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1 (Whereupon, the hearing commenced at 10:07 a.m.
2 on the 22nd day of March, 2022)

3 **MS. BRYANT:** All rise.

4 **JUSTICE KITTREDGE:** Good morning, please be seated.
5 This is In the Matter of Marie Assa'ad Faltas,
6 Respondent, who now is present.

7 **DR. FALTAS:** Objection.

8 **JUSTICE KITTREDGE:** The State is represented by Mr.
9 Zelenka. There are allegations of contempt of this
10 Court's order as detailed in the January 24, 2022 order
11 regarding particular telephone calls and emails that were
12 made and sent by the Respondent allegedly in violation of
13 this Court's orders, primarily the September 27, 2017
14 order.

15 Because this is a criminal contempt matter the State
16 has the burden of proof of proving a charge of criminal
17 contempt, that is a willful violation of a court order
18 beyond a reasonable doubt. In terms of evidence on the
19 criminal contempt charges, the Court will receive
20 evidence related to those charges.

21 **DR. FALTAS:** Objection.

22 **JUSTICE KITTREDGE:** And the evidence will be limited
23 to whether Ms. Faltas violated the prior court order.

24 **DR. FALTAS:** Objection.

25 **JUSTICE KITTREDGE:** The objection is noted and it's

1 overruled. I'll give you time to speak, ma'am, now
2 is my time.

3 **DR. FALTAS:** Thank you. May I remain seated?

4 **JUSTICE KITTREDGE:** No, ma'am. I want to emphasize
5 that the only evidence relevant to the contempt charge
6 will be allowed.

7 Mr. Zelenka, is the State ready to proceed?

8 **MR. ZELENKA:** The State is ready, Your Honor.

9 **JUSTICE KITTREDGE:** Thank you, sir.

10 Ms. Faltas, you're here representing yourself
11 as you adamantly requested at the prior hearing. An
12 order was issued to that effect to honor your request.
13 And preliminarily I'm to ask you, do you admit or deny
14 that you made the phone calls and sent the emails as
15 alleged in this Court's order of January the 24th?

16 **DR. FALTAS:** Under the Fifth Amendment to the United
17 States Constitution I am protected from answering this
18 question. I also need to ask whether I am permitted to
19 remain seated as I was last time, or does my privacy have
20 to be violated for me to have such a simple decency?

21 **JUSTICE KITTREDGE:** Thank you, ma'am. As to the
22 first point based on your invocation of Fifth Amendment,
23 the Court will enter a not guilty plea on your behalf,
24 and the State will be required to prove that you made the
25 phone calls and sent the emails as are alleged.

1 As to the second point, ma'am, we moved you to
2 the other table today from where you were at the first
3 hearing. We accommodated you, and we're doing so today.
4 So you do not have to stand, you do not have to move
5 around the courtroom, we are accommodating you. And you
6 can even, if you choose to testify, you don't have to,
7 but if you choose to testify you can testify from where
8 you're currently seated.

9 Also, the witnesses who testify, ma'am, will be to
10 your right next to the court reporter. And you will be
11 able to see and hear those witnesses and conduct your
12 cross-examination or direct examination of any witnesses
13 you have from that vantage point. Are you ready to
14 proceed, ma'am?

15 **DR. FALTAS:** Sir, no, I'm not ready. The reason I'm
16 not ready, or there are several reasons. Can the Court
17 hear me and can the court reporter hear me?

18 **JUSTICE KITTREDGE:** Yes, ma'am.

19 **DR. FALTAS:** There are several, several reasons for
20 which I am not ready. For one thing, my Consul is not
21 here and did not have meaningful notice, not just any
22 notice, meaningful notice. I specifically requested
23 remote connection, you denied it.

24 I even object to the title of the action. Under a
25 case from 1955 that was cited by the US District Court

1 that overturned, reversed this Court's contempt,
2 affirmation of a contempt conviction. The case was
3 Brandt v. Ozmit, and at the Fourth Circuit it was called
4 Brandt v. Gooding. But in any event, it quoted a 1955
5 case from this Court that said criminal contempt, no
6 matter how you call it, it's a criminal charge like
7 murder and the Defendant has all the rights. You are
8 limiting my defenses from the get-go.

9 And the US Supreme Court reversed the South Carolina
10 case, you had affirmed the conviction of Holmes. And in
11 Holmes v. South Carolina the United States Supreme Court
12 it was a case of whether if there is overwhelming
13 evidence then the Defendant doesn't get to present
14 evidence of third-party guilt. And the US Supreme Court
15 said no, a Defendant has the right to present complete
16 evidence.

17 Additionally, even in that case that was cited by
18 the US District Court in the Brandt, B-R-A-N-D-T case,
19 and I can pull it and give you the name, the threshold,
20 the threshold is whether the order alleged to be violated
21 is void. You are preventing me from offering that
22 defense.

23 And you are also denying me a jury trial. You said
24 six months. But that six months was based on the federal
25 statute that said the dividing line between serious

1 offense and not serious offense is the six months
2 sentence. In South Carolina it is different because the
3 Legislature guaranteed jury trial in the summary court to
4 all charges. And in summary court the maximum sentence
5 is generally 30 days. Additionally -- am I allowed to
6 take my breath between phrases?

7 **JUSTICE KITTREDGE:** Yes, ma'am, you're allowed to
8 breathe.

9 **DR. FALTAS:** Yes, thank you. Even in cases where
10 there isn't a possibility of incarceration one still gets
11 a jury trial. I have it very seriously briefed that
12 issue. And the last time Associate Justice Few was kind
13 enough to say that what he read of my writings reveal a
14 deep and broad understanding of legal principles and
15 legal procedure.

16 The order that you had somebody hound me in my own
17 home and give to me and scare me starts with, what do you
18 call me, Respondent is a prolific, frivolous filer. That
19 is an element of the charge and the State has to prove
20 it. You don't just get to get away with it because you
21 are the Court.

22 Justice, I hope she becomes Justice Ketanji Brown,
23 is today being examined for a seat which she deserves
24 more than Judge Childs. She wrote in the case of Trump
25 no one is king. You are not kings. You don't get to

1 write that I am a frivolous filer, and then dispense
2 with the proof of that in a criminal case.

3 In fact, you don't get to call this In the Matter of
4 Marie Faltas, you need to call it State v. Marie Faltas.
5 And give me all the rights to a criminal Defendant,
6 including a public trial. I don't see a public trial
7 here. I don't even see the docket on any public docket.
8 You've denied me at the get-go. You've denied me my
9 right to a public trial. You've denied me my right to
10 know on what basis you call me frivolous filer -- no, not
11 just frivolous -- frivolous, prolific filer.

12 For the past 11 years I have not been allowed to
13 file anything. You have denied me even the decency of
14 not being hung up on when I call public employees under
15 public number to inquire about public matter. So no, I'm
16 not ready.

17 And just I had also, I have motions for recusal, and
18 I need to make them at the threshold. And you don't get
19 to not let me make them by just ramming through and
20 saying the State begin, and the State just prove that she
21 made the calls. That's not the issue. The issue, the
22 threshold issue is whether your order was valid.

23 And I would like to be heard and to get an answer
24 from you in a way that is preserved either for federal
25 habeas, or for appeal to the US Supreme Court, or just

1 for your own consciences. On what basis do you do
2 this to me? So no, I'm not ready. First, I need to make
3 the motions for recusals.

4 **JUSTICE KITTREDGE:** All right, thank you, ma'am.
5 You have made your motion for recusal repeatedly. It has
6 been denied. We are not going to entertain any motions
7 that have already been heard repeatedly.

8 **DR. FALTAS:** There are new grounds.

9 **JUSTICE KITTREDGE:** Ma'am, I gave you leeway and I'm
10 going to give you leeway. I'm going to give, we're all
11 going to give you the opportunity to explain why the
12 September 27, 2017 order is somehow not valid. And
13 you'll get that opportunity, we'll hear from you in that
14 regard.

15 The first thing I want to say is your motion for a
16 continuance is denied. This hearing has been set for a
17 substantial period of time.

18 **DR. FALTAS:** Not really. Sorry.

19 **JUSTICE KITTREDGE:** I'm going to do my best not to
20 interrupt you, and I would ask you to please respectfully
21 reciprocate and give this Court an opportunity to state
22 its position. You requested a one-hour continuance to
23 11:00 o'clock, that that was important to you. You
24 declined in your motion to state the reason why the one-
25 hour continuance was crucial to your defense. Without

1 knowing the basis of your request for a one-hour
2 continuance, that motion was denied. I will note by your
3 late appearance and the colloquy that we've enjoyed that
4 we may be close to approaching a substantial delay before
5 we begin evidence.

6 This is a public trial, you have your rights. We
7 are not considering any sentence, if we choose to impose
8 a sentence, which is not our desire. But even a
9 potential sentence will not exceed six months. And for
10 criminal contempt of court the United States Supreme
11 Court precedent is clear that a jury trial is not
12 available. So those motions which we have considered,
13 and we consider again today, are denied. And we will
14 move forward.

15 At some point in this proceeding we do want to give
16 you the opportunity to state on the record why you
17 believe the underlying order that sets forth your history
18 of dealings with not only the courts in South Carolina
19 but courts elsewhere, why that order is somehow not
20 valid. So I'll give you, we all will give you that
21 opportunity.

22 Now we're going to move forward with the evidentiary
23 hearing on the contempt charges. I will --

24 **DR. FALTAS:** Sir --

25 **JUSTICE KITTREDGE:** Is there something else, ma'am?

1 **DR. FALTAS:** Yes, sir. There have been new
2 discovered grounds for recusal, and I need to state them.
3 And also the touchstone of due process is that no man can
4 be the judge of his own case. You're going to give me an
5 opportunity to say why the orders are invalid.

6 **JUSTICE KITTREDGE:** Yes, ma'am.

7 **DR. FALTAS:** But you are the ones who wrote the
8 orders, so you will be judging your own orders. That is
9 a denial of due process. May I speak to the newly
10 discovered or the newly arising issues of recusal,
11 please?

12 **JUSTICE KITTREDGE:** We'll hear from you on other
13 matters that have come to your attention when you talk
14 about the legal efficacy of the September 2017 order.
15 Now as far --

16 **DR. FALTAS:** But these are separate issues. Recusal
17 is totally separate and it needs to be done at the
18 threshold.

19 **JUSTICE KITTREDGE:** No, ma'am. We'll hear it. And
20 if it's meritorious, you'll win on it. You have filed so
21 many motions. This hearing has been set for a long time.
22 We're not going to try this matter by filibuster by new
23 things coming up at the last moment. You're going to get
24 an opportunity to say your piece, we're going to give you
25 full opportunity to put it on the record. At this point

1 we're going to move forward with the evidentiary
2 hearing.

3 **DR. FALTAS:** Sir --

4 **JUSTICE KITTREDGE:** I have spoken to my colleagues,
5 I am going to rule on evidentiary challenges. But before
6 the record is closed the Court will adjourn and my
7 evidentiary rulings will be considered by the full Court.
8 And if the Court majority determines that a ruling from
9 me excluding evidence was in error, we will then allow
10 that evidence to be presented before the record is closed
11 so it will be made part of the record and both sides'
12 rights will be protected.

13 Is the State ready to proceed, sir?

14 **MR. ZELENKA:** The State is ready, Your Honor.

15 **JUSTICE KITTREDGE:** You may proceed.

16 **MR. ZELENKA:** The State calls Daniel Shearouse.

17 (Mr. Shearouse enters the Courtroom)

18 **JUSTICE KITTREDGE:** Mr. Shearouse, if you would
19 kindly raise your right hand?

20 **MR. SHEAROUSE:** Yes, sir.

21 **JUSTICE KITTREDGE:** Do you swear or affirm the
22 testimony you give will be the truth?

23 **MR. SHEAROUSE:** I do, sir.

24 **JUSTICE KITTREDGE:** Thank you, sir. Please be
25 seated.

1 Your witness.

2 **MR. SHEAROUSE - DIRECT EXAMINATION BY MR. ZELENKA:**

3 **Q:** Mr. Shearouse, please state your name for the
4 record?

5 **A:** Daniel E. Shearouse.

6 **Q:** How are you currently employed?

7 **DR. FALTAS:** I'm sorry, I didn't hear the middle
8 name.

9 **A:** Daniel E. Shearouse.

10 **DR. FALTAS:** E.?

11 **A:** E. Yes, ma'am.

12 **DR. FALTAS:** Oh, okay.

13 **Q:** How are you currently employed?

14 **A:** I'm currently employed as a part-time employee
15 of the South Carolina Supreme Court.

16 **Q:** How were you previously employed by the Court?

17 **A:** In 1983 I came to work as a staff attorney, I
18 became the chief staff attorney sometime thereafter.

19 **DR. FALTAS:** May I --

20 **A:** I worked for about 15 years in the --

21 **DR. FALTAS:** May I ask the witness to slow down a
22 little bit, I have difficulty hearing him.

23 **JUSTICE KITTREDGE:** Thank you, ma'am.

24 **A:** Mr. Zelenka, I first came to work for the South
25 Carolina Supreme Court in 1983, then as a staff attorney,

1 then later I became the chief staff attorney. I
2 worked in that office for about 15 years before I was
3 appointed to the Clerk of the South Carolina Supreme
4 Court in October of 1998, and I served in that position
5 until I retired July of last year.

6 **Q:** Okay. What were duties as the Clerk of Court?

7 **A:** Gosh, it was virtually everything from taking
8 the initial filings, to scheduling things for oral
9 arguments, to filing the opinions and other decisions of
10 the Court. Basically managing the staff of the Supreme
11 Court. Virtually everything you can think about, about
12 the Clerk's Office.

13 **Q:** Okay. In those duties with the South Carolina
14 Supreme Court did you become aware of an order entered by
15 the Court on September 27th of 2017?

16 **A:** Yes, sir.

17 **Q:** Have you recently seen a copy of that order?

18 **A:** I have.

19 **DR. FALTAS:** Objection.

20 **JUSTICE KITTREDGE:** So noted.

21 **Q:** Mr. Shearouse, is that a copy of the order?

22 **A:** Yes, it is. This is a copy of the order filed
23 relating to restricting filings by Dr. Faltas, the
24 Respondent in this case.

25 **MR. ZELENKA:** We would like to move that in evidence

1 as the State's first exhibit in this case.

2 **JUSTICE KITTREDGE:** All right. And you object to
3 that, Ms. Faltas?

4 **DR. FALTAS:** Your Honor, sir, I've been a doctor
5 longer than you have been a judge, so I'd appreciate you
6 remembering --

7 **JUSTICE KITTREDGE:** Yes, ma'am, please forgive me.

8 **DR. FALTAS:** -- my professional title. Yes, I do
9 object.

10 **JUSTICE KITTREDGE:** It will be marked as State's
11 Exhibit 1 for identification.

12 **MR. ZELENKA:** Okay.

13 **JUSTICE KITTREDGE:** And whether it is admitted will
14 depend on Dr. Faltas' argument that the order is invalid,
15 which we will hear subsequently. So it is received as
16 State's No. 1 for identification.

17 **MR. ZELENKA:** I will provide a copy of that to the
18 court reporter.

19 **(State's Exhibit No. 1 Marked for Identification)**

20 **Q:** Mr. Shearouse, within your role are you aware
21 whether that order was provided to Dr. Faltas?

22 **A:** Yes, Mr. Zelenka, it was --

23 **DR. FALTAS:** Objection.

24 **A:** -- the C-track shows --

25 **JUSTICE KITTREDGE:** What's the objection?

1 **DR. FALTAS:** Outside his personal knowledge.

2 And there is no C-track that I could see on the under --

3 **JUSTICE KITTREDGE:** Overruled. You may proceed, Mr.
4 Zelenka.

5 **Q:** Mr. Shearouse, let me ask if you can identify
6 that document?

7 **A:** Yes, I can. This is a copy of the cover letter
8 --

9 **DR. FALTAS:** Objection.

10 **A:** -- sending this out to Dr. Faltas and the other
11 parties.

12 **Q:** And how are you aware that it was sent to Dr.
13 Faltas?

14 **A:** Well I, of course, signed this letter. I had a
15 copy of the order attached to it. The C-track indicates
16 that it was, in fact, sent. And further, shortly
17 thereafter she filed a response to that order.

18 **MR. ZELENKA:** We would move this as State's Exhibit
19 No. 2.

20 **JUSTICE KITTREDGE:** Any objection?

21 **DR. FALTAS:** Yes, sir.

22 **JUSTICE KITTREDGE:** Overruled. It's admitted in
23 evidence as State's No. 2.

24 **(State's Exhibit No. 2 Admitted into Evidence)**

25 **MR. ZELENKA:** Your Honor --

1 **DR. FALTAS:** Sir, may I say that it can only be
2 admitted to prove that he sent it, it cannot prove that I
3 received it.

4 **JUSTICE KITTREDGE:** Thank you for that comment. It
5 is in evidence.

6 **MR. ZELENKA:** Okay.

7 **DR. FALTAS:** And that's number two?

8 **JUSTICE KITTREDGE:** State's Exhibit No. 2 is in
9 evidence.

10 **DR. FALTAS:** Are there markings or anything that you
11 put on your exhibits here or what?

12 **JUSTICE KITTREDGE:** I'm sorry, I couldn't hear you,
13 ma'am.

14 **DR. FALTAS:** Are there exhibit stamps that you put
15 on your exhibits here or what?

16 **JUSTICE JAMES:** The court reporter has stickers.

17 **JUSTICE KITTREDGE:** Oh, she wants stickers. I don't
18 know if we have stickers. You were adamant you wanted to
19 represent yourself. You were adamant that standby
20 counsel could not be appointed. We will do our best to
21 improvise and make sure that your exhibits are marked in
22 some appropriate form so they are part of the record as
23 well and your rights are protected.

24 **DR. FALTAS:** Correction. I was not adamant that
25 standby counsel cannot be appointed. In fact, I said

1 three times that under Faretta the Court can appoint
2 standby counsel over my objection. And it's not my job
3 to prepare the State's case for them, it's the State's
4 job. So don't blame it on me that you don't have
5 stickers.

6 **JUSTICE KITTREDGE:** The State has stickers, the
7 State is prepared.

8 Please proceed, Mr. Zelenka.

9 **MR. ZELENKA:** Thank you.

