not sufficiently legible, the clerk of the appellate court may require the party to provide a copy by mail.

(c) Filing Date and Payment of Fees for Documents Filed Electronically. When filed using one of the methods specified in (b) above, a document transmitted and received by 11:59:59 p.m., Eastern Standard Time, shall be considered filed on that day. If a filing fee is required for the document, a check or money order for the fee must be mailed or delivered to the appellate court within five (5) days of the filing; the case name and the Appellate Case Number, if known, should be listed on the check or money order.

(d) Electronic Service Using AIS E-mail Address.

(1) Service on Another Lawyer. A lawyer admitted to practice law in South Carolina may serve a document on another lawyer admitted to practice law in South Carolina using the lawyer's primary e-mail address listed in the Attorney Information System (AIS). Documents must be e-mailed as an attachment in .pdf. In the absence of consent, a lawyer serving a document by e-mail may not utilize another file format or a file-sharing service. For documents that are served by e-mail, a copy of the sent e-mail shall be enclosed with the proof of service, affidavit of service, or certificate of service for that document. Lawyers are reminded of their obligation under Rule 410(g), SCACR, to ensure that their AIS information is current and accurate at all times.¹

(2) Service by an Appellate Court. An appellate court may send an order, opinion or other correspondence to a lawyer admitted to practice law in South Carolina using that lawyer's primary e-mail address in AIS. A self-represented litigant may request the appellate court serve the litigant by e-mail under this provision. Any request must be in writing and must include the e-mail address for service. It is the responsibility of the self-represented litigant to immediately inform the appellate court of any change in e-mail address.

(3) Service on Persons Admitted Pro Hac Vice. For attorneys admitted pro hac vice under Rule 404, SCACR, service on the associated South Carolina lawyer using an electronic method permitted by this order shall be construed as service on the pro hac vice attorney; if appropriate, it is the responsibility of the associated lawyer to provide a copy to the pro hac vice attorney.

s/Donald W. Beatty_____ C.J.

s/John W. Kittredge_____ J.

s/Kaye G. Hearn_____ J.

s/John Cannon Few_____ J.

s/George C. James, Jr._____ J.

Columbia, South Carolina
May 6, 2022

¹ The primary AIS e-mail address for lawyers admitted to practice in South Carolina may be obtained using the search function at <https://www.sccourts.org/attorneys/dspSearchAttorneys.cfm>. Lawyers may update their AIS information at <https://ais.sccourts.org/AIS>.