IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT KENAI

DAVID HAEG,	)
	)
Applicant,	)
	)
v.	) POST-CONVICTION RELIEF
	) Case No. 3KN-10-01295CI
STATE OF ALASKA,	) (formerly 3HO-10-00064CI)
	)
Respondent.	)
	)

(Trial Case No. 4MC-04-00024CR)

1-13-12 MOTION TO DISQUALIFY JUDGE BAUMAN FOR CAUSE (CORRUPTION) AND TO STRIKE JUDGE BAUMAN'S 1-3-12 ORDERS

VRA CERTIFICATION: I certify this document and its attachments do not contain the (1) name of victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Comes now applicant, David Haeg, and hereby-files this motion to disqualify Judge Bauman for cause and to strike Judge Bauman's 1-3-12 orders.

Prior Proceedings

(1) Haeg filed for post-conviction relief (PCR) on November 21, 2009 *or over two years ago.* In his 19 page PCR application, 43 page PCR memorandum/affidavits, 310 pages of supporting evidence, and 7 independent affidavits Haeg laid out a shocking case of corruption, conspiracy, and cover up by his own attorneys, the state prosecutor, the troopers involved, and the judge presiding over his trial - which stemmed from Haeg's involvement in the incredibly controversial Wolf Control Program.

(2) Because Haeg has been nearly starved out by this time (the Haeg family's business property was seized with false warrants on April 1, 2004) Haeg immediately filed for "expedited" PCR consideration – which the court denied.

(3) On August 27, 2010 and March 25, 2011 Superior Court Judge Stephanie Joannides certified, in 43 and 77 page referrals to the Alaska Commission on Judicial Conduct, evidence proving Haeg's claims of corruption, conspiracy and cover up by Haeg's trial judge (Judge Margaret Murphy), the main witness against Haeg (Trooper Brett Gibbens), and Judicial Conduct's only investigator of judges for the past 25 years (Marla Greenstein). Because of the shocking evidence Judge Joannides ruled Judge Murphy, who had been assigned to decide Haeg's PCR at the state's request, could not decide Haeg's PCR. In addition, *Judge Joannides ruled that Haeg's PCR claims* ***required*** *an evidentiary hearing to be decided.*

(4) On December 8, 2010, *or well over a year ago,* Judge Bauman was assigned to decide Haeg's PCR.

(5) On February 11, 2011 a U.S. Department of Justice section chief told Haeg the DOJ was attending the proceedings in Haeg's case and that it was clear why judicial conduct investigator Marla Greenstein covered up for Judge Murphy and Trooper Gibbens: *"No one in America would believe you got a fair trial if the judge that was presiding over your prosecution was being chauffeured by the main witness against you."*

(6) On January 5, 2011, *or over a year ago,* Haeg filed, *with Judge Bauman,* a motion for an oral argument hearing on the state's motion to dismiss.

(7) Judge Bauman, in one of the last open court in-person hearings with Haeg, specifically asked if Haeg wanted an oral argument hearing before he (Judge Bauman) decided the state's motion to dismiss - and even stated Haeg should think carefully about this because it could greatly affect Haeg's PCR. *Haeg answered Judge Bauman, in open court and in front of a packed courtroom, that he absolutely wanted an oral argument hearing before the state's motion to dismiss was decided – again proving, beyond any doubt, Judge Bauman was aware of Haeg's request for oral argument on the state's motion to dismiss.*

(8) On August 3, 2011, or almost exactly 7 months after Haeg's motion for a hearing on the state's motion to dismiss, *Judge Bauman requested briefing from the state on Haeg's request for a hearing on the state's motion to dismiss – again proving, beyond any doubt, Judge Bauman was aware of Haeg's request for an oral argument hearing on the state's motion to dismiss.* Rule 77(c)(2) required the state's briefing to have been filed within 10 days of Haeg's motion – *not the 7 months Judge Bauman gave the state.*

(9) On August 23, 2011 the state sent Judge Bauman a 47-page opposition to Haeg's request for a hearing on the state's motion to dismiss – *again proving, beyond any doubt, that Judge Bauman was aware of Haeg's request for an oral argument hearing on the state's motion to dismiss.*