10 **Q:** Mr. Shearouse, let me ask if you can identify
11 this document?

12 **A:** Yes, this is the document I referred to just a
13 minute ago. This is a response that she sent us to the
14 order complaining about the order. So it clearly shows
15 that she references the September 27, 2017 order in this
16 "Motion to Terminate this Case or Hold a *Speedy* Public
17 Trial" is what it's called.

18 **DR. FALTAS:** Is that number three?

19 **MR. ZELENKA:** We would move to introduce this as
20 State's Exhibit No. 3.

21 **DR. FALTAS:** No.

22 **JUSTICE KITTREDGE:** Do you object, ma'am?

23 **DR. FALTAS:** No.

24 **JUSTICE KITTREDGE:** Without objection, State's No. 3
25 in evidence.

1 **(State's Exhibit No. 3 Admitted into Evidence)**

2 **MR. ZELENKA:** Your Honor, we have copies for all
3 members of the Court if that would be useful, or would
4 you just want --

5 **DR. FALTAS:** I can't hear you. I'm sorry, I can't
6 hear you.

7 **MR. ZELENKA:** Your Honor, we have copies of the
8 exhibits for each of the individual judges if you would
9 like to do that, or we can rely upon the single document.

10 **JUSTICE KITTREDGE:** We will proceed as is with the
11 court record. And if we need separate copies we'll make
12 that request on the record in front of both sides.

13 **MR. ZELENKA:** Thank you.

14 **Q:** Mr. Shearouse, at some later point did you
15 become aware of the order of September 20, 2019?

16 **A:** Yes.

17 **Q:** Let me ask if you can identify this document?

18 **A:** Yes, this is a copy of an order dated September
19 20th of 2019 which actually clarified how the earlier
20 order, the September 2017 order --

21 **DR. FALTAS:** Objection, objection.

22 **A:** -- would apply in postconviction relief cases.

23 **DR. FALTAS:** Objection to the witness giving legal
24 conclusions about the order. Either the witness is the
25 judge or you all are the judges.

1 **JUSTICE KITTREDGE:** Overruled. Please proceed.

2 **MR. ZELENKA:** We would move that into evidence.

3 **JUSTICE KITTREDGE:** Any objection --

4 **DR. FALTAS:** Yes, sir.

5 **JUSTICE KITTREDGE:** -- to State's Exhibit No. 4?

6 **DR. FALTAS:** Yes, sir, to the extent that it's
7 offered for the truth of its content, I object to it.

8 **JUSTICE KITTREDGE:** Objection overruled. It is in
9 evidence as State's No. 4 at this time.

10 **(State's Exhibit No. 4 Admitted into Evidence)**

11 **MR. ZELENKA:** Thank you.

12 **Q:** Mr. Shearouse, are you familiar with Dr. Marie
13 Assa'ad Faltas?

14 **A:** Yes, sir, I am.

15 **DR. FALTAS:** Objection, overbroad.

16 **JUSTICE KITTREDGE:** Overruled.

17 **Q:** How did you become familiar with her?

18 **A:** I believe the first time I met Dr. Faltas was
19 shortly after Chief Justice Toal became chief.

20 **Q:** And how did that occur?

21 **A:** The first time I remember was out in the lobby,
22 she was filing some *pro se* document I believe.

23 **Q:** Are you familiar with the email address of Dr.
24 Faltas?

25 **A:** Yes, sir, I am, it's a Hotmail account that she

1 uses routinely.

2 **Q:** How did you become familiar with her email?

3 **A:** Simply by the volume of emails that she sent
4 using that email address.

5 **DR. FALTAS:** Objection to the word volume.

6 **JUSTICE KITTREDGE:** Overruled.

7 **Q:** Had you prior to October 22, 2020 received
8 emails directly from Dr. Faltas in your role as Clerk of
9 Court?

10 **A:** Oh, yes, sir, I did.

11 **DR. FALTAS:** I'm sorry, what was the question?

12 **MR. ZELENKA:** Pardon me?

13 **DR. FALTAS:** What was the question? I didn't hear
14 it.

15 **Q:** Prior to October 22, 2020 had you received
16 emails to your account directly from Dr. Faltas?

17 **A:** Yes, directly to my --

18 **DR. FALTAS:** Objection to the extent that's not
19 listed in the charges.

20 **JUSTICE KITTREDGE:** Overruled.

21 **Q:** Have you had emails that Dr. Faltas had
22 responded to you directly as a reply to the email that
23 you recall?

24 **A:** Yes, absolutely.

25 **Q:** On October 22, 2020 did you receive an email

1 from Dr. Faltas?

2 **A:** Yes, I did.

3 **Q:** Let me ask if you can identify this document?

4 **A:** Yes, this is an email dated October 22nd, 2020
5 sent from the email address MarieFaltas@hotmail.com, that
6 is the email address that I am familiar with her using.
7 And it came from her. It was somewhat disturbing to me
8 because, of course, it referenced "If you want to hold me
9 in contempt hearing for me, just do that, please tell me
10 the date and time so it can allow me to have a public
11 trial." So it appears that she clearly knew that this
12 email was in violation of the Court's order.

13 **DR. FALTAS:** Objection to his testifying about my
14 state of mind. And I would appreciate the State giving
15 the exhibit number before handing them to the witness.

16 **JUSTICE KITTREDGE:** That's a valid point, I'll
17 sustain that. What is this exhibit number, is it five?

18 **MR. ZELENKA:** This would be Exhibit No. 5. Thank
19 you, Dr. Faltas.

20 **JUSTICE KITTREDGE:** He's authenticated it. Do you
21 offer it into evidence?

22 **MR. ZELENKA:** We offer it as an exhibit.

23 **JUSTICE KITTREDGE:** All right.

24 And you object?

25 **DR. FALTAS:** Yes, sir. And I also object --

1 **JUSTICE KITTREDGE:** What's the grounds of
2 objection for the admissibility of State's No. 5?

3 **DR. FALTAS:** What the witness used to philosophize
4 about my state of mind.

5 **JUSTICE KITTREDGE:** He can publish, once it's in
6 evidence he can publish the contents of that exhibit.

7 **DR. FALTAS:** Absolutely. But he did not, he went
8 way beyond that. So I object to his using it as saying
9 that I knew it was a violation of the order.

10 **JUSTICE KITTREDGE:** I'm not aware that's his
11 evidence. But to the extent it was, I'll sustain your
12 objection.

13 **DR. FALTAS:** Thank you.

14 **JUSTICE KITTREDGE:** State's Exhibit --

15 **DR. FALTAS:** Yes, his testimony can be played. I'm
16 not making this up, sir.

17 **JUSTICE KITTREDGE:** I understand, ma'am, thank you.
18 State's No. 5 is in evidence, and you may publish if it
19 you like.

20 **MR. ZELENKA:** Thank you.

21 **(State's Exhibit No. 5 Admitted into Evidence)**

22 **Q:** Mr. Shearouse, let me ask you to publish the
23 email, the next to the last paragraph of the email?

24 **A:** Yes sir, I'd be happy to. That paragraph reads
25 --

1 **DR. FALTAS:** Objection to, for completeness I
2 think the entire exhibit needs to be published. And if
3 it's really a public trial the whole thing --

4 **JUSTICE KITTREDGE:** Overruled.

5 **DR. FALTAS:** Okay, sir.

6 **JUSTICE KITTREDGE:** And if you believe that the
7 remainder of it needs to be published you may do that
8 either through cross-examination or in your case, ma'am.

9 **DR. FALTAS:** Fair point, sir.

10 **JUSTICE KITTREDGE:** Thank you.

11 Proceed, please.

12 **A:** That paragraph reads "If you want to hold
13 contempt hearings for me for that, just please tell me
14 the date and time and allow me a true public trial and
15 invite China's and Egypt's ambassadors to the United
16 States so that they may witness the hypocrisy of the --

17 **DR. FALTAS:** Objection.

18 **A:** -- country that lectures the world about human
19 rights but ignores them in its own courts."

20 **DR. FALTAS:** Objection, he did not read it
21 accurately. It says they can witness, he read may
22 witness.

23 **JUSTICE KITTREDGE:** Thank you for that.

24 **DR. FALTAS:** I mean the man is under oath. I take
25 --

1 **JUSTICE KITTREDGE:** And you'll have an
2 opportunity to cross-examine him, ma'am.

3 **DR. FALTAS:** Yes, sir. But just so the Court knows,
4 I take the oath or affirmation very seriously, very
5 seriously. And I expect people to be accurate. And I
6 have been the victim of 378 documented perjuries,
7 subornation, forgeries against me in a case that
8 nonetheless --

9 **JUSTICE KITTREDGE:** Ma'am, you'll be allowed to
10 testify. You wanted to represent yourself. We're going
11 to follow the normal rules. The State has a witness on
12 the stand and they are examining that witness. And
13 you'll have an opportunity to cross-examine if you like.
14 But you simply can't stop in the middle of the direct
15 examination of a witness and share your thoughts with us.

16 **DR. FALTAS:** I --

17 **JUSTICE KITTREDGE:** If you have a legal objection
18 you make it, you make it succinctly, and we will rule.

19 Proceed, Mr. Zelenka.

20 **MR. ZELENKA:** Thank you.

21 **Q:** Mr. Shearouse, did you on January 22, 2021
22 receive an email from Dr. Faltas?

23 **A:** Yes, I did.

24 **Q:** Let me ask if you can identify this document,
25 and if so, say yes?

1 **A:** Yes, this is --

2 **DR. FALTAS:** To the Court, the State is still not
3 heeding the admonition to identify exhibit numbers.

4 **JUSTICE KITTREDGE:** This I guess will be No. 6?

5 **MR. ZELENKA:** I was about to ask if he --

6 **JUSTICE KITTREDGE:** He hasn't really authenticated
7 it yet. And once you do, you can seek to admit it.

8 **MR. ZELENKA:** Okay.

9 **DR. FALTAS:** But --

10 **Q:** Does that appear to be a true and correct copy
11 of the email?

12 **A:** Yes, this is an email dated January 22nd, 2021,
13 that again comes from MarieFaltas@hotmail.com.

14 **JUSTICE KITTREDGE:** Do you seek to introduce this as
15 an exhibit?

16 **MR. ZELENKA:** We do.

17 **JUSTICE KITTREDGE:** All right.

18 And do you object?

19 **DR. FALTAS:** Yes, sir, I do. But I thought the
20 Court admonished of the State to identify the exhibit
21 number before even admitting it. And I'm saying the
22 State is not heeding that admonition.

23 **JUSTICE KITTREDGE:** He's authenticating the document
24 with the witness. And once it's authenticated it's then
25 presented to the court reporter when a number will be

1 assigned. This will be State's No. 6 that is now in
2 evidence.

3 **DR. FALTAS:** Over my objection.

4 **JUSTICE KITTREDGE:** Thank you, ma'am.

5 **DR. FALTAS:** Thank you.

6 **JUSTICE KITTREDGE:** Has it been marked?

7 **COURT REPORTER:** Yes, sir.

8 **JUSTICE KITTREDGE:** It has been marked.

9 **MR. ZELENKA:** Thank you. We would move to introduce
10 this exhibit.

11 **JUSTICE KITTREDGE:** Subject to Dr. Faltas'
12 objection.

13 **MR. ZELENKA:** That's correct.

14 **(State's Exhibit No. 6 Admitted into Evidence)**

15 **Q:** Mr. Shearouse, did you authorize at this time
16 for Dr. Faltas to communicate with you by email?

17 **A:** I have never authorized her --

18 **DR. FALTAS:** Objection.

19 **A:** -- to communicate by email.

20 **JUSTICE KITTREDGE:** Overruled.

21 **Q:** Mr. Shearouse, can you identify this document?

22 **A:** Yes, this is an email that I sent back to
23 MarieFaltas@hotmail.com in response to the January 22nd,
24 2021 email that you just introduced into evidence.

25 **Q:** Does that appear to be a true and correct copy?

1 **A:** Yes.

2 **MR. ZELENKA:** We would move to introduce this as
3 State's Exhibit No. 6 I believe.

4 **JUSTICE KITTREDGE:** I believe it is number seven.

5 **DR. FALTAS:** No, seven.

6 **MR. ZELENKA:** Seven.

7 **DR. FALTAS:** See, it would've been a good idea for
8 him to keep track of his exhibits. Objection.

9 **JUSTICE KITTREDGE:** So State's 7 is in evidence over
10 Dr. Faltas' objection.

11 **(State's Exhibit No. 7 Admitted into Evidence)**

12 **JUSTICE KITTEREDGE:** And Justice James has mentioned
13 something, it might alleviate some of Dr. Faltas'
14 concerns if we sort of flip the script. And when we have
15 exhibits, if you don't mind, would you hand it to the
16 court reporter so she can label it, then have it -- and
17 if for some reason if it's not included, we'll have to
18 skip that number. But I think that will alleviate some
19 of her concerns and she'll understand the numbering
20 system better.

21 **MR. ZELENKA:** Thank you, Your Honor.

22 **DR. FALTAS:** Thank you. And thank you, Justice
23 James.

24 **Q:** Mr. Shearouse, what is the substance of that
25 exhibit, State's Exhibit No. 7?

1 **A:** Like I said, it was an email in response to
2 her earlier email. I reminded her, and I quote, "You are
3 not permitted to contact me by email. I am deleting this
4 email without reading it."

5 **Q:** And the date on that is what?

6 **A:** January 22nd of 2021 at 1:18 p.m.

7 **Q:** And is that a direct response to State's
8 Exhibit No. 6?

9 **A:** Correct.

10 **MR. ZELENKA:** I beg the Court's indulgence.

11 **JUSTICE KITTREDGE:** Yes, sir.

12 **Q:** On January 10th, 2022 did you receive an email
13 from Dr. Marie Faltas?

14 **A:** Yes, I believe I did.

15 **Q:** Is that a copy of the email?

16 **DR. FALTAS:** Is that eight?

17 **MR. ZELENKA:** State's Exhibit 8.

18 **Q:** Is that a true and correct copy of the email?

19 **A:** Yes, this is a copy of an email that I again
20 received from the MarieFaltas@hotmail.com address on
21 January 10th of 2022.

22 **Q:** What was your employment on January 10th of
23 2022?

24 **A:** I was still Clerk of the South Carolina Supreme
25 Court at that time -- no, sorry, let's see, 2022. I'm

1 sorry, I was a working retiree at that point.

2 **DR. FALTAS:** I'm sorry, I didn't hear his answer.

3 **JUSTICE KITTREDGE:** He said he was a working retiree
4 for the Supreme Court on that date.

5 **DR. FALTAS:** Working retiree? Working retiree is
6 what?

7 **JUSTICE KITTREDGE:** I believe that's the words he
8 used, ma'am.

9 **DR. FALTAS:** Thank you, sir. Thank you, sir.

10 **JUSTICE KITTREDGE:** Just for clarification, Mr.
11 Shearouse, state your status on January the 10th of this
12 year?

13 **A:** I was a working retiree, working part-time for
14 the South Carolina Supreme Court.

15 **JUSTICE KITTREDGE:** Thank you, sir.

16 **Q:** And in that role did you still maintain a
17 public email account with the South Carolina Supreme
18 Court?

19 **A:** Yes, an individual email account assigned to me
20 by the Judicial Branch, yes.

21 **Q:** Did you authorize in any manner Dr. Faltas --

22 **JUSTICE KITTREDGE:** Does your hand raised mean you
23 have an objection, ma'am?

24 **DR. FALTAS:** It's not an objection. But I need to
25 step out because I'm about to have a paroxysm of cough,

1 and it's not good for me to be coughing in a closed
2 courtroom.

3 **JUSTICE KITTREDGE:** We'll take a five-minute break,
4 ma'am.

5 **DR. FALTAS:** Thank you, sir.

6 **JUSTICE KITTREDGE:** Yes, ma'am.

7 (Hearing recessed at 10:51 a.m., March 22, 2022)

8 * * * * *

9 (Hearing reconvened at 11:00 a.m., March 22, 2022)

10 **MS. BRYANT:** All rise.

11 **JUSTICE KITTREDGE:** Please be seated. We're back on
12 the record. You may continue with your direct
13 examination of the witness.

14 **MR. ZELENKA:** Thank you, Your Honor. We would move
15 to introduce the January 10th, 2022 document.

16 **JUSTICE KITTREDGE:** Is that State's No. 8?

17 **MR. ZELENKA:** State's Exhibit 8.

18 **JUSTICE KITTREDGE:** Any objection?

19 **DR. FALTAS:** Yes, sir. Objection.

20 **JUSTICE KITTREDGE:** What's the objection?

21 **DR. FALTAS:** We don't even know what his position
22 was. What is a working retiree? Is it a hanger-on? Is
23 there an official position? I mean --

24 **JUSTICE KITTREDGE:** That's an objection to the
25 substance of prior testimony, not the statement included

1 in the purported exhibit. So that statement is not
2 relevant to an objection to the exhibit itself.
3 Objection overruled. State's Exhibit No. 8 is in
4 evidence subject to your objection.

5 **(State's Exhibit No. 8 Admitted into Evidence)**

6 **Q:** Mr. Shearouse, at the time you received State's
7 Exhibit No. 8 did you receive a salary for your job?

8 **A:** Yes, not a salary, but I work on an hourly
9 basis with the permission of Chief Justice Beatty.

10 **Q:** State's Exhibit No. 9, Mr. Shearouse, do you
11 recognize that exhibit?

12 **A:** Yes, this was another email I received from
13 MarieFaltas@hotmail.com. This is inquiring about since I
14 was then listed as a change in my status from being a
15 judicial staff member to being a regular member whether I
16 could represent her pro bono.

17 **MR. ZELENKA:** We move to introduce State's Exhibit
18 No. 9.

19 **JUSTICE KITTREDGE:** Any objection?

20 **DR. FALTAS:** No, sir.

21 **JUSTICE KITTREDGE:** Without objection, State's No. 9
22 is in evidence.

23 **(State's Exhibit No. 9 Admitted into Evidence)**

24 **Q:** Did you authorize State's 9 --

25 **DR. FALTAS:** Objection to the question.

1 **JUSTICE KITTREDGE:** Overruled.

2 **A:** Did I authorize? No, I --

3 **Q:** Did you authorize her to communicate with you
4 in email on that date?

5 **A:** I have never authorized her to communicate with
6 me by email since the Court's order of September 2017.

7 **Q:** Thank you. State's Exhibit No. 10, Mr.
8 Shearouse, can you identify this document?

9 **A:** Yes, this is the email that I sent in response
10 to that email. I advised her that I was still employed
11 part-time by the South Carolina Supreme Court. That I
12 was not engaged in the private practice of law, and that
13 I do not provide any pro bono legal services. I also
14 advised her since I was still a part-time employee of the
15 Supreme Court I was still employed with the judicial
16 system, and therefore she should not be sending emails to
17 me under the order of September 27, 2017.

18 **MR. ZELENKA:** Move to introduce.

19 **JUSTICE KITTREDGE:** That would be State's No. 10.

20 **MR. ZELENKA:** State's Exhibit 10.

21 **DR. FALTAS:** No objection.

22 **JUSTICE KITTREDGE:** Without objection, in evidence.

23 **(State's Exhibit No. 10 Admitted into Evidence)**

24 **Q:** State's No. 11, Mr. Shearouse, can you identify
25 that document for the State?

1 **A:** Again, this is an email again from
2 MarieFaltas@hotmail.com dated January 22nd of 2021.

3 **Q:** And what does that document refer to?

4 **A:** I'm not so sure I understand your question.
5 It's entitled "I have tried every other legal possible
6 avenue to bring to your attention your court's violation
7 of Section 18-1-120, South Carolina Code of Laws."

8 **Q:** Did you authorize that email --

9 **A:** No, I did not.

10 **DR. FALTAS:** Objection.

11 **Q:** -- that you received?

12 **A:** I did not.

13 **DR. FALTAS:** Objection, it's not even addressed to
14 him.

15 **JUSTICE KITTREDGE:** I'm sorry, I couldn't understand
16 that, ma'am?

17 **DR. FALTAS:** Objection, it's not even addressed to
18 him. It's not an email addressed to him.

19 **JUSTICE KITTREDGE:** Well let's clarify. Who is the
20 email addressed to?

21 **A:** The email was to Chief Justice Beatty with a CC
22 to me and various other people.

23 **JUSTICE KITTREDGE:** Objection overruled. State's 11
24 has been properly identified. It's allowed in evidence
25 subject to Dr. Faltas' objection.

1 **(State's Exhibit No. 11 Admitted into Evidence)**

2 **MR. ZELENKA:** I beg the Court's indulgence one
3 moment. Your Honor, I've completed direct.

4 **JUSTICE KITTREDGE:** Thank you.

5 Your witness, ma'am.

6 **DR. FALTAS:** Yes, sir. Thank you. Sir, I just want
7 the Court to understand and allow that my cross-
8 examination is going to include information that I need
9 to elicit for my defense, which is the order is invalid
10 to begin with. So I'm not limited to what Mr. Zelenka
11 asked, I can elicit testimony that is helpful to my
12 defense.

13 **JUSTICE KITTREDGE:** Well number one, we'll decide
14 what's relevant and not. But that's a fair point. And
15 if you want to ask him questions about the validity of
16 the September 2017 order we would give you latitude in
17 that regard, ma'am.

18 **DR. FALTAS:** I will not ask him to decide the
19 validity, but I will ask questions.

20 **JUSTICE KITTREDGE:** Yes, ma'am. Your witness. You
21 may proceed.

22 **DR. FALTAS:** To elicit facts that go to the validity
23 or invalidity of the order.

24 **JUSTICE KITTREDGE:** Yes, ma'am, we understand.

25 **DR. FALTAS:** Thank you.

1 **JUSTICE KITTREDGE:** Proceed with your
2 examination of the witness.

3 **DR. FALTAS:** Yes, sir, I am about to proceed. And
4 without your getting impatient with me, if I have another
5 cough of paroxysm is it okay that I raise my hand and
6 step out? This is out of my control, totally out of my
7 control.

8 **JUSTICE KITTREDGE:** Let's see when that happens.
9 We're going to work with you and we're going to
10 accommodate you. But this is the cross-examination of
11 this witness.

12 **DR. FALTAS:** I know, I know. But please remember I
13 did not bring this proceeding against myself, you all
14 brought it against me. And so I mean you're not the ones
15 being put on, I am.

16 **JUSTICE KITTREDGE:** Your witness, ma'am.

17 **DR. FALTAS:** Thank you, sir.

18 **MR. SHEAROUSE - CROSS-EXAMINATION BY DR. FALTAS:**

19 **Q:** Sir, I'm sorry, I need to go in the order in
20 which you testified, not necessarily in the order of
21 importance. But bear with me because if I don't go in
22 the order in which you testified I will lose my train of
23 thought. You said that you get paid on an hourly basis
24 with the permission of Chief Justice Beatty?

25 **A:** That's correct, yes.

1 **Q:** How much do you get paid per hour?

2 **A:** I have no idea, I've not looked at it.

3 **Q:** You don't know how much you get paid?

4 **A:** I really don't care, I'm not doing this for the
5 money.

6 **Q:** Sir, the question is how much do you get paid,
7 not why you're doing it or whether you care. The
8 question is how much do you get paid?

9 **A:** I do not know the answer to that question off
10 the top of my head.

11 **Q:** Well I mean, okay, physically do you get a
12 check or what?

13 **A:** Yes, yes, I get a check twice a month depending
14 on how many hours I work.

15 **Q:** And does the check say how many hours you
16 worked?

17 **A:** Well is not really a check, it's a deposit. So
18 no, it doesn't.

19 **Q:** It doesn't?

20 **A:** No.

21 **Q:** So who decides how many hours you work?

22 **A:** The Chief Justice basically has left that up to
23 me and our Clerk of Court, Patricia Howard, so we work
24 together.

25 **Q:** So you get to say I worked a hundred hours or I

1 worked two hours and no one checks on that?

2 **A:** Patricia Howard certifies that I worked those
3 hours, yes.

4 **Q:** I'm sorry?

5 **A:** The Clerk of Court certifies the hours I work,
6 she approves my scheduled hours that I work, just like
7 any other part-time employee.

8 **Q:** Now I'm really confused. So what is the rate
9 per hour?

10 **A:** Again, Dr. Faltas, I do not know what that rate
11 is, I have not computed it.

12 **Q:** You were never told?

13 **MR. ZELENKA:** Asked and answered.

14 **JUSTICE KITTREDGE:** Sustained. Move along. Asked
15 and answered.

16 **Q:** Is it proper for the public to inquire about
17 public employee's pay?

18 **A:** I assume they could.

19 **Q:** Okay. And how can they inquire?

20 **A:** Well that would be something for personnel to
21 decide. There are limits about what information can be
22 obtained for people making less than \$50,000 a year. I
23 have no idea where I fall in that category at this point.

24 **Q:** So you never made more than \$50,000 a year in
25 your employment with the State Supreme Court?

1 **MR. ZELENKA:** Objection, Your Honor. Asked and
2 answered.

3 **JUSTICE KITTREDGE:** Sustained. This is entirely
4 inappropriate.

5 **DR. FALTAS:** No, sir. It's part of the email that's
6 used in evidence against me. I was inquiring what his
7 title was.

8 **JUSTICE KITTREDGE:** We know his title. We know he's
9 paid as a part-time employee by the Chief Justice.
10 You've asked the same question repeatedly. And to some
11 questions he does not know the answer, we have to leave
12 it at that. And you need to move on to the next line of
13 inquiry. I sustained the objection. Asked and answered.

14 **DR. FALTAS:** May I independently make to the Court a
15 FOIA request?

16 **JUSTICE KITTREDGE:** You certainly may, ma'am.

17 **DR. FALTAS:** Okay. So on the record I'm making that
18 FOIA request.

19 **JUSTICE KITTREDGE:** No, ma'am. The record here is
20 for the allegations and charges of contempt against you
21 for violation of the September 2017 order. Only --

22 **DR. FALTAS:** All right, let's --

23 **JUSTICE KITTREDGE:** I'm speaking.

24 **DR. FALTAS:** Sorry, sorry, sorry.

25 **JUSTICE KITTREDGE:** Only evidence relevant to that

1 will be allowed. We're allowing you, of course,
2 leeway because you think the underlying order is invalid.
3 If you want to make a FOIA request or any other thing
4 that you want to do, you can proceed as provided by law.
5 But it will not be in the context of this limited
6 contempt hearing.

7 **DR. FALTAS:** Except that the 27 September order, if
8 you give it an absurd reading, I would still be in
9 contempt if I handed a FOIA, a written FOIA request to
10 any employee of the judicial branch. So this has to do
11 with the absurdity of the reading of the order. But
12 let's go to the order itself, or the two orders. These
13 are the ones you're talking about, right? Thank you.
14 Okay.

15 **Q:** So State's No. 4 which was admitted over my
16 objection, you were the Clerk of the Supreme Court at
17 that time, were you not?

18 **A:** I'm not so sure I know what State 4 is. What
19 is State's No. 4 that you're referring to?

20 **JUSTICE KITTREDGE:** I believe that is the September
21 20th, 2019 order if I'm not mistaken.

22 **MR. SHEAROUSE:** The 2019 order. Okay, thank you.

23 **JUSTICE KITTREDGE:** I think that's State's No. 4.

24 **A:** Yes. Yes, I'm familiar with that order.

25 **Q:** Okay. If some member of the public entered

1 that case number, 2019-000036, on C-track today or
2 any time what will they get?

3 **A:** They would receive nothing. I believe this is
4 an original jurisdiction matter brought by the State.
5 Insofar as a matter of policy, the Court has not elected
6 to place those on the public version of C-track, so it's
7 not available. None of the original jurisdiction things
8 are currently available.

9 **Q:** In original jurisdiction does the Court judge
10 the facts and the law? This Court when it takes original
11 jurisdiction cases, does it judge the facts and the law?

12 **A:** Yes, depending on if there are facts that need
13 to be determined, yes.

14 **Q:** Okay. And do the Rules of Civil Procedure
15 apply when the Court takes a case in its original
16 jurisdiction?

17 **A:** No, I do not believe that they do apply.

18 **Q:** So how does the Court determine facts?

19 **MR. ZELENKA:** Object, Your Honor. Relevance.

20 **JUSTICE KITTREDGE:** Sustained. Next question.

21 **Q:** Is that case, 2019-000036 open or closed?

22 **A:** I don't know if I fully understand, but yes,
23 it's available to the public. If someone were to come in
24 and ask for a copy of the filings made in that case it
25 would be made available to them.

1 **Q:** I'm sorry. Is it an active case or a
2 closed case?

3 **A:** I think it's a closed case, although I think
4 you've made some filings in it so I think it may still be
5 pending.

6 **Q:** After you said filings in it what did you say?
7 I'm sorry, I genuinely cannot hear you. And I repeat my
8 prayer, please talk more slowly.

9 **A:** This case I think was concluded. But I believe
10 that you have made, there may be one pending motion that
11 you filed in that case.

12 **Q:** Okay. So if a Court issues what it thinks is a
13 permanent injunction can a person aggrieved by that
14 injunction come back and move the Court that issued it to
15 lift the injunction or modify it based on changed
16 circumstances?

17 **MR. ZELENKA:** Object, Your Honor. Relevance.

18 **JUSTICE KITTREDGE:** The answer is yes.

19 **DR. FALTAS:** Thank you.

20 **JUSTICE KITTREDGE:** An injunction --

21 **DR. FALTAS:** Thank you.

22 **JUSTICE KITTREDGE:** -- can be altered based on
23 changed circumstances.

24 **DR. FALTAS:** Thank you.

25 **JUSTICE KITTREDGE:** Just like the reasons in the

1 2017 order prohibiting emails, etc. If circumstances
2 would change to remove those restrictions, then we would
3 gladly do so. So yes, those kinds of injunctions can be
4 altered by the Court.

5 **DR. FALTAS:** Thank you, you've made half my case for
6 me, Acting Chief Justice Kittredge.

7 **JUSTICE KITTREDGE:** Glad to help, ma'am.

8 **DR. FALTAS:** Thank you.

9 **JUSTICE KITTREDGE:** Proceed with the witness,
10 please, ma'am.

11 **Q:** So how can somebody ask for change of a
12 permanent injunction due to changed circumstances?

13 **A:** By filing a motion, which I believe you have
14 done on several occasions regarding this very, regarding
15 the September 27, 2017 order.

16 **Q:** And in relationship to this case did I not file
17 a motion and was it not returned to me under pretext that
18 the case is closed?

19 **A:** Yes, that was correct, this was -- and I'm glad
20 you brought that up. I'm thinking about your original
21 one dealing with the 2017 order. In this one you did
22 attempt to make a filing, and I rejected that because
23 this was the final order in that case. You were trying
24 to get the Court to further clarify other issues
25 unrelated to what the Attorney General sought. And I

1 told you you'd have to file a separate, I believe a
2 separate original jurisdiction action.

3 **Q:** But you knew two things, you knew that you
4 would not take an original jurisdiction action from me
5 *pro se*?

6 **A:** No, ma'am, that's not true. There is another
7 order that hasn't been introduced at this trial that
8 says --

9 **Q:** I'm sorry, you're talking too fast.

10 **A:** I'm not so sure that that is true. It might
11 have to be filed by an attorney. But there is an order
12 separate from what's been talked about today which places
13 restrictions on you and requires an affidavit and a
14 filing fee. But no, you do have the opportunity to file
15 original jurisdiction.

16 **DR. FALTAS:** I have no idea what, I have no idea
17 what order he's talking about. And since he volunteered
18 it I ask that it be produced.

19 **JUSTICE KITTREDGE:** Continue with your examination.
20 You're here on violation of court orders as alleged.

21 **DR. FALTAS:** I know, sir. But --

22 **JUSTICE KITTREDGE:** And if we go off on these
23 tangents that are not relevant --

24 **DR. FALTAS:** Sir --

25 **JUSTICE KITTREDGE:** That's not relevant.

1 **DR. FALTAS:** Sir, under the Sixth Amendment I
2 get to compulsory process for witnesses in my defense.
3 Now he talked about an order that I had no idea about.
4 So I mean it's as if -- and I'm sorry, Acting Chief
5 Justice Kittredge, you said ample time. I was served on
6 January 24th, today is March 22nd. I was served on
7 January 25th, not even 60 days.

8 In addition, I have made several motions for
9 discovery. You've said no. So under -- and however you
10 rule, just let me for the record put my request and rule
11 on it anyway you want.

12 **JUSTICE KITTREDGE:** We will when it's your time to
13 talk to the Court and present evidence. Yes, you have
14 filed motions. Yes, we have ruled. You are now in the
15 process of examining this witness. If you wish to ask
16 him any further questions, that's fine. If you don't
17 have any other further questions, that will conclude the
18 examination.

19 **DR. FALTAS:** I have a lot of questions, sir.

20 **JUSTICE KITTREDGE:** Proceed with questioning.

21 **DR. FALTAS:** Yes, sir. And please be patient with
22 me. Remember I am the one brought here, I did not bring
23 you all here. You're the ones who bought me here. And
24 I'm presumed innocent. So please do not be impatient
25 with me.

1 **Q:** So can you tell me what, there was an order
2 saying that if I file an affidavit I can bring an action
3 in original jurisdiction, is that what you last said?

4 **A:** That's what I stated. There is an order that
5 has not been introduced at this proceeding today. It
6 places restrictions on your ability to make filings in
7 the original jurisdiction issued under Maxton v. State
8 which requires you to file an affidavit and pay the
9 filing fee, the motion filing fee.

10 **Q:** There is an order that has my name on it that
11 says Maxton or Paxton v. State?

12 **A:** It references Maxton, I believe it does. It
13 requires you to pay a filing fee and to provide an
14 affidavit that it's been filed in good faith.

15 **Q:** Do you have the date of this order as you sit
16 here?

17 **A:** Not off the top of my head, no.

18 **Q:** Okay. If we could take a break considering
19 that you're employed as a part-time Clerk or that you
20 work with the Clerk can you produce that order? May I
21 ask the Court to give me leave under the compulsory
22 process to which I'm entitled for him to produce that
23 order?

24 **JUSTICE KITTREDGE:** Mr. Shearouse, is this an order
25 that's been filed by the Court?

1 **MR. SHEAROUSE:** Yes, sir, it is.

2 **JUSTICE KITTREDGE:** Sure, we'll make it available to
3 you.

4 **DR. FALTAS:** I honestly never received an order that
5 says that.

6 **JUSTICE KITTREDGE:** All right, it will be given to
7 you. And you can now continue with your next line of
8 questioning.

9 **DR. FALTAS:** Absolutely, thank you, sir.

10 **Q:** So do you read this order, State's Exhibit 4,
11 as kind of a permanent injunction against me that I may
12 not do this and I may not do that, or what do you read --

13 **A:** I don't know if I would characterize it, but it
14 is an order of the Court restricting your ability to make
15 filings in postconviction relief cases.

16 **Q:** So is it in the nature of a permanent
17 injunction?

18 **A:** I don't think I'm going to give a legal opinion
19 about what I think it is.

20 **Q:** Okay. Well I mean contempt proceedings are
21 held for someone who violates a permanent either
22 affirmative or prohibitory injunction, correct?

23 **A:** I don't understand your question.

24 **Q:** I mean really you said you've been the staff
25 attorney for 15 years, I mean you should know that.

1 **A:** I don't know what your question is, I'm
2 sorry.

3 **Q:** Okay. An order from a Court either says
4 somebody should pay money, or should go to prison, or
5 should do something, or should stop doing something,
6 right?

7 **A:** I'm still not so sure I understand your
8 question. Yes, this Court issues orders directing people
9 to do things or not do things, and if they violate those
10 orders it is potentially punishable by contempt.

11 **Q:** When they direct people to do things or not do
12 things, is that in the nature of an injunction?

13 **A:** I'm not going to, once again, I'm not going to
14 characterize --

15 **Q:** All right. What was the basis for you not
16 filing my motion to modify this order due to changed
17 circumstances?

18 **A:** Because the 2019 action which was bought by the
19 State had ended, the time for rehearing had expired. And
20 I told you that you would need to file a separate motion
21 if you wanted to seek some further clarification of the
22 order.