(10) On September 2, 2011 Haeg sent Judge Bauman a 10-page reply to the state's opposition – *citing first and foremost that Rule 77(e)(2)* ***required*** *a hearing to be held if requested on a motion to dismiss – again proving that Judge Bauman was aware of Haeg's request for an oral argument hearing on the state's motion to dismiss and that Judge Bauman knew this hearing was required.*

(11) On December 15, 2011 Haeg filed another motion with Judge Bauman for a hearing before Judge Bauman decided the state's motion to dismiss *– again proving that Judge Bauman was aware of Haeg's request for an oral argument hearing on the state's motion to dismiss.*

(12) On January 3, 2012 Judge Bauman issued orders that effectively gutted Haeg's entire PCR - *without ever holding the asked for, and required, "open to the public" oral argument hearing.* In the orders Judge Bauman: (a) eliminated Haeg from presenting Judge Joannides' certified evidence of Judge Murphy's and Trooper Gibbens' corruption during Haeg's trial and sentencing; (b) eliminated Haeg from presenting Judge Joannides' certified evidence that Judicial Conduct investigator Marla Greenstein conspired with Judge Murphy and Trooper Gibbens to cover up Judge Murphy's conspiracy and corruption with Trooper Gibbens during Haeg's trial and sentencing and afterward falsified her investigation of Judge Murphy to cover up Judge Murphy's conspiracy and corruption with Trooper Gibbens during Haeg's trial and sentencing; (c) eliminated Haeg from presenting the evidence that Marla Greenstein, after Judge Joannides' referral, falsified a "verified" document to cover up her corrupt

investigation of Judge Murphy; (d) falsely ruled many of Haeg's claims have already been decided; (e) falsely ruled Haeg had no constitutional claims that could be brought up during PCR; (f) altered the substance of Haeg's claims; and (g) falsely claimed Haeg had not made a "prima facie" case that his attorneys were ineffective – when to do this all Haeg had to do was to swear a claim, which if true and without considering any evidence from the state, would mean Haeg did not get effective representation. In his PCR application/memorandum/affidavit Haeg swore his own attorneys lied to him, conspired with each other, the prosecution, and the presiding judge to illegally, unjustly, and unconstitutionally convict and sentence him. In other words, if Haeg's own attorneys actually did all this, would it mean Haeg did not get effective counsel or a fair trial? If it does (which it irrefutably does) then Haeg has met his burden of a making "prima facie" case – and then Haeg must be allowed to present the evidence and witnesses proving his claims in an "open to the public" evidentiary hearing and then the state must present evidence and witnesses refuting them – if they can. The significance of all this is that if Judge Bauman rules Haeg has not made a "prima-facie" case, Haeg will never get to present the mountain of evidence and witnesses he already has to prove the incomprehensible injustice. A copy of Haeg's application/memorandum/affidavit, proving Judge Bauman's above falsehoods, is located at www.alaskastateofcorruption.com and the Kenai courthouse for those wishing to see the proof themselves.

Law

Rule 77. Motions.

(e) Oral Argument**.**

(2) *Except on motions to dismiss;* motions for summary judgment; motions for judgment on the pleadings; other dispositive motions; motions for delivery and motions for attachment, *oral argument shall be held only in the discretion of the judge*.

(3) *If oral argument is to be held, the argument shall be set for a date no more than 45 days from the date the request is filed or the motion is ripe for decision, whichever is later.*

Alaska Statute 22.10.190. Compensation.

(b) *A salary warrant may not be issued to a superior court judge until the judge has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the judge for opinion or decision has been uncompleted or undecided by the judge for a period of more than six months.*

United States Constitution, Fourteenth Amendment
No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, *without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

ADMISSIBILITY OF RELEVANT EVIDENCE

Rule 401. Definition of Relevant Evidence.

Relevant evidence *means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.*

Rule 402. Relevant Evidence Admissible-- Exceptions--Irrelevant Evidence Inadmissible.