23 **Q:** But that order is the one that you're saying is
24 still in effect and for which I'm called to answer to
25 criminal charges. So either the order was still in

1 effect, at which point I am allowed to move to modify
2 it or lift it due to changed circumstances, or it no
3 longer has effect, therefore cannot be the basis for
4 these proceedings.

5 Sir, you've been the staff attorney for 15 years. I
6 don't want to use the phrase playing dumb, but please use
7 the knowledge for which the public paid you for 15 years
8 to answer this question.

9 **MR. ZELENKA:** Your Honor, I would object. This is a
10 compound, confusing, and misleading question.

11 **JUSTICE KITTREDGE:** Sustained. And there's no
12 reason to attempt to belittle the witness. We're trying
13 to treat you with the utmost respect, ma'am.

14 **DR. FALTAS:** You're trying to put me in prison for
15 six months, and you know very well that that's a death
16 sentence.

17 **JUSTICE KITTREDGE:** No one wants you to go to jail.
18 But you're examining a witness. An objection has been
19 made. It's appropriate. And I sustain it.

20 **DR. FALTAS:** All right, I'll rephrase the question.

21 **JUSTICE KITTREDGE:** You want us to be patient with
22 you, and we are, we're doing our best. We're not
23 perfect, you're not perfect, and maybe Mr. Shearouse is
24 not perfect. But there's no reason for you to belittle
25 him and try to mock him. So treat him with the same

1 respect that you want us to treat you.

2 **DR. FALTAS:** But sir, I have been treated like a
3 leper, so don't tell me that I've been treated with
4 respect. I have a cheat sheet from him saying hang up on
5 her, that's treating me like a leper, that's the opposite
6 of respect.

7 **JUSTICE KITTREDGE:** That argument may be appropriate
8 when you testify or you make your legal presentation of
9 why this order, underlying order is not valid. But right
10 now you're questioning a witness. I'm asking you to
11 proceed with questioning the witness.

12 **DR. FALTAS:** Yes, sir, I will. But I will use that
13 order. Unless I can recall him in my case? It's up to
14 the Court's preference. I could, you know, foresee what
15 I --

16 **JUSTICE KITTREDGE:** There was some reference to an
17 order with which I'm not familiar.

18 **DR. FALTAS:** Okay.

19 **JUSTICE KITTREDGE:** Which wouldn't be unusual given
20 the number of orders this Court issues. And if upon
21 production of that some new material is set forth in that
22 that's germane and relevant to this proceeding, we'll
23 allow you to recall Mr. Shearouse.

24 **DR. FALTAS:** Yes, sir. And what I was saying is I
25 already received in discovery a cheat sheet or whatever

1 it's called in which he instructed his staff to hang
2 up on me. So my question is what's the --

3 **JUSTICE KITTREDGE:** All right, then ask him a
4 question about that.

5 **DR. FALTAS:** Yes, sir.

6 **JUSTICE KITTREDGE:** You don't need to tell me about
7 it. He's on the witness stand and you're examining him,
8 ask him questions.

9 **DR. FALTAS:** Yes, sir. I was trying to say there
10 are two ways to do it. I could limit myself to what Mr.
11 Zelenka presented to him, and then call him back in my
12 defense case. Or I can go ahead and use exhibits that
13 Mr. Zelenka had not presented to this witness now. So
14 I'm totally open.

15 **JUSTICE KITTREDGE:** You proceed as you see fit. If
16 there's an objection, it will be made, and I'll rule.
17 And when this Court rules, that issue will have been
18 decided and we move on from there.

19 **DR. FALTAS:** Thank you, sir.

20 **JUSTICE KITTREDGE:** Your witness.

21 **Q:** So you said that you issued something to the
22 effect that I cannot file it as a motion to lift the
23 injunction based on this case or to modify this ruling
24 based on changed circumstances?

25 **A:** What I said was that this particular case had

1 ended because the time to file a rehearing had
2 passed. And that you would have to file a separate
3 petition if you wanted to seek relief from the Court, I
4 believe that's what I told you.

5 **Q:** Okay. Did you reduce that to writing?

6 **A:** I honestly do not remember, I believe I did.

7 **Q:** Okay. And if I wanted to tell you that no,
8 you're wrong, how could I have done that? I mean Acting
9 Chief Justice Kittredge just said you're not perfect and
10 I'm not perfect either.

11 **A:** Right. Well again, that case had ended, the
12 time for rehearing that case had been concluded.

13 **Q:** Sir, that's not --

14 **A:** And you needed to file a separate petition.

15 **Q:** Please answer my question.

16 **A:** Well this is one of my roles as the Clerk at
17 that time, to determine what gets filed and how it gets
18 filed.

19 **Q:** Do people get to say no, Mr. Clerk, you're
20 wrong for such and such a reason?

21 **A:** Yes. You could once again file a separate
22 motion which would be assigned a new case if you wanted
23 to do that.

24 **Q:** But you wouldn't take a motion from me separate
25 from that case?

1 **A:** I would not take a motion from you if it
2 violated the September 2017 order, or if it was under
3 Rule 245. I believe the other order also puts in those
4 additional requirements that there be an affidavit along
5 with the filing fee. So if those requirements were met I
6 would, of course, cheerfully take it.

7 **Q:** I am talking about what you claim, whether you
8 reduced to writing or you said or whatever. How could I
9 tell you that no, you're wrong? Because you want me to
10 tell it to you in a motion, but you would not take a
11 motion. You want me to write it, and you ignore my
12 writing. The only thing left is to email or call, and
13 then if I do that you bring me to criminal contempt. I
14 mean, weren't you putting me in a Catch 22?

15 **A:** No, Dr. Faltas, I'm simply complying with the
16 orders issued by the Supreme Court that have been
17 introduced in the trial here today, along with the other
18 order that I believe exists about your ability to file
19 petitions seeking relief from the Court under Rule 245.

20 **Q:** Sir, if the Acting Chief Justice just told us
21 that yes, if it's a permanent injunction you can move to
22 lift it or modify it based on changed circumstances,
23 you're telling me that you refused to allow me to do
24 that. And I am asking you --

25 **MR. ZELENKA:** Object, Your Honor. Asked and

1 answered.

2 **JUSTICE KITTREDGE:** Sustained.

3 **DR. FALTAS:** I imagine that was State's Exhibit 1,
4 the 27 September order?

5 **JUSTICE KITTREDGE:** Yes, ma'am.

6 **DR. FALTAS:** It was, thank you. Thank you, sir.

7 **JUSTICE KITTREDGE:** For identification.

8 **DR. FALTAS:** So it's not admitted, that one is not
9 admitted?

10 **JUSTICE KITTREDGE:** That's correct. You said you
11 wanted to make an argument about that exhibit, so we did
12 not allow it in evidence until we hear fully from you.

13 **DR. FALTAS:** So you sustained the objection?

14 **JUSTICE KITTREDGE:** Well I allowed it --

15 **DR. FALTAS:** Or provisionally?

16 **JUSTICE KITTREDGE:** The term of art is for
17 identification.

18 **DR. FALTAS:** Okay.

19 **JUSTICE KITTREDGE:** It's in, it's in the record.
20 But it's not been received as an exhibit because you said
21 you wanted to object to its validity.

22 **DR. FALTAS:** Yes, sir. All right, thank you.

23 **JUSTICE KITTREDGE:** And if you have questions about
24 that you can ask the witness.

25 **DR. FALTAS:** Yes, thank you. So this has Appellate

1 Case No. 2013-000862. And just for the record,
2 because, I'm sorry, this may have to go to federal court
3 for habeas or to the US Supreme Court please let me make
4 a complete record. And you know, I believe in North
5 Carolina, I've had some litigation in North Carolina, you
6 are the most stringent Court about issue preservation.
7 So I'm just, you know, playing by your own rules.

8 **JUSTICE KITTREDGE:** Let the record reflect you're
9 looking at me, you're talking to me again, telling me
10 what the law is. This is your opportunity --

11 **DR. FALTAS:** Yes, sir.

12 **JUSTICE KITTREDGE:** -- to ask the witness questions.

13 **DR. FALTAS:** Yes, sir.

14 **JUSTICE KITTREDGE:** So I would ask you to please
15 direct --

16 **DR. FALTAS:** Yes, sir.

17 **JUSTICE KITTREDGE:** -- your attention to the witness
18 and ask the witness direct questions.

19 **DR. FALTAS:** Yes, sir. Okay.

20 **Q:** So again, if someone were today or at any time
21 since the beginning of history to enter Appellate Case
22 No. 2013-000862 on C-track what would they see?

23 **A:** Again, as I've explained, this was also a
24 matter brought under Rule 245 in the original
25 jurisdiction of the Supreme Court. And so it's not

1 available on the public access version of C-track.

2 It is, of course, freely available to anyone who comes
3 into the Clerk's Office and asks to see a copy of it.

4 **Q:** Who brought it?

5 **A:** This was something the Court initiated on its
6 own if I remember correctly.

7 **Q:** So what was the case of controversy underlying
8 it?

9 **A:** The Court, this is actually, there was earlier
10 orders issued in this case restricting the filings. This
11 was actually a modification of those orders that
12 increased your ability to make certain, to represent
13 yourself *pro se* in certain situations and make some *pro*
14 *se* filings.

15 **Q:** How did the Court acquire jurisdiction over me
16 to begin with?

17 **MR. ZELENKA:** Object, Your Honor. Goes beyond the
18 scope.

19 **DR. FALTAS:** No, sir. It has exactly to do with an
20 order can be valid only if it was in the context of a
21 case or controversy where the Court had --

22 **JUSTICE KITTREDGE:** It really requires a legal
23 conclusion, which the Court can handle. But I'm going to
24 overrule the objection. If you want to ask the witness
25 that question --

1 **DR. FALTAS:** Thank you, sir.

2 **JUSTICE KITTREDGE:** -- he can offer an answer if he
3 so chooses.

4 **DR. FALTAS:** Thank you, sir. I'm sorry, I forgot my
5 question, I forgot my question.

6 **JUSTICE KITTREDGE:** How did the Court acquire
7 jurisdiction to issue the 2017 order?

8 **DR. FALTAS:** Yes, sir. Thank you.

9 **Q:** So how did the Court acquire jurisdiction over
10 me?

11 **A:** The Court under the Constitution has the
12 ability to issue on its own volition writs and petitions,
13 and 245 implements that Rule. So it can in any case
14 regardless of whether a party has asked for relief, it
15 can take action.

16 **Q:** Even when there is no case or controversy,
17 that's your reading?

18 **A:** Where there is no petition from any party, that
19 is correct.

20 **Q:** So the Court can wake up one day and issue an
21 order, Dr. Faltas, donate your right kidney, and that
22 would be an order under which if I don't donate my kidney
23 I will be in contempt of court?

24 **A:** Well of course the situation you posited is
25 preposterous. Here the Court became aware that you had

1 made a whole bunch of frivolous filings, some of them
2 with this Court, some of them in lower courts --

3 **Q:** Oh, oh.

4 **A:** -- and issued this order.

5 **JUSTICE KITTREDGE:** Do not.

6 **DR. FALTAS:** Sorry.

7 **JUSTICE KITTREDGE:** When he's answering, I imagine
8 everything he says you don't agree with. You will let
9 him finish. And then you can go to your next question.

10 **DR. FALTAS:** Yes, sir. I do apologize.

11 **JUSTICE KITTREDGE:** Did you finish your answer, Mr.
12 Shearouse?

13 **MR. SHEAROUSE:** Yes, Your Honor, I believe I did.

14 **JUSTICE KITTREDGE:** And another thing, the court
15 reporter, bless her heart, cannot take down multiple
16 people talking at one time. So Dr. Faltas, please
17 respect that so we can have a full record of this.

18 **DR. FALTAS:** I am totally at fault. And as we used
19 to say in the Catholic Church when I was Catholic, mea
20 culpa, mea culpa, mea maxima culpa.

21 **COURT REPORTER:** I did not get the witness' full
22 answer when Dr. Faltas started. It's what we call
23 overlapping speakers.

24 **JUSTICE KITTREDGE:** Yes, speakers talking on top of
25 each other.

1 **COURT REPORTER:** I am not aware of Mr.
2 Shearouse's complete answer.

3 **JUSTICE KITTREDGE:** Do you recall what you said, Mr.
4 Shearouse?

5 **MR. SHEAROUSE:** Your Honor, I'll do the best I can.
6 I think my response was that the Constitution invests in
7 the South Carolina Supreme Court the ability to entertain
8 matters and issue writs or other matters in its original
9 jurisdiction. That has been implemented by Rule 245 of
10 the South Carolina Appellate Court Rules. And the way
11 that rule has been interpreted, and indeed this contempt
12 is actually probably under that rule, the Court can on
13 its own volition initiate matters, it doesn't require
14 necessarily a petition. This particular case was
15 initiated in 2013 where the Court began to address the
16 problem of frivolous filings by the Respondent in this
17 case. And this is a modified order of earlier orders
18 that had been issued is I believe my response.

19 **JUSTICE KITTREDGE:** Thank you.

20 Next question?

21 **DR. FALTAS:** Yes, sir. I believe not in this answer
22 but the previous one that the court reporter did not get,
23 he said the Court became aware of a whole bunch of
24 frivolous filings that you were making. So could I ask
25 if he had said that and follow-up a question, please?

1 **JUSTICE KITTREDGE:** Go ahead.

2 **A:** Well, yes. In fact, in this order it says
3 "These orders have been necessitated by the Respondent's
4 lamentable history of vexatious filings and inappropriate
5 conduct toward the courts of this State, its officers,
6 and employees."

7 **Q:** Okay. So at whatever point you said that the
8 Court became aware of a whole lot of frivolous filings, a
9 whole bunch or something like that, okay?

10 **A:** Yes, numerous.

11 **Q:** Okay, okay, okay, okay, just relax, relax. Let
12 me make my, let me ask my question. Were those filings
13 made to this Court before September 2017?

14 **A:** Yes, some of them were made with this Court,
15 others were made with the trial courts.

16 **Q:** Others were made what?

17 **A:** With the trial courts I believe.

18 **Q:** Okay. Did any trial court come running to this
19 Court and say save us, Dr. Faltas is filing frivolous
20 things?

21 **A:** I'm not aware of that happening, no.

22 **Q:** Okay. In fact, are you aware that now-Justice
23 James was a trial judge and I had appeared before him
24 when he was a trial judge?

25 **A:** I have no independent knowledge of that, no.

1 **Q:** Okay. Have you ever received any or is
2 there any record of any complaint from now-Justice James
3 from me when I appeared before him when he was a trial
4 judge?

5 **A:** I'm not so sure I understand what you mean by
6 complaint, I'm not aware of any complaint.

7 **Q:** Is there anything in the Court records related
8 to this case, we're talking about this case now, is there
9 anything in the Court records from now-Justice James
10 complaining of me when I appeared before him when he was
11 a trial judge?

12 **A:** If there is I'm not aware of it.

13 **Q:** Okay. I had also appeared before Acting
14 Justice Lockemy when he was a trial judge. Is there any
15 complaint in this Court's record of my conduct or
16 anything when I appeared before him when he was a trial
17 judge?

18 **A:** I'm not aware of it, I have not --

19 **MR. ZELENKA:** Objection, Your Honor. Relevance.

20 **DR. FALTAS:** Your Honor, it's the heart of the
21 matter.

22 **JUSTICE KITTREDGE:** Well I think I finally
23 understand why you believe the 2017 order is invalid.
24 And I'm going to take this up with my colleagues on the
25 Court at the next break.

1 **DR. FALTAS:** Thank you, and thank God.

2 **JUSTICE KITTREDGE:** And I think we can answer it
3 with finality.

4 **DR. FALTAS:** Yes, sir. Because I --

5 **JUSTICE KITTREDGE:** You think the Supreme Court
6 doesn't have the authority under the Constitution and
7 Rule 245 to address matters and correct matters in the
8 trial courts, and also that occur at the appellate level?

9 **DR. FALTAS:** Absolutely.

10 **JUSTICE KITTREDGE:** Thank you, ma'am.

11 **DR. FALTAS:** Because the Constitution says you sit
12 as a Court for correction of errors. So you leave the
13 circuit court alone to do so. And hundreds, hundreds of
14 your rulings say this or that is left to the discretion
15 of the trial judge, and you leave them alone until
16 somebody comes to you in a case. And thank you for
17 understanding. You thought I was just being frivolous,
18 but, but --

19 **JUSTICE KITTREDGE:** No, I'm not saying I agree with
20 your argument.

21 **DR. FALTAS:** I know.

22 **JUSTICE KITTREDGE:** But I now understand the basis
23 of your argument. I think we all do, and I might be the
24 last one up here to have figured it out.

25 **DR. FALTAS:** I'm sorry. But I was saying because

1 for some reason you have a prejudiced idea that
2 everything I say is frivolous or going to be frivolous or
3 trying to avoid true legal --

4 **JUSTICE KITTREDGE:** We're going to -- if you have
5 any other questions on that issue ask your question.

6 **DR. FALTAS:** Absolutely, absolutely. And I thank
7 you.

8 **JUSTICE KITTREDGE:** Please proceed. You don't need
9 to speak to me. You're examining a witness, please
10 proceed.

11 **DR. FALTAS:** Yes, sir. But you know exactly that
12 this is not exactly a trial or is not proceeding like a
13 trial because you all are interested. But I'll take
14 everything I can get when it's so --

15 **Q:** Which court, which trial court complained of
16 the substance of anything that I had filed in a trial
17 court?

18 **JUSTICE KITTREDGE:** That's the same objection that
19 was just made.

20 **DR. FALTAS:** But you overruled it.

21 **JUSTICE KITTREDGE:** No. We understand it. I
22 overruled an earlier objection.

23 **DR. FALTAS:** Okay, all right.

24 **JUSTICE KITTREDGE:** But the absence of a complaint
25 from Justice James or Justice Lockemy, you believe the

1 lack of a complaint from the trial court did not
2 allow the exercise of jurisdiction by this Court?

3 **DR. FALTAS:** Anyone, the lack of complaint of
4 anyone. There was no case or controversy before you.

5 **JUSTICE KITTREDGE:** Thank you, ma'am. We've got it.

6 **DR. FALTAS:** Thank you.

7 **JUSTICE KITTREDGE:** Go ahead.

8 **Q:** Just you said there was a whole lot of
9 frivolous complaints in the trial courts, is there any
10 record of that or were you just extrapolating or just
11 imagining?

12 **A:** You're asking me now for my opinion? Yes, I
13 have reviewed numerous filings that you have made, some
14 of them in the lower courts, some of them relating to
15 three appeals you now have pending. And I will say very
16 definitely they are completely frivolous in my opinion.

17 **Q:** Okay. So you initiated a review of what I was
18 filing in the trial court on your own volition?

19 **A:** No, ma'am. You asked if I'm aware of you
20 making frivolous filings in the lower court, and I was
21 just giving you my opinion.

22 **Q:** No, no, no, no, no. I asked if you --

23 **JUSTICE KITTREDGE:** Okay, okay.

24 **DR. FALTAS:** Sorry, sorry.

25 **JUSTICE KITTREDGE:** You're not going to agree with

1 anything he says. But you're going to let him
2 answer.

3 **DR. FALTAS:** Okay.

4 **JUSTICE KITTREDGE:** The court reporter can't take
5 this down unless we speak one at a time.

6 **DR. FALTAS:** I truly am sorry.

7 **JUSTICE KITTREDGE:** Now if you want to say --

8 **DR. FALTAS:** I truly am sorry. Go ahead. And I
9 interrupted you, sorry.

10 **JUSTICE KITTREDGE:** Did you have anything else you
11 want to say in response to the last question?

12 **MR. SHEAROUSE:** Your Honor, only that if her
13 question is was I aware, am I aware of what caused the
14 September 2017 order to come, I do not remember what
15 caused that order to be issued by the Court.

16 **JUSTICE KITTREDGE:** Next question?

17 **DR. FALTAS:** Thank you.

18 **Q:** And you said you reviewed my submissions in
19 appeals in the Court of Appeals, is that correct?

20 **A:** In the court? No, I did not say that. I don't
21 know what you're referring to.

22 **Q:** Okay. You did not say that you reviewed my
23 submissions in this Court or the Court of Appeals?

24 **A:** No. You asked me if I was aware of the fact
25 that you had filed frivolous filings in the lower courts.

1 And I responded that you have three appeals coming
2 up, and in my humble opinion it appears that the numerous
3 filings in those cases were, in fact, frivolous. You
4 asked for me for my opinion and I gave it.

5 **Q:** So those lower court cases are still pending?

6 **A:** Those three appeals are pending, yes.

7 **Q:** In this Court?

8 **A:** Yes.

9 **Q:** Okay. And I'm sorry, but I need to make a
10 record. Is it for you or for the judges to decide
11 whether they are meritorious or frivolous?

12 **A:** Well that's why you asked me for my opinion,
13 and that's why I clarified that I don't know whether that
14 has any real relevance or meaning.

15 **Q:** I'm sorry.

16 **A:** But you asked the question.

17 **Q:** Have you finished? Can I ask a new question
18 which was really my original question? And let's get a
19 clean answer please, and I'm trying to make the question
20 as clean as possible. Is there a record from any lower
21 court, be that the Court of Appeals of South Carolina or
22 the circuit court or the summary courts complaining to
23 this Court that I was filing frivolous documents?

24 **A:** As I indicated earlier, I'm not aware of any
25 such complaints being filed.

1 **Q:** As the retired Clerk who is active or
2 something, are you able to canvass the record underlying
3 this order and tell me if there were or were not
4 complaints from the trial courts?

5 **A:** Now are you referring back to the 2013-000862
6 case, is that what you're referring to?

7 **Q:** Yes, sir. Or are you --

8 **A:** I --

9 **Q:** Sorry. Go ahead.

10 **A:** Yes, that would potentially be possible. I
11 just don't know what's in that record.

12 **DR. FALTAS:** Okay. So may I ask the Court under my
13 right for compulsory process to require the production of
14 that entire record? And if there is nothing --

15 **JUSTICE KITTREDGE:** We'll take that under advisement
16 to the extent the presence or absence of a complaint in a
17 record whether that's relevant to the validity of the
18 2017 order. So your point is made. I have responded.
19 Next question.

20 **DR. FALTAS:** Thank you. And I just want to say it's
21 not directly to jumping from presence or absence to
22 validity, but the threshold in between is whether a case
23 or controversy was created. I'm just clarifying my
24 position so you don't think --

25 **JUSTICE KITTREDGE:** And you've made your position.

1 And I've ruled. And when the judge rules or a court
2 rules it's time to move on respectfully.

3 **DR. FALTAS:** Yes, sir.

4 **JUSTICE KITTREDGE:** And you can continue with your
5 examination.

6 **DR. FALTAS:** Yes, sir. So we've agreed that we'll
7 have that record produced and I can get to cross-examine
8 or argue based on what the record --

9 **JUSTICE KITTREDGE:** I have just ruled on that.

10 **DR. FALTAS:** Yes, sir. Thank you.

11 **JUSTICE KITTREDGE:** We will consider whether the
12 presence or absence of an underlying complaint impacts
13 the jurisdiction of the Court to issue an order in an
14 original jurisdiction matter.

15 **DR. FALTAS:** Yes, sir.

16 **JUSTICE KITTREDGE:** So we will consider it and we
17 will rule on that. Please proceed.

18 **DR. FALTAS:** Yes. But will I get to see the entire
19 record of this case?

20 **JUSTICE KITTREDGE:** I don't know, I'm going to have
21 to confer with my colleagues on the bench. And we will
22 rule.

23 **DR. FALTAS:** Yes, sir. And I am asking for that
24 entire record under my right for compulsory process.

25 **JUSTICE KITTREDGE:** Right. And you've made that

1 three times. And I have ruled.

2 **DR. FALTAS:** Or you have not ruled. You've decided
3 to confer with --

4 **JUSTICE KITTREDGE:** Right. And we're going to rule.

5 **DR. FALTAS:** Okay.

6 **JUSTICE KITTREDGE:** I mean I've told you.

7 **DR. FALTAS:** All right.

8 **JUSTICE KITTREDGE:** On a going forward basis how
9 we're going to address it.

10 **DR. FALTAS:** Thank you, thank you. Thank you, sir.
11 Believe it or not, I'm so happy that you're, you know,
12 now responsive to me that maybe --

13 **JUSTICE KITTREDGE:** Next question, please.

14 **DR. FALTAS:** Yes, sir.

15 **Q:** You're a lawyer, right?

16 **A:** Correct.

17 **Q:** Okay. Are you familiar with the concept of the
18 Rule of Lenity?

19 **JUSTICE KITTREDGE:** We are, and we'll take judicial
20 notice of it.

21 **DR. FALTAS:** Thank you.

22 **Q:** Are you also familiar with the concept that the
23 purpose of a law supersedes its letter?

24 **A:** I don't know if I would characterize that legal
25 principle in that way, the intent of interpreting statutes

1 is determined with the intent of the General
2 Assembly.

3 **Q:** Okay. Is this order an administrative law or
4 an order resulting from a case of controversy?

5 **A:** It is an order issued by the Supreme Court
6 under Rule 245 of the South Carolina Appellate Court
7 Rules.

8 **Q:** Yes, sir. But would you characterize it as
9 administrative or judicial?

10 **A:** It is judicial.

11 **Q:** Okay. Without underlying cause of controversy?

12 **A:** Once again, I do not believe that a case of
13 controversy is required under the Constitutional
14 provisions or under Rule 245, the Court has discretion to
15 take any matter it wishes to take in its original
16 jurisdiction.

17 **Q:** All right. Were you aware as the Clerk of the
18 Supreme Court that the US Supreme Court reversed or
19 vacated an order of this Court in the case of Turner v.
20 Rogers?

21 **A:** Yes.

22 **Q:** And what was the gist of the Supreme Court's
23 reasoning?

24 **A:** I do not remember, Dr. Faltas. I remember it
25 was reversed, I do not remember the reason.

1 **Q:** Okay. If I were to tell you that what they
2 said is before you hold somebody in contempt you need due
3 process to find out if they were able or not able to
4 comply with the court reporter -- with the court order.
5 Sorry, ma'am. Would you agree with me or disagree with
6 me that that was what the US Supreme Court said?

7 **A:** Dr. Faltas, I really do not remember. I
8 remember that case being reversed, I do not remember.

9 **Q:** Okay, okay.

10 **A:** In fact, I do know it had something to do with
11 contempt and failure to pay child support. It would not
12 surprise me if that says that someone, that the ability
13 to pay is a consideration that has to be made.

14 **DR. FALTAS:** And I ask the Court to please take
15 judicial notice. Thank you.

16 **JUSTICE KITTREDGE:** Yes, ma'am.

17 **Q:** And also as a lawyer are you aware of the
18 concept of necessity? For example, if someone is on
19 trespass from a building but sees the building on fire
20 and there is a child there, and that person goes to the
21 building to rescue the child from the house on fire,
22 would that person be guilty of trespass or will the
23 absence of a guilty intent be a complete defense?

24 **MR. ZELENKA:** Object. Relevance in these
25 proceedings.

1 **JUSTICE KITTREDGE:** Sustained.

2 **DR. FALTAS:** Well, sir --

3 **JUSTICE KITTREDGE:** I've sustained it. That
4 question is so far beyond the bounds of what we're
5 dealing with, so I've sustained it.

6 **DR. FALTAS:** Thank you.

7 **JUSTICE KITTREDGE:** And if you want to move to
8 another area of inquiry, you may.

9 **DR. FALTAS:** Thank you.

10 **Q:** Would you say that this order of September
11 27th, generally, it wants things to move smoothly in
12 courts?

13 **MR. ZELENKA:** Object. That's a confusing question.

14 **JUSTICE KITTREDGE:** Sustained.

15 **Q:** What was the purpose of that 27 September, 2017
16 order as you see it?

17 **A:** I can't give my opinion but other than to read
18 what it actually says. "It is the duty of this Court to
19 maintain the integrity of the court system in this State;
20 it is also the duty of this Court to protect the rights
21 of all persons, including Respondent, to meaningful
22 access of the courts of this State. In striking that
23 balance, this Court finds it appropriate to issue this
24 order to clarify Respondent's rights and
25 responsibilities." And then it proceeds to impose

1 restrictions upon you.

2 **Q:** All right. Going back to the State's Exhibit 6
3 which was admitted over my objection.

4 **A:** Yes.

5 **Q:** Okay. Are you aware of Section 18-1-120 SC
6 Code of Laws?

7 **A:** Yes, I am. It has a similar provision that's
8 in our court rules.

9 **Q:** Okay. And does it say that the title of the
10 action shall not be changed in consequence of the appeal?

11 **A:** Yes.

12 **Q:** Okay. And has it happened that you or your
13 staff entered appeals from me, were they flipped, the
14 title?

15 **MR. ZELENKA:** Objection, Your Honor. Relevance to
16 these proceedings.

17 **JUSTICE KITTREDGE:** What was the question about
18 being flipped? I didn't understand the question, ma'am.

19 **DR. FALTAS:** Yes, sir. I may not say it, like for
20 instance in the US Supreme Court the Petitioner is named
21 first. But in South Carolina, the original, it's always
22 the Plaintiff first or the State.

23 **JUSTICE KITTREDGE:** Okay, thank you for that. Now
24 what is the relevance of that? Explain to me succinctly
25 what is the relevance of that to whether or not you have

1 violated or are in contempt of the court's order?

2 **DR. FALTAS:** Of the relevance is that I read, and I
3 read all court orders, looking to the purpose. And if
4 the purpose is not to just make me miserable but to make
5 things go smoothly and correctly, when I see something
6 that's not correct I think it's not an intent to defy,
7 it's an intent to cooperate by bringing it to the
8 attention.

9 **JUSTICE KITTREDGE:** I don't find that response
10 germane to the objection. I sustain the objection.

11 **DR. FALTAS:** Exception.

12 **JUSTICE KITTREDGE:** Yes, ma'am.

13 **DR. FALTAS:** Exception. Has it happened that
14 inadvertently cases were entered incorrectly title-wise
15 or number-wise?

16 **MR. ZELENKA:** Objection. Again, relevance. As I
17 understand the issue before the Court, contempt is not
18 whether the substance of the emails were necessary or
19 correct, it's the manner that the information was being
20 presented to the Court. There was the opportunity under
21 the rule to write the Court correctly and use other forms
22 of communication. This isn't about whether the
23 communication itself had relevance, it's the manner that
24 it was given.

25 **JUSTICE KITTREDGE:** I sustain the objection. That

1 line of inquiry is irrelevant.

2 **DR. FALTAS:** And again, I take exception.

3 **JUSTICE KITTREDGE:** Yes, ma'am.

4 **Q:** But still on that Exhibit 6, does it say that
5 "I have tried every other legal possible avenue to bring
6 to your attention your court's violation of Section
7 18-1-120 SC Code of Laws," is that the title of the email
8 in Exhibit 6?

9 **A:** Yes.

10 **Q:** Had I not, in fact, written to you several
11 times, and had you not, in fact, ignored my writings?

12 **A:** I don't remember particularly if you had done
13 multiples, I'm sure you sent other emails potentially on
14 the same subject.

15 **Q:** I'm sorry?

16 **A:** I assume you probably sent other emails on this
17 same subject, I do not remember what correspondence you
18 sent.

19 **DR. FALTAS:** No, no, no. I'm sorry. If there are
20 other emails on this same subject the State was required
21 to produce them. And again, under my compulsory process
22 I ask the Court to order him to produce if any other
23 emails exist.

24 **JUSTICE KITTREDGE:** They have chosen certain charges
25 on emails and dates, and they need to produce that. And

1 I believe they have. This foray into other possible
2 emails, we'll consider it. And that's something that you
3 want to bring to our attention when you present your
4 case.

5 He answered a question. You didn't like it. So
6 then you had a discourse with me. That must stop. If
7 you don't like the answer, you just make a note of it so
8 you can present it when your time comes. But then you go
9 to the next line of inquiry.

10 **DR. FALTAS:** Sir, I very respectfully take exception
11 because the answer suggests the existence of other facts
12 which, you know, are inculpatory to me. But the State
13 has refused to produce them, or you're not letting me
14 compel them. So I ask the Court to consider that there
15 was no other email exists related to this subject of the
16 violation of Section 18-1-120.

17 **JUSTICE KITTREDGE:** The only things that are
18 included in the contempt allegations are those specific
19 contacts by email or telephone that are listed in the
20 contempt complaint.

21 **DR. FALTAS:** All right. Then I move to strike his
22 testimony that there were other emails about this
23 subject.

24 **JUSTICE KITTREDGE:** Granted.

25 **DR. FALTAS:** Thank you.

1 **Q:** If one were to look today, look for Appeals
2 No. 2021-000047, 48 or 49 what will they see?

3 **A:** Those cases are in C-track, they are pending
4 before the Court, but they are not on the public case
5 index.

6 **Q:** Why?

7 **A:** They're not on the public index because I have
8 concerns about whether they are properly filed under the
9 court's order of September the 27th of 2017. And
10 therefore I, when I was the Clerk elected to mark it as
11 non-public, and that's the way they are at the moment.

12 **Q:** What is your authority for that?

13 **A:** When we came up with C-track we had the ability
14 to mark things as being non-public, and that has been the
15 prerogative of the Court to mark it so it will not appear
16 on the public case index, and instead are waiting for the
17 Court to determine whether the filings are appropriate.

18 **Q:** And these were filed in January 2021, is that
19 correct?

20 **A:** That is correct.

21 **Q:** And did you even send them to the Court in a
22 timely fashion to determine whether they were or were not
23 correctly filed?

24 **A:** Dr. Faltas, I cannot testify about the internal
25 workings of the Supreme Court, that is all privileged.

1 **Q:** Is any member of the public entitled to get
2 their papers processed in a timely and transparent
3 manner?

4 **A:** To have their papers processed in a timely
5 manner? Yes. That's the goal we strive for, yes.

6 **Q:** I'm sorry, please. I'm sorry, I interrupted
7 you because you were talking quickly. Can you repeat
8 what you just said?

9 **A:** Yes. I said as a goal we try to process things
10 promptly, yes.

11 **Q:** Okay. So these were filed in January 2021,
12 early in January 2021, is that correct?

13 **A:** Correct.

14 **Q:** And we are now in March 2022, is that correct?

15 **A:** Correct.

16 **Q:** And they were accompanied, at the same time
17 there were two civil appeals which were 2021-000045 and
18 46 which do appear on C-track, is that correct?

19 **A:** Correct. And those two appeals, if memory
20 serves me correctly, were dismissed because you failed to
21 pay the filing fee.

22 **Q:** Okay. So what's the difference, why are the
23 two civil cases on C-track but the criminal appeals not
24 on C-track?

25 **MR. ZELENKA:** Object, Your Honor. Relevance, again.

1 And asked and answered.

2 **JUSTICE KITTREDGE:** Sustained. You've gone down
3 this road on something that's not relevant to the
4 contempt charges before the Court today. It's been asked
5 and answered, so you got it out anyway. The objection is
6 sustained. Move to your next question please, ma'am.

7 **DR. FALTAS:** Exception. And may I --

8 **JUSTICE KITTREDGE:** Yes, ma'am. Exception noted.
9 Next question.

10 **Q:** Okay. I need to ask this question for the
11 record because if I don't ask it, it will not appear for
12 further appeals. Weren't you, in fact, trying to annoy
13 me by removing them from C-track so that I wouldn't know
14 what's happening to them and I would have to ask
15 questions?

16 **A:** No. As I've already explained, I have concerns
17 about whether they're properly filed under the 2017
18 order. Also concerns about whether the notice of appeal
19 was properly served since you did so by email. And those
20 issues need to be resolved by the Court, and that's why
21 it was marked as non-public.

22 **Q:** Okay. The notice of appeal was not served by
23 email on these. Did you send me a deficiency letter?

24 **A:** No, I do not remember.

25 **MR. ZELENKA:** Objection, Your Honor. Relevance.

1 **JUSTICE KITTREDGE:** You asked the question. You
2 didn't like the answer. I sustain the objection. You
3 can't just go back and forth, well I think it's this, he
4 thinks it's that.

5 **DR. FALTAS:** Okay.

6 **JUSTICE KITTREDGE:** You asked a question. And like
7 I told you repeatedly, I know you're not going to agree
8 with much of anything that comes out of the witness's
9 mouth. The fact you disagree is not an opportunity to
10 engage in a banter back and forth. But you can ask
11 direct questions. But please move along to the next
12 issue.

13 **DR. FALTAS:** Okay.

14 **Q:** Are you aware of deficiency letters, what you
15 call deficiency letters?

16 **A:** Am I aware that we issue deficiency letters?
17 Yes.

18 **Q:** Okay. Did you issue a deficiency letter in
19 those cases?

20 **A:** I do not remember, I do not recall.

21 **DR. FALTAS:** Again, under compulsory process may I
22 ask the Court to make available those records to me?

23 **JUSTICE KITTREDGE:** That could be done separately
24 because that issue has nothing to do with the contempt
25 matter today. Apparently you have some other appeals

1 pending that will at some point be addressed by the
2 Court. But those -- (cracking noise) -- are you okay?
3 What was that?

4 **DR. FALTAS:** I don't know, maybe static.

5 **JUSTICE KITTREDGE:** It might have been. But in any
6 event, that could be handled separately. It may be a
7 request, it may be a written request, but it's outside
8 the confines of this proceeding.

9 **DR. FALTAS:** Acting Chief Justice Kittredge, it has
10 to do with the right of the public person to know and
11 inquire about their case. If he doesn't put it on
12 C-track, doesn't send a deficiency letter, and for 14
13 months I don't know anything about what's happening to
14 them.

15 **JUSTICE KITTREDGE:** I appreciate you saying that.
16 And if you want to follow up with a proper way of
17 communicating with the Court consistent with the 2017
18 order then that can be followed up on. That is not
19 relevant to the issue today for these specific
20 allegations of contempt by email and telephone contact
21 with Court staff.

22 **DR. FALTAS:** Exception.

23 **JUSTICE KITTREDGE:** Yes, ma'am. Noted. Next
24 question.

25 **DR. FALTAS:** All right. What was this number?

1 **MR. ZELENKA:** Two.

2 **Q:** State's Exhibit 2, is that addressed to me?

3 **A:** Let's see. It is addressed to the judges and
4 you were CC'd.

5 **Q:** Do you have personal knowledge, did you with
6 your own hands type and address correctly to me and put
7 it in an envelope and send it to me?

8 **A:** No, I of course do not address envelopes for
9 the Supreme Court as a general rule.

10 **Q:** Did you see someone do that?

11 **A:** No, I did not.

12 **Q:** Okay. So you do not have any personal
13 knowledge that I received it by mail?

14 **A:** Well I don't have any personal knowledge
15 whether you received it other than the fact that you
16 filed a response to it.

17 **Q:** Okay. But you do not have personal knowledge
18 that I received it based on State's Exhibit 2?

19 **A:** Only, as I've said, that you responded to it
20 and said that you received it in a document you filed
21 shortly thereafter.

22 **Q:** Okay. State's Exhibit 3, what action did you
23 take on it?

24 **A:** This email was sent in violation of the order.
25 I took no action on this particular filing I don't think,

1 I don't think I responded to this email at all.

2 Q: Okay. So that was fresh after the date of the
3 order, right, nothing had expired or anything?

4 A: I don't understand what you're saying.

5 Q: What's the date of State's Exhibit 3?

6 A: Let's see. September the 29th, 2019.

7 Q: Really?

8 A: Really, what?

9 Q: Really, 2019?

10 A: 29 September, 2019 I believe.

11 Q: Sir?

12 **JUSTICE KITTREDGE:** Is this service of the 2017
13 order or the 2019 order?

14 A: That is, the letter that I just referenced was
15 the service of the 2017 order.

16 **JUSTICE KITTREDGE:** Okay.

17 A: I believe this email --

18 Q: No, sir, we're looking at State's Exhibit 3.

19 A: Yes, State's Exhibit 3 is an email, or a
20 document from you, I think it's not an email, a document
21 from you dated 29 September, 2019.

22 Q: Sir, could you please look? Unless something
23 is wrong my version says 2017, not 2019. Can we compare?
24 I mean that's --

25 A: I'm saying --

1 **JUSTICE KITTREDGE:** What's your position? Stop,
2 sir. What's your position on that, Mr. Zelenka, with
3 State's Exhibit No. 3?

4 **MR. ZELENKA:** I beg the Court's indulgence one
5 moment.

6 **JUSTICE KITTREDGE:** That's fine. I just want to
7 know what your contention of the date is. And then the
8 Court will take a look at it during our next break.

9 **MR. ZELENKA:** I have that document here. I think
10 what Dr. Faltas is asserting is the particular document,
11 State's Exhibit 3, at the bottom of it she says,
12 diligently submitted on Friday, 29 September 2019, and
13 served on the AG's Office on that date. It reflects
14 received by the Supreme Court on September 29, 2017. We
15 submit that that is the appropriate date.

16 **DR. FALTAS:** Yes, sir. And as you said, I'm not
17 perfect. And in typing I typed 2019 because it was 29
18 September.

19 **JUSTICE KITTREDGE:** Yes, ma'am.

20 **DR. FALTAS:** But the real date it was issued is
21 2017.

22 **JUSTICE KITTREDGE:** 2017. And that makes sense
23 since the order was just issued a few days earlier in
24 2017, in September.

25 **DR. FALTAS:** Exactly.

1 **JUSTICE KITTREDGE:** Okay, we hear you.

2 **DR. FALTAS:** Thank you, sir.

3 **JUSTICE KITTREDGE:** Next question.

4 **DR. FALTAS:** Thank you, sir.

5 **Q:** So this was transmitted by hand-delivery in
6 writing, no email, no phone call, no anything, is that
7 correct?

8 **A:** That's what it appears to be, yes.

9 **Q:** And that would still be under the time to
10 reconsider, I mean it was.

11 **A:** No. And I can tell you that I was getting it
12 confused with the other case, you've got so many cases
13 and you're jumping back and forth. But in this thing I
14 believe this was processed and I believe some orders were
15 (overlapping speakers).

16 **DR. FALTAS:** Motion to strike "so many cases."

17 **JUSTICE KITTREDGE:** No, no, no, no.

18 **DR. FALTAS:** Okay, sir.

19 **JUSTICE KITTREDGE:** When he's speaking, you don't
20 like what he says. We get it. He finishes.

21 **DR. FALTAS:** I'm sorry, I'm sorry.

22 **JUSTICE KITTREDGE:** Did you finish your answer, Mr.
23 Shearouse?

24 **MR. SHEAROUSE:** Your Honor, I would just say that I
25 was confused about the earlier case. In this case I

1 believe these documents were ultimately processed,
2 and that's my recollection as I guess a motion for
3 rehearing, I believe that is the case.

4 **JUSTICE KITTREDGE:** Next question.

5 **DR. FALTAS:** Thank you.

6 **Q:** Did you ever send me anything in response to
7 this? Do you agree? Or I think we did get testimony
8 that was filed by hand-delivery, not by email. And it
9 was not stale, not beyond the time. Did you send me
10 anything in response to this?

11 **A:** I don't know if I know the answer to that
12 question. Like I said, my recollection is that this
13 document was ultimately processed and I believe some
14 other order was issued. I'm not 100% sure of that, I'd
15 have to look at the case to see.

16 **Q:** Again, if no order is produced then the Court
17 needs to assume that no order happened. And therefore,
18 that I was doing what the order says but not getting any
19 response. In the grand scheme of things if the order
20 were wrong, either the 27 September 2017 order were
21 wrong, either in part or in whole, would it not be in the
22 Court's interest to correct it?

23 **A:** Is that a question?

24 **Q:** Yes.

25 **A:** I wasn't sure if that was a question.

1 **JUSTICE KITTREDGE:** That's not a question.

2 **MR. ZELENKA:** Objection. That's misleading. We
3 object.

4 **JUSTICE KITTREDGE:** That's not a question. You can
5 rephrase it if you would like, Dr. Faltas.

6 **DR. FALTAS:** Sir, is the Court ready for a break? I
7 am ready for one.

8 **JUSTICE KITTREDGE:** How much longer do you have on
9 cross-examination?

10 **DR. FALTAS:** Well it always depends on whether he
11 freelances or doesn't. But I also need to get my train
12 of thought back together.

13 **JUSTICE KITTREDGE:** I'm just trying to get a sense.
14 Judges conduct court.

15 **DR. FALTAS:** Right.

16 **JUSTICE KITTREDGE:** And if you have two or three
17 more minutes, then we need to finish and then take a
18 break. But if you've got a lot more --

19 **DR. FALTAS:** Yes.

20 **JUSTICE KITTREDGE:** -- to go then we can take a
21 break.

22 **DR. FALTAS:** Yes, yes, I was thinking maybe we can
23 take the lunch break. I will not be eating, but if the
24 Court wants.

25 **JUSTICE KITTREDGE:** We're going to take a 10 minute

1 break, and then I'll reassess with my colleagues on
2 what our next steps will be. But for now we're taking a
3 10 minute break and we'll be in recess.

4 **DR. FALTAS:** Thank you, sir.

5 (Hearing recessed at 12:18 p.m., March 22, 2022)

6 * * * * *

7 (Hearing reconvened at 12:37 p.m., March 22, 2022)

8 **MS. BRYANT:** All rise.

9 **JUSTICE KITTREDGE:** Be seated, be seated. We are
10 back on the record and I have several things to put on
11 the record. One is Dr. Faltas questioned Mr. Shearouse
12 about her communications with the Court dated September
13 29, 2017. The manner of communication was in violation
14 of an order of the Court that's referenced in Mr.
15 Shearouse' response. That response is in a letter dated
16 April 5, 2018, and I instructed a representative from the
17 Clerk's Office to provide a copy of that letter to both
18 sides. Has the State received a copy of that April 5th,
19 2018 letter?

20 **MR. ZELENKA:** We did, we just received it, and I
21 provided a copy to Dr. Faltas.

22 **JUSTICE KITTREDGE:** All right, good, so both sides
23 have it. The second thing I have discussed with my
24 colleagues, a legal ruling and what is the Court's
25 procedure that will be followed going forward. In terms

1 of the legal ruling, it is the unanimous and firm
2 judgment of all members of the Court that the September
3 2017 order is a valid order of this Court.

4 Under the Constitution, the Appellate Court Rules,
5 and the inherent authority of this Court to supervise the
6 administration of the court system of South Carolina and
7 it provides more than ample basis for this Court to have
8 acted and issued an order in September of 2017. The
9 record will reflect the Court's ruling and that, of
10 course, Dr. Faltas takes exception to it.

11 Now on moving forward, Mr. Shearouse has testified
12 to the particular allegations of contempt into which he
13 was a participant, i.e., on the receiving end of email
14 communications in violation of the 2017 order. My
15 colleagues have stressed upon me that we have got, I have
16 allowed the hearing to get so far afield from the
17 relevant issue before the Court.

18 So going forward the Court is only going to permit
19 questions relevant to the matter of contempt as testified
20 to by Mr. Shearouse. No colloquy with the Court except
21 in responding to an objection or otherwise. But we're
22 going to move forward and conclude the examination of the
23 witness limited to evidence of the contempt allegations
24 as testified to by Mr. Shearouse.

25 **DR. FALTAS:** Sir, may I ask -- and of course I do

1 not think it's a valid order -- but you have ruled
2 among yourselves that it's a judicial order or an
3 administrative order, because you said that it's in your
4 supervisory power over the state courts. I still take
5 issue with that. But even if it were so, there is a
6 difference between an administrative order and a judicial
7 order. An administrative --

8 **JUSTICE KITTREDGE:** Ma'am, the Court has ruled.

9 **DR. FALTAS:** But -- okay.

10 **JUSTICE KITTREDGE:** And the order prohibited you
11 from communicating to the Court and court staff in a
12 particular way. It's alleged that you violated that. I
13 have stated the Court's ruling, I'm not going to state it
14 again. And I'm not going to go back and forth.

15 Because right now what you're doing is you're taking
16 time away from your examination of the witness to engage
17 in this dialogue, which is not productive in our
18 judgment. I have been told to move along and limit this
19 to the relevant issue of contempt. And I accept that
20 constructive criticism. And so that's what I'm going to
21 do.

22 **DR. FALTAS:** Sir, I have offered Mr. Zelenka not to
23 plead guilty because I cannot in good conscience say that
24 I'm guilty, not even to plead Alford because I cannot in
25 good conscience say that the elements of true contempt

1 are in the possession of the State. I had offered
2 him to consent to the entry of a judgment of conviction
3 with the staying of the sentencing until your ruling can
4 be reviewed, either in federal court or by the US Supreme
5 Court because -- and this will save time.

6 **JUSTICE KITTREDGE:** Whatever order we issue you
7 certainly can appeal. Let me just ask you a question
8 that seems to be self-evident. There's a court order
9 that does not permit you to email court staff, telephone
10 court staff, if you have an attorney you can do it in the
11 normal way through your attorney. But when you're *pro se*
12 you have to do it through in person by bringing documents
13 or US mail. That's the order of this Court. It is of no
14 great joy for us to be here, but we have an obligation to
15 ensure that the court orders are enforced.

16 Is there anything, ma'am, that we can do that will
17 get you to comply with that obligation that you do not
18 email the courts of this state, the staff, and make
19 telephone calls to the court and staff, and communicate
20 as prescribed by this court's order? Is there anything
21 we can do to get you to comply?

22 **DR. FALTAS:** Many things. First, put such cases as
23 I have on the public record so I can tell what's
24 happening with them without my having to call anybody or
25 ask anybody.

1 Second, rule on my cases and get me out of here.
2 I'm a medical doctor and really a frustrated engineer.
3 I don't know where this legal talent came from, but I
4 have it. But some of the staff have accused me of
5 enjoying this. Not at all. Just put my things on the
6 public record. Because a whole lot of those were where I
7 was asking what's happening. And when we stopped I mean
8 genuinely, genuinely I think that the recent supersedes
9 the older, and when you all did that order by filing by
10 email it didn't exclude me.

11 And in fact, so when you look at those emails and
12 those phone calls they are really together 21 or 20 over
13 a 22 month period, it's one call per month. And it's not
14 as if the contempt I was saying hey, I'm calling to annoy
15 you, or hey, I'm calling to violate the court order.

16 **JUSTICE KITTREDGE:** All right, thank you. We're
17 trying to find some solution. But I can promise you that
18 part of any solution will be you will comply with the
19 orders of this Court.

20 **DR. FALTAS:** Yes, sir. I will. And --

21 **JUSTICE KITTREDGE:** No, ma'am.

22 **DR. FALTAS:** Sorry.

23 **JUSTICE KITTREDGE:** We're not going to respond to
24 your request of what you perceive to be placing cases on
25 the public record. Every case filed is part of the

1 public record. It may not appear on a particular
2 track, but it's still available to the public, and those
3 cases proceed in that way. There is no nefarious intent
4 involved. There's nothing to hide those documents,
5 they're are simply on different tracks. And those
6 different tracks are available to the public. Now
7 perhaps in some instances a person can go on the Internet
8 and see some of those filings. But all of the filings
9 through some effort, all minimal, can be obtained. So
10 they are public records.

11 **DR. FALTAS:** May I just say something?

12 **JUSTICE KITTREDGE:** Yes, but it has to be relevant.

13 **DR. FALTAS:** Yes, sir.

14 **JUSTICE KITTREDGE:** To something that this Court,
15 the five of us can do, and be assured that you will not
16 violate that order going forward. Because we could
17 impose a sentence and then suspend it and let you walk
18 out of here. But we need some assurance. Now you can
19 respond.

20 **DR. FALTAS:** Because, you know, in medicine we
21 always think of solutions and creating ones. If you
22 don't want to put my cases on the record, because this
23 says that I cannot even talk to people, you can set once
24 a month, once every two months that I can come and look
25 at my public cases to find out what happened in them and

1 what didn't happen in them. And I leave that to your
2 discretion, what you think is reasonable. And I will not
3 be in contempt for even speaking to people. You can set
4 it any date, you can say on such and such a date you can
5 come and look at all your cases and see if they've
6 progressed.

7 Because sometimes there may be an order issued that
8 gets -- and that happened. I'm not saying, I mean please
9 believe me, it's not as if it didn't happen -- that was
10 sent to the wrong address. Not because I had given a
11 wrong address, but it was mis-typed. So in the absence
12 of that, and in the absence of my being able to call or
13 email, you can set a time every month or two months that
14 I can come and look at my cases. It's an idea. There
15 are several other ideas.

16 In fact, the last part of the allegations were about
17 an appeal that I did not even file. I had prevailed in
18 the Circuit Court on the PCR case that I was allowed to
19 proceed *pro se* and I had prevailed twice, twice. And
20 then the State appealed, or certiorari. And that stayed
21 on for three months -- three years, I'm sorry.

22 And then the last step is that the remittitur did
23 not issue on time. So that's one of my biggest things.
24 You can set it. I mean if the cases are, are -- what's
25 the word -- resolved, resolved, then there would be no

1 reason for me to ask.

2 But while cases are pending if you don't want me to
3 call and you don't want me to send emails and you don't
4 want me to, and you don't want to put them on
5 C-track, let me come once a month or whatever and look at
6 them.

7 **JUSTICE KITTREDGE:** Your statement is based on a
8 false premise as if you are precluded from access to your
9 files or public records. That is not part of the 2017
10 order. The means of you gaining access is limited
11 because of the reasons clearly set forth in the 2017
12 order.

13 Now I want to just ask my colleagues if they wish to
14 take a break to discuss this dialogue or to move forward?

15 **DR. FALTAS:** Actually, sir, this is where Mr.
16 Shearouse, and that was produced to me in discovery, said
17 that when she comes don't even talk to her. So you're
18 telling me that I'm not precluded, but I am precluded. I
19 mean the order, if it says don't call and don't email, it
20 says don't even talk to people. So there was no way for
21 me to know what's happening in my cases. And this is, as
22 I said, one thing that I just found in discovery in this
23 case. So no, it wasn't a false premise.

24 **JUSTICE KITTREDGE:** Well the Court has for a long
25 time attempted, without much success, to have you comply

1 with the 2017 order. And that's why we're here
2 today. I get indication from some of my colleagues that
3 we're going to take a five minute break. We'll discuss
4 what you said, ma'am. And then we'll come back for
5 further the discussion. Five minutes.

6 (Hearing adjourned at 12:55 p.m., 3/10/22)

7 * * * * *

8 (Hearing reconvened at 1:06 p.m., 3/10/22)

9 **MS. BRYANT:** All rise.

10 **JUSTICE KITTREDGE:** Thank you all so much, please be
11 seated. First of all, all five of us appreciate your
12 patience. We have discussed Dr. Faltas' concerns, and
13 this is where we are in the proceedings. We cannot as a
14 matter of law accept something called a conditional
15 guilty plea. So we're going to move forward and conclude
16 the examination of Mr. Shearouse.

17 I will tell you, Dr. Faltas, that it's the desire of
18 the Court when at the end of this process, it won't be
19 today, but at the end of this process, we'll finish the
20 proceeding today we hope, but when this proceeding is
21 concluded we're going to have to take some time to issue
22 an order. And part of that order is going to respond to
23 your request for access to your records.

24 **DR. FALTAS:** Thank you.

25 **JUSTICE KITTREDGE:** So we hear you in that regard,

1 and we're going to address that when we issue an
2 order. And rather than do that now off the cuff, it's
3 just better that we finish this proceeding, close the
4 proceeding, and then we can address everything in one
5 order.

6 **DR. FALTAS:** Thank you, sir.

7 **JUSTICE KITTREDGE:** Okay.

8 **DR. FALTAS:** Thank you, sir.

9 **JUSTICE KITTREDGE:** So we're going to move forward.
10 If you have any further questions of Mr. Shearouse
11 related to the specific times of the communications to
12 him that were allegedly in violation of the 2017 order?

13 **DR. FALTAS:** Thank you. Thank you very much. And I
14 thank God that you made this decision. But may I just
15 ask to leave it on the table, you know? Because you
16 know, for your consciences and everything. What's so bad
17 about -- when I'm not saying I'm asking, I mean what's so
18 bad about my having emailed once or twice, or called when
19 some of my papers were not handled? I mean doesn't
20 everyone else call? I don't want this to come through as
21 if I'm saying I'm right and you're wrong. But I want to
22 understand what's so bad from your point of view? I mean
23 it's possible that you can ration my calls, you can, I
24 mean.

25 **JUSTICE KITTREDGE:** We're going to address that.

1 **DR. FALTAS:** Okay.

2 **JUSTICE KITTREDGE:** The order of this Court is you
3 have filed vexatious and abusive litigation in this
4 State, that is set forth in the 2017 order, an order that
5 you do not agree with.

6 **DR. FALTAS:** Absolutely, yes.

7 **JUSTICE KITTREDGE:** But that is an order of this
8 Court. The history that was recited in that order and
9 prior orders from Chief Justice Toal, etc., gave rise to
10 the culmination of the 2017 order. It speaks for itself.
11 We intend to address the history of this matter and why
12 such conditions have been imposed upon you when we issue
13 an order.

14 I'm going to once again give you the opportunity, if
15 you want, to ask Mr. Shearouse any further questions --

16 **DR. FALTAS:** Yes, sir.

17 **JUSTICE KITTREDGE:** -- about the contempt
18 allegations in this case today.

19 **DR. FALTAS:** Yes, sir. And I was so optimistic I
20 put my papers back in my bag. So if I may borrow that
21 cheat sheet from Mr. Zelenka, and we can make it a joint
22 exhibit if he likes. Thank you. Okay. So may I?

23 **JUSTICE KITTREDGE:** You're holding some document in
24 your hand, do you want to make it an exhibit?

25 **DR. FALTAS:** Yes, yes.

1 **JUSTICE KITTREDGE:** Any objection from the
2 State?

3 **MR. ZELENKA:** No objection.

4 **JUSTICE KITTREDGE:** Okay, this will be admitted as
5 Respondent's Exhibit No. 1.

6 **DR. FALTAS:** Yes, sir. Thank you.

7 **JUSTICE KITTREDGE:** Is there any way you could hand
8 that to the court reporter? Can you reach that far?

9 **DR. FALTAS:** Yes.

10 **COURT REPORTER:** Got it.

11 **JUSTICE KITTREDGE:** Thank you, ma'am. Let her mark
12 it and then we'll get back on the record.

13 **DR. FALTAS:** Thank you, sir.

14 **(Respondent's Exhibit No. 1 Admitted into Evidence).**

15 **JUSTICE KITTREDGE:** She's handing it back to you.

16 **DR. FALTAS:** Thank you.

17 **JUSTICE KITTREDGE:** The record will reflect that
18 Respondent's Exhibit No. 1 has been admitted without
19 objection. Now you may ask the questions of Mr.
20 Shearouse.

21 **DR. FALTAS:** Yes. May I pass it to him, please?

22 **JUSTICE KITTREDGE:** Sure, the court reporter will
23 help you.

24 **DR. FALTAS:** Thank you.

25 **Q:** Do you agree that this is, I'm calling it a

1 cheat sheet or you can call it something else that
2 you prepared for the court staff?

3 **A:** Yes, this was basically scripts that I gave to
4 my staff I believe in February of 2019. At that
5 particular time you were coming to the Supreme Court
6 lobby on numerous times in succession, and you were also
7 phone calling numerous times. And I gave this script
8 since we are not supposed to have telephone conversations
9 with you, you're not supposed to be calling. First it
10 deals with advising you or reminding you again about the
11 September 27, 2017 order that you were not permitted to
12 call us on the telephone. So I gave them the script so
13 that we could be consistent on how we were responding to
14 your calls.

15 **DR. FALTAS:** Motion to strike the part about the
16 phone call.

17 **JUSTICE KITTREDGE:** Motion overruled.

18 **DR. FALTAS:** Okay, thank you.

19 **JUSTICE KITTREDGE:** He answered your question. You
20 don't like it, fine.

21 **DR. FALTAS:** Okay.

22 **JUSTICE KITTREDGE:** Next question.

23 **DR. FALTAS:** Okay, okay, okay.

24 **Q:** At that time the State had filed a petition in
25 the Court's original jurisdiction, isn't that correct?

1 That's case number 20 --

2 **A:** I do not know the relative timing of those
3 events.

4 **Q:** Okay, going back to State's Exhibit 1 or 2, the
5 September order.

6 **JUSTICE KITTREDGE:** I appreciate you mentioning
7 State's No. 1. For the record, it's no longer for
8 identification. We've ruled on the legal efficacy of
9 that document, it's a valid court order. It is in
10 evidence as an exhibit.

11 **(State's Exhibit No. 1 Admitted into Evidence)**

12 **JUSTICE KITTREDGE:** Yes, ma'am. Proceed.

13 **DR. FALTAS:** Okay, then State's now Exhibit 2.

14 **JUSTICE KITTREDGE:** All right, State's Exhibit 2 is
15 the proof of service of the order.

16 **DR. FALTAS:** Okay, then 3.

17 **JUSTICE KITTREDGE:** So ask your question of Mr.
18 Shearouse regarding State's Exhibit 2.

19 **DR. FALTAS:** No, it's not 2, it's 3. I'm sorry.

20 **JUSTICE KITTREDGE:** Your response that's dated
21 September 29, and you typed in 2019.

22 **DR. FALTAS:** Okay.

23 **JUSTICE KITTREDGE:** And it was really 2017 and we
24 figured that out.

25 **DR. FALTAS:** I'm sorry. Okay. Let me pull out what

1 I put back in my bag out of optimism. There is one
2 that's related to the case that generated, the September
3 2019 order, the September 2019 order.

4 **JUSTICE KITTREDGE:** That might be Exhibit 4.

5 **DR. FALTAS:** Exhibit 4, okay.

6 **JUSTICE KITTREDGE:** So you can ask him a question
7 about No. 4.

8 **DR. FALTAS:** Yes, sir.

9 **Q:** That case, I'm the Respondent, is that correct?

10 **A:** That case was brought by the State. And yes,
11 you were the Respondent in that case.

12 **Q:** And out of your own knowledge or just because
13 the number, the serial number is so low, 36, is it likely
14 that it was filed very early in January?

15 **A:** I would assume, I would assume that would be
16 the case. I do not know.

17 **Q:** 2019.

18 **A:** I do not know.

19 **Q:** So the reason I was coming to file things or I
20 was coming to the lobby in February 2019 was to file
21 documents in response to the State's petition, is that
22 correct?

23 **A:** I don't know what case you were trying to file
24 on, but yes, you were coming to file documents, yes.

25 **Q:** Okay. Assuming for the purpose of this

1 question that the September --

2 **MR. ZELENKA:** Your Honor, I object once again.
3 Relevance.

4 **JUSTICE KITTREDGE:** I'm going to sustain the
5 objection. I've tried my best. My colleagues have
6 impressed upon me and all of us that there are
7 allegations of contempt that allege that you sent emails
8 to Mr. Shearouse that he's testified to. He's testified
9 to your responses, your email contacts, that's what I
10 want your questions to be about. Because we have
11 determined that the underlying court order is valid.

12 **DR. FALTAS:** Okay. What I am saying because he has
13 gone on to say that he did that script because I was
14 coming often in February 2019, and I am relating that to
15 --

16 **JUSTICE KITTREDGE:** You think you had just cause to
17 come?

18 **DR. FALTAS:** Yes.

19 **JUSTICE KITTREDGE:** All right.

20 **DR. FALTAS:** And even though I had just cause to
21 come because I was the Respondent, which is like the
22 Defendant, which you allowed me to proceed *pro se* when
23 I'm a Defendant or a Respondent, then I could file
24 things. And even then he was telling them to not speak
25 to me.

1 **JUSTICE KITTREDGE:** You're not being alleged to
2 be in contempt for walking in this Court in February of
3 2019, you're alleged the specifics that are set forth by
4 your email communication to Mr. Shearouse. I'm trying,
5 and we are all trying to bend over backwards to give you
6 every possible latitude, and then much more.

7 You're going to ask him questions about the elements
8 of contempt that are before the Court, or we're going to
9 have no choice but to end your examination because you're
10 speaking more with the Court than you are the witness.

11 **DR. FALTAS:** Okay. I have no further questions of
12 him. And I really appreciate the Court's promise to
13 review what it calls the underlying cases. I want, I
14 pray that the Court considers two things. First, all --
15 and I'm finished with my examination of him.

16 **JUSTICE KITTREDGE:** Right. So save that, make a
17 note if you need to, I want to hear you on that. But
18 we're through with the cross-examination.

19 Any redirect?

20 **MR. ZELENKA:** Briefly, Your Honor.

21 **MR. SHEAROUSE - REDIRECT EXAMINATION BY MR. ZELENKA:**

22 **Q:** State's Exhibit 12, Mr. Shearouse, can you
23 identify that document?

24 **A:** Yes. After the Court had issued the September
25 20, 2019 order Dr. Faltas sent us a motion for partial

1 reconsideration.

2 **Q:** Does that reflect she received a copy of the
3 2019 order?

4 **DR. FALTAS:** Are we talking about the same thing?
5 That's not at all what you -- this is not at all that.
6 You gave me one more of the thing, that's not it.

7 **MR. ZELENKA:** The end of the first paragraph?

8 **JUSTICE KITTREDGE:** He has identified it as some
9 document purportedly from Dr. Faltas, is that correct?

10 **MR. ZELENKA:** Yes, sir.

11 **JUSTICE KITTREDGE:** All right. And you seek to
12 admit this document that's been identified and
13 authenticated?

14 **MR. ZELENKA:** That's correct.

15 **JUSTICE KITTREDGE:** All right.

16 Do you object to this being received as State's
17 Exhibit No. 12?

18 **DR. FALTAS:** No, I do not. But he's not describing
19 it correctly. So I mean subject to his describing what
20 it is, I do not object.

21 **JUSTICE KITTREDGE:** Unfortunately, I'm going to
22 allow it because he's authenticated it. But fortunately,
23 you on recross can ask him questions limited to that
24 document.

25 **DR. FALTAS:** Yes, sir.

1 **JUSTICE KITTREDGE:** So you can pursue it.

2 **DR. FALTAS:** I'm trying to finish and say what I
3 want to say.

4 **JUSTICE KITTREDGE:** Yes, ma'am.

5 **DR. FALTAS:** And let you make your decision.

6 **JUSTICE KITTREDGE:** State's 12 is in evidence
7 subject to cross-examination of Mr. Shearouse by Dr.
8 Faltas.

9 **(State's Exhibit No. 12 Admitted into Evidence)**

10 **Q:** Just to clarify, what is the title of the
11 document?

12 **A:** The title of the document is "Dr. Assa'ad
13 Faltas' *Timely* Motion for *Partial* Reconsideration of 20
14 September 2019 ORDER."

15 **Q:** Thank you. I assume the Court's taken judicial
16 notice of the orders that were referred to previously,
17 the 2009 [sic] order, is that correct?

18 **JUSTICE KITTREDGE:** Yes, sir.

19 **MR. ZELENKA:** I have no further questions at this
20 time.

21 **JUSTICE KITTREDGE:** All right.

22 I'm going to allow you if you want to question
23 Mr. Shearouse about that, State's No. Exhibit 12.

24 **DR. FALTAS:** Okay.

25 **MR. SHEAROUSE - RECROSS-EXAMINATION BY DR. FALTAS:**

1 **Q:** That was hand-delivered, it was not
2 emailed, right?

3 **A:** It appears that that is the case.

4 **Q:** And the Court received it, right?

5 **A:** Yes.

6 **Q:** And stamped it?

7 **A:** Yes.

8 **Q:** And the stamp maybe got, but the case number
9 that's on it at the top is 2019-000036, is that correct?

10 **A:** I'm not so sure where you're talking about.

11 **Q:** Okay.

12 **A:** On this document?

13 **Q:** Yes, the caption.

14 **A:** Yes, 2019-000036, that's correct.

15 **Q:** And you agreed that's the case that the State
16 brought, not I brought?

17 **A:** That is correct. That is the motion the State
18 brought to clarify your ability to file postconviction
19 relief applications.

20 **Q:** And the order in that case did not issue until
21 September, correct?

22 **A:** Yes, September of 2019 I believe.

23 **Q:** Okay. So this was a timely motion to
24 reconsider?

25 **A:** Yes, I think it probably was.

1 **Q:** Okay. And was it anything that I was
2 forbidden from filing?

3 **A:** I don't believe so, no.

4 **Q:** Okay.

5 **A:** I believe it came in writing.

6 **Q:** Okay, all right.

7 **A:** I do not remember what happened to this motion
8 for reconsideration. I believe that some action was
9 taken by the Court on it, but I don't remember what it
10 was.

11 **DR. FALTAS:** I'm sorry, for what purpose had Mr.
12 Zelenka offered it? I forget.

13 **JUSTICE KITTREDGE:** I have no idea.

14 **DR. FALTAS:** Yes.

15 **JUSTICE KITTREDGE:** But we're going to find out
16 because we're going to look at all the exhibits and we're
17 going to study them. And sometimes evidence comes in
18 without objection, and we may look at it and determine
19 it's not relevant. But we'll go through that process.
20 But I don't have it in front of me so it's hard for me to
21 answer your question, ma'am. This is your opportunity to
22 ask Mr. Shearouse about that document if you have any
23 questions.

24 **DR. FALTAS:** Okay. No, I do not.

25 **JUSTICE KITTREDGE:** Great, thank you so much.

1 You may step down, Mr. Shearouse.

2 **MR. SHEAROUSE:** Thank you, Your Honor.

3 **JUSTICE KITTREDGE:** At this point, Mr. Zelenka,
4 we're not going to hear any further witnesses from the
5 State.

6 **MR. ZELENKA:** Thank you.

7 **JUSTICE KITTREDGE:** The Court has decided that you
8 have put forth testimony allegations about discrete
9 conduct which may constitute contempt under the 2017
10 order from Mr. Shearouse. We're not, of course,
11 dismissing the other contempt particulars, but we see no
12 reason to go forward to allow the additional. Because if
13 there is contempt we would never in any circumstances go
14 beyond six months and do a consecutive sentence. So
15 we're going to hold those matters in abeyance after we
16 issue a formal order in this case. So I apologize if
17 that cuts off your presentation. But in talking to the
18 members of the Court we see nothing practical to be
19 gained at this point by going further with the contempt
20 evidence.

21 **MR. ZELENKA:** Understood.

22 **JUSTICE KITTREDGE:** Thank you, sir.

23 Now if you want to testify, you have a right to
24 testify to us. You have a right to present evidence.
25 And you're aware of this as much as we are, Dr. Faltas,

1 your right to remain silent. You referenced the
2 Fifth Amendment several hours ago when we started when I
3 asked you if you would admit or deny that you had made
4 the phone calls or sent the emails. And you didn't
5 respond, and you had absolute right to invoke the Fifth
6 Amendment. And you have a right to stand on that at this
7 time. You don't have to testify, you don't have to
8 present evidence. Because the burden is on the State to
9 prove the elements of contempt, willful violation of a
10 court order beyond a reasonable doubt. So I want you to
11 know something I think you're already familiar with, you
12 have the right to testify and present evidence, or you
13 have the right to decline to do so based on the
14 Constitution. So the choice is yours, ma'am.

15 **DR. FALTAS:** Well, sir, I was trying to work with
16 the Court and with the Court's time and my time and my
17 health in cutting it short. But if you want me to
18 present my defense, that's a different story. How about
19 -- and I'm not, I'm saying we can agree that if you want
20 that to be resolved, fine. If you don't, then you can
21 reconvene and let me put a case in defense. Because
22 there is no point in this if a higher court might say
23 that, no, the order was invalid, or no, you should have
24 taken into account intent and necessity and the Rule of
25 Lenity because the order was so ambiguous that the State

1 itself --

2 **JUSTICE KITTREDGE:** That's a valid point, and we
3 hear you.

4 **DR. FALTAS:** So, so --

5 **JUSTICE KITTREDGE:** But if you choose to present a
6 defense, it will be limited very narrowly. We are not
7 going to hear about the 2017 order. We have ruled with
8 finality it is a valid and legal order.

9 The only evidence you'll be able to present on the
10 issue of whether or not you are in contempt is whether or
11 not you sent an email on October 22nd, 2020 to Mr.
12 Shearouse; whether you sent an email to him on January
13 22nd, 2021; whether you sent an email to him on January
14 22nd, 2021 at a different time, there were two time
15 periods on January 22nd; and an email that was sent on
16 January 10th of 2022. He's testified to that. We've
17 received exhibits. That will be the extent of any
18 defense.

19 Now if you acknowledge that you sent those emails
20 and you want to present mitigation and invoke the Rule of
21 Lenity, we'll be glad to hear from you.

22 **DR. FALTAS:** And what I'm saying is I do want to put
23 all those defenses, but after, and not only from him but
24 I could have the right to call other witnesses and do
25 compulsory process with them. But I don't want to go

1 this route if there is a possibility of conciliation.

2 And if, because really I was thinking that the Court was
3 trying to make me miserable. You have convinced me that
4 that's not your intent. I hope I've convinced you that
5 I'm not this evil, crazy person who's going around
6 violating orders just for the sake of it. And when
7 people decide for resolution they don't like say, okay,
8 we still want to fight it.

9 And what I'd like to do is to say two things. From
10 December 2009 I was not allowed to file any new civil
11 cases. I take issue that you call PCR civil. But I
12 wasn't allowed to file any civil cases. Previously all
13 four of the civil cases that I had filed *pro se* were
14 resolved in my favor. So I do not understand unless, and
15 I'm sorry, I mean unless the judges, the circuit judges,
16 in fact, even the case that I had the pleasure of arguing
17 or advocating before Judge Lockemy was settled. So I do
18 not understand. Some other cases I won straight out,
19 others were settled.

20 So my question is do you have any other basis for
21 thinking that cases I won were frivolous? Because if you
22 do, please tell me, and I'll try to explain why they were
23 not frivolous. The other matters that I had been
24 involved in since 2009 were criminal proceedings that
25 were brought against me. I mean I could have never

1 arrested myself or brought criminal proceedings.

2 **JUSTICE KITTREDGE:** I apologize for cutting you off,
3 but we have an obligation to deal with only things that
4 are relevant. At this stage the State has established a
5 prima facie case that you violated the September 2017
6 order by your contacts with Mr. Shearouse.

7 Whether you filed meritorious cases in the past or
8 not, what happened in 2009 or didn't happen, has nothing
9 to do with anything that's before our decision of whether
10 or not you have any defense to your contacts with Mr.
11 Shearouse vis-à-vis the 2017 order from this Court. If
12 you do not have a defense we are obligated by law to find
13 you in contempt of court.

14 Now if we make that decision then you can speak to
15 us about mitigation or reasons why you think of what you
16 think would be an appropriate remedy here. One of which
17 we've gone back and forth with is you want to have some
18 specific right and opportunity, maybe a day and time
19 periodically, to access your records here at the Court.
20 That doesn't strike us as unreasonable at all. So that's
21 a productive way going forward to remedy this.

22 But right now we've got to back up and see what your
23 position is regarding whether or not you contacted Mr.
24 Shearouse. Then we can discuss what is the appropriate
25 way forward.

1 **DR. FALTAS:** I thought you said that you will
2 review the basis of the orders and whether I had
3 previously filed frivolous things. Was that my wishful
4 thinking?

5 **JUSTICE KITTREDGE:** That was your wishful thinking.
6 We're going to look at the evidence. But based on what's
7 presented, and we've spoken at the last break, we want to
8 give you a chance to present a defense. Perhaps you did
9 not send the emails to Mr. Shearouse. I don't know. But
10 you have a right to present a defense to that. But
11 that's the parameters of the defense. Not what happened
12 in 2009. Not some glorious case that had merit that was
13 filed. That is not germane, it's not relevant to the
14 issue of contempt. And if you want to be heard --

15 **DR. FALTAS:** Did you say contempt or intent?

16 **JUSTICE KITTREDGE:** Contempt.

17 **DR. FALTAS:** Okay. I'm sorry.

18 **JUSTICE KITTREDGE:** So that's where we are. And if
19 you want to proceed you can testify today and we'll hear
20 from you and your evidence. But this idea that we're
21 simply going to walk out of here and reconvene three
22 weeks from now and come back and start over another full
23 day, no, ma'am.

24 We've heard testimony, really the relevant part was
25 very limited. And this is your opportunity, if you want

1 to present evidence in response to that this is your
2 opportunity.

3 **DR. FALTAS:** How can I present evidence without
4 compulsory process if my evidence comes from other
5 witnesses like people who called or sent emails?

6 **JUSTICE KITTREDGE:** If you want to submit documents
7 that you have tried to procure witnesses and subpoena
8 witnesses and they haven't appeared, we'll let you
9 supplement the record with that. But this case was set
10 for today, and it's our intent if at all possible to
11 conclude the matter today.

12 **DR. FALTAS:** I thought you said you weren't going
13 conclude it today.

14 **JUSTICE KITTREDGE:** Well the receipt of the
15 evidence, then we have to study it and look at it.
16 You're going to walk out of here today, you're not going
17 to jail. We want to look at what's been presented. But
18 I don't want us, we don't want to give you the message
19 that somehow you're not going to be in contempt. Right
20 now the chances are you will be in contempt. So here's
21 an opportunity to present evidence if you want to.

22 And if you would rather just continue to focus as
23 you have on explaining why you did certain things, we'll
24 hear from you in that, but in terms of mitigation to any
25 possible penalty, but not as it relates to whether or not

1 you are in contempt.

2 **DR. FALTAS:** Well let me ask you this, how can I
3 create a record for further review that -- I know you
4 made your ruling that the order was valid, but how can I
5 create a record for further review that it was not?

6 **JUSTICE KITTREDGE:** Well you can appeal. We will
7 issue an order. And you will say I disagree with that,
8 so I'm going to appeal it. And you've told us you are
9 going to appeal to the Federal District Court and you're
10 going to appeal to the US Supreme Court. You can appeal
11 as provided by law. But we're going to issue an order.

12 **DR. FALTAS:** All right. May I recall Mr. Shearouse?
13 I mean I need to if you're requiring me to put my defense
14 now, I have to recall him. And I have to recall such of
15 the witnesses that are available for the Court. But I
16 mean can we take a lunch break, have we already had a
17 lunch break? No?

18 **JUSTICE KITTREDGE:** No. And you would call Mr.
19 Shearouse for what purpose?

20 **DR. FALTAS:** For the Rule of Lenity evidence.

21 **JUSTICE KITTREDGE:** No, that's a legal thing. You
22 ask us for lenity under the Rule of Lenity.

23 **DR. FALTAS:** I want to put fact that he once sent me
24 an email because he thought that it was necessary, or two
25 or three times, as a fact, as a fact. So it cannot be

1 that he can email me and I am a criminal if I email
2 him back.

3 **JUSTICE KITTREDGE:** I'm telling you, and I'm going
4 to consider this with my colleagues so they may disagree
5 with me.

6 **DR. FALTAS:** Okay.

7 **JUSTICE KITTREDGE:** That what you just said, even if
8 true, is not relevant to the discrete dates and times
9 where you allegedly sent him emails.

10 **DR. FALTAS:** It is relevant to his saying that he
11 sometimes in an email that he sometimes interpreted the
12 order as allowing email, so it has, I think it strengthen
13 it.

14 **JUSTICE KITTREDGE:** That deals with a penalty for
15 contempt. And you have already established that.

16 **DR. FALTAS:** I'm sorry?

17 **JUSTICE KITTREDGE:** That last point you've already
18 pursued and received evidence on, on your original cross-
19 examination of him. So on that issue we would not allow
20 him to be called back. You've got to give me some bases
21 that you did not have, even if you did have the
22 opportunity, what questions or what evidence relates to
23 the specific charges of contempt? This case is about
24 whether or not you emailed certain court employees, and
25 here we're talking about Mr. Shearouse, on certain dates?

1 Either you did it or you didn't do it. We've already
2 ruled on the validity of the court order.

3 **DR. FALTAS:** Have you ruled that the court order is
4 susceptible to interpretations?

5 **JUSTICE KITTREDGE:** The order speaks for itself, and
6 we'll address that in our final order.

7 **DR. FALTAS:** Can I put evidence that others
8 interpreted it as not to bar emails after the pandemic?

9 **JUSTICE KITTREDGE:** Well you should have come today
10 prepared to present your mitigation evidence or how other
11 people may have considered the court order. We will
12 interpret the court order.

13 **DR. FALTAS:** I am, I am. I even filed the order of
14 Judge Brown that says that I may file by email. And you
15 said Judge Brown doesn't affect our order. But I was, I
16 had used Judge Brown's order as proof of the ambiguity of
17 the order, which under the Rule of Lenity allows
18 different interpretations and even judges.

19 **JUSTICE KITTREDGE:** That's a valid point. In
20 relation to Judge Brown's order, which we're very
21 familiar with, it was issued on July the 8th of 2021. So
22 it did not exist concerning the alleged email you sent to
23 Mr. Shearouse on January 22nd, 2021.

24 **DR. FALTAS:** What existed was the ambiguity of the
25 order. And it's not that I'm saying Judge Brown can or

1 cannot give me permission. I'm saying that the
2 ambiguity of the order is inherent in the order itself,
3 and proof of it comes several ways. In fact, Judge
4 Jocelyn Newman interpreted it as --

5 **JUSTICE KITTREDGE:** Here's what we'll do --

6 **DR. FALTAS:** Okay.

7 **JUSTICE KITTREDGE:** -- you've given no legal basis
8 to recall Mr. Shearouse. That request is denied. Do you
9 have any other witnesses present you want to call?

10 **DR. FALTAS:** I would like to call Ms. Howard.

11 **JUSTICE KITTREDGE:** Ms. Howard?

12 **DR. FALTAS:** Yes, please.

13 **JUSTICE KITTREDGE:** What information does she have
14 related to the allegations of contempt involving Mr.
15 Shearouse?

16 **DR. FALTAS:** That the motion to reconsider the
17 order, or I call it to lift the injunction, if it's
18 treated as a permanent injunction was not returned to me
19 saying no, we will not file it until after those emails.
20 I'm sorry, can I rephrase, can I rephrase?

21 **JUSTICE KITTREDGE:** Please do because I couldn't
22 quite follow you, ma'am.

23 **DR. FALTAS:** Yes, yes. I think even I was very
24 happy when you agreed with me that a permanent injunction
25 can be lifted, and that someone who is subject to it can.

1 But when I filed for that permanent injunction, if
2 that's what the order is, to be lifted she did not
3 respond to me. She did not say I cannot file it or file
4 it by hand instead of filing it by email or anything.

5 And part of the lenity proof is that parallel with
6 that there was a case that I asked for appointment of
7 counsel so I could file an amicus in it. And my motion
8 was filed by email. And you, sir, ruled on it on behalf
9 of the Court. So, you know, before you put somebody, a
10 penalty on somebody, it's another way of the Rule of
11 Lenity. But the evidence I'm getting is that, number
12 one, reasonable people, a whole lot actually, more than
13 not read it as allowing me to file by email when the rest
14 of creation could. And those emails happened after the
15 pandemic.

16 The other thing is that that very order can be
17 lifted or modified. But my efforts to have that done
18 were not properly addressed. She received it on the
19 27th, I have the email showing that it was transmitted.

20 **JUSTICE KITTREDGE:** I'm being admonished because
21 I've let you just go off on a tangent that has nothing to
22 do with the issue that I'm trying to address with you,
23 ma'am. And I've tried to give you obviously too much
24 latitude. There is no legal basis, there's no basis
25 whatsoever to call Ms. Howard.

1 What we're going to do is I'm going to make a
2 statement about a path forward. Then the five of us are
3 going to step to the conference room and we're going to
4 see if what I'm about to say is acceptable to the full
5 Court. If it's not, we're coming back. We may come back
6 anyway just to say whether it is or not.

7 But here's what we're going to do; everything you
8 have said has dealt with mitigation, not whether you sent
9 or did not send the emails to Mr. Shearouse. But you
10 obviously want to submit information that perhaps falls
11 more correctly under the heading of mitigation. So what
12 I'm proposing is we will adjourn and -- (cell phone
13 rings).

14 **DR. FALTAS:** It's not me, it's not me.

15 **JUSTICE FEW:** I'm in contempt, (laughter).

16 **JUSTICE KITTREDGE:** You have 10 days and you can
17 submit affidavits from witnesses. You can submit a legal
18 brief. You can submit a narrative in memorandum form.
19 Because I'm afraid if we sit here I'm going to encounter
20 the wrath of my colleagues because you're just going to
21 go on and you're not going to talk about the issue before
22 the Court. But I think your mitigation information could
23 be very important on the backend as to how we move
24 forward.

25 So I want to give you the opportunity to file with

1 the Court in an appropriate way consistent with the
2 mandate of the 2017 order, 10 days to put additional
3 argument, your submissions, other information that you
4 believe is important for us to know in making a final
5 decision.

6 Now what I would ask you to do, and I'm ordering you
7 to do it, when you submit that to the Court in a proper
8 way, that you send it to Mr. Zelenka at the Attorney
9 General's Office so he has a copy of it. I then want to
10 give, if the State wishes to reply to that, 10 days from
11 receipt to reply to the submissions of whatever Dr.
12 Faltas submits.

13 So I'm giving you sort of carte blanche to submit to
14 the Court what you think is important for us to know
15 going forward to resolve this in a fair and equitable
16 way. And I want to give the State an opportunity to
17 respond. And if we need to reconvene at that point and
18 have the very wonderful and patient court reporter back
19 with us, and we're grateful for her services, we'll do
20 that. But if we have all the information, and that will
21 give us time to study all the exhibits, then we'll issue
22 an order at that point.

23 **DR. FALTAS:** So I understand, I have three
24 questions. First, will I get a copy of today's --

25 **JUSTICE KITTREDGE:** Whatever the proper procedure

1 is, I don't know what the timetable is for typing.
2 Whether you get today's thing or not, you have 10 days.

3 **DR. FALTAS:** Okay.

4 **JUSTICE KITTREDGE:** You should have been ready
5 today, you should have been ready today. And we are
6 bending over backwards to give you 10 additional days.
7 So I'm not asking if you accept it, I'm telling you this
8 gracious offer is yours whether you avail yourself of it
9 or not.

10 **DR. FALTAS:** I understand.

11 **JUSTICE KITTREDGE:** There's no 15 days because you
12 didn't get the transcript or 30 days, you have 10 days
13 from today's date. So you don't have to present today.
14 You submit what you think is important for us to consider
15 on the issue of contempt and/or mitigation. Copy to the
16 State. The State will then have 10 days to respond.
17 We'll make a judgment decision at that time whether to
18 reconvene or not.

19 **DR. FALTAS:** Thank you. So seriously, so I'm not
20 being flip, do I file it by hand or by email? I'm not
21 being flip.

22 **JUSTICE KITTREDGE:** You do not do email.

23 **DR. FALTAS:** Okay, okay.

24 **JUSTICE KITTREDGE:** You do not do email.

25 **DR. FALTAS:** All right, fine. Fine.

1 **JUSTICE KITTREDGE:** You can do it by hand or you
2 can do it by US mail.

3 **DR. FALTAS:** Okay. When I come to file it can
4 someone give me a stamped copy of at least the first
5 page, because there are already issues of things that I
6 put in the box or asked the personnel to put in the box.

7 **JUSTICE KITTREDGE:** We will make sure you get, that
8 your submission to the Court is stamped.

9 **DR. FALTAS:** Okay. Then my question is will I be in
10 contempt if I talk to somebody and say here it is, give
11 me a stamped copy back? I mean these are the real issues
12 that I'm being held in contempt for. And I'm not, at
13 this point I'm not arguing. I'm grateful. But I don't
14 want you to have reason to charge me with more contempt
15 or to think that.

16 **JUSTICE KITTREDGE:** If you give us reason to charge
17 you with more contempt, we will.

18 **DR. FALTAS:** I'm sorry.

19 **JUSTICE KITTREDGE:** We have been as gracious today
20 as we can possibly be. You came here thinking that we
21 were just going to lock you up today. That was what --

22 **DR. FALTAS:** Well, yes.

23 **JUSTICE KITTREDGE:** I'm talking.

24 **DR. FALTAS:** Yes, sir. Sorry.

25 **JUSTICE KITTREDGE:** We haven't done that. There's

1 no desire that you have to go to jail, that's not
2 what we're looking for. We're looking for you to comply
3 with the orders of this Court. We're going to make a
4 decision, we're going to issue an order. But I'm keeping
5 the record open subject to my colleagues' approval for
6 you to make an additional submission for us to consider.
7 But I can't do it unless I give a reciprocal right for
8 the State to respond.

9 **DR. FALTAS:** I have no problem with you the State
10 responding, I have no problem with it at all.

11 **JUSTICE KITTREDGE:** All right.

12 **DR. FALTAS:** I want to tell you though --

13 **JUSTICE KITTREDGE:** We --

14 **DR. FALTAS:** Go ahead. Sorry.

15 **JUSTICE KITTREDGE:** You've got one question that you
16 can ask. I don't know what else to tell you. So if you
17 want to ask one question you better think real hard,
18 because it's the only question you're going to ask
19 because we have another matter beginning at 2:00 o'clock.

20 **DR. FALTAS:** All right. Do you understand that it
21 is a matter of conscience for me that I believe that the
22 order is invalid?

23 **JUSTICE KITTREDGE:** We are completely convinced that
24 you believe the order is invalid.

25 **DR. FALTAS:** Okay.

1 **JUSTICE KITTREDGE:** And that you have never
2 filed frivolous litigation and you believe that.

3 **DR. FALTAS:** Yes.

4 **JUSTICE KITTREDGE:** Thank you, ma'am.

5 **DR. FALTAS:** Thank you.

6 **JUSTICE KITTREDGE:** Thank the State for its work
7 today in preparation, we know a lot of hard work went
8 into it.

9 **MR. ZELENKA:** Thank you.

10 **JUSTICE KITTREDGE:** We are very grateful to the
11 State, and we're grateful to Dr. Faltas appearing and
12 being here as well, to both sides. We'll do our very
13 best to issue an order that's fair and in accordance with
14 the law under the circumstances. Thank you.

15 **DR. FALTAS:** Thank you.

16 (Whereupon, the Hearing adjourned at 1:52 p.m. on
17 the 22nd day of March, 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 evidence introduced in the captioned matter on the 22nd day of March, 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 29th day of March, 2022.

/s/ Kathy A. Snelling

Kathy A. Snelling, CVR-M
Certified Court Reporter

Notary Public for South Carolina

My Commission Expires: May 16, 2028

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