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States or of this state, by enactments of the

Alaska Legislature, by these rules, or by other rules adopted by the Alaska Supreme Court. Evidence which is not relevant is not admissible.

Rule 35.1 Post-Conviction Procedure

(f) Pleadings and Judgment on Pleadings.

(1) *In considering a pro se* [someone representing themselves like Haeg] *application the court shall consider substance and disregard defects of form...*

Alaska Code of Judicial Conduct

Canon 1. A Judge Shall Uphold the Integrity and Independence of the Judiciary.

An independent and honorable judiciary is indispensable to achieving justice in our society.

Commentary. -- Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Public confidence in the impartiality of the judiciary is maintained when judges adhere to the provisions of this Code.

Conversely, *violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.*

Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

A. In all activities, *a judge shall exhibit respect for the rule of law, comply with the law,* avoid impropriety and the appearance of impropriety*, and act in a manner that promotes public confidence in the integrity and the impartiality of the judiciary.

Commentary. -- Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. *A judge must avoid all impropriety and appearance of impropriety.* A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code.

Actual improprieties under this standard include violations of law, court rules, and other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

(7) A judge *shall* accord to every person the right to be heard according to law.

(8) A judge *shall* dispose of all judicial matters *promptly,* efficiently, and *fairly*.

D. Disciplinary Responsibilities.

A judge having information establishing a likelihood that another judge has violated this Code shall take appropriate action.

[Why Judge Joannides documented, certified, and referred the evidence of Judge Murphy's and judicial investigator Marla Greenstein's corruption and conspiracy to cover up that Judge Murphy was chauffeured by the main witness against Haeg during Haeg's entire week-long trial and two day sentencing]

The words "shall" and "shall not" mean a binding obligation on judicial officers, and a judge's *failure to comply with this obligation is a ground for disciplinary action.*

"Law" means court rules as well as statutes, constitutional provisions, and decisional law.

Argument

(1) *It is clear that Judge Bauman, according to Rule 77(e)(2), could not legally decide the state's motion to dismiss until a public oral argument hearing had been held.* In other words Judge Bauman's January 3, 2012 orders are illegal,

violates Haeg's constitutional rights to due process and equal protection of law, violates judicial cannons, violates Haeg's right to an "open public" hearing, and is not worth the paper it is written on.

(2) Because numerous filings were sent to Judge Bauman for the "required" hearing before the state's motion to dismiss was decided, because Haeg specifically pointed out to Judge Bauman the hearing was "required", and because Judge Bauman specifically asked Haeg if he wanted an oral argument hearing before the state's motion to dismiss was decided and Haeg said "yes" to Judge Bauman himself, *it is clear Judge Bauman intentionally, knowingly, and maliciously violated Rule 77(e)(2) and Haeg's constitutional rights in order to illegally acquiesce to the state's 47-page request, made to Judge Bauman himself, that no public oral argument hearings take place.*

(3) It is now over a year since Haeg first asked for a hearing on the state's motion to dismiss and over a year since the motion to dismiss was ripe for a decision, when the time limit for holding a hearing, according to Rule 77(e)(3), is 45 days after these events. *Judge Bauman is now 322 days, and counting, past the mandatory time limit for holding Haeg's mandatory oral argument hearing.*

(4) It is clear Judge Bauman has almost certainly falsified the sworn affidavits he is required to submit to be paid – since it is unlikely he has gone without pay for the over 6 months since he was required to have decided Haeg's motion for a hearing according to AS 22.10.190 (which requires a judge to swear under oath that no item submitted for an opinion or decision is older than 6 months

– and Haeg's motion for a hearing is over a year old). If Judge Bauman has been paid within the last 6 months it means he will have also committed felony perjury.

(5) The above actions by Judge Bauman irrefutably violate the law, court rules, the Cannons of Judicial Conduct, and is clearly a blatant attempt to keep the chilling and widespread corruption in Haeg's case from being witnessed in person by the public - who have been attending the hearings in Haeg's case in ever larger numbers – packing Haeg's PCR court to standing room only.

(6) In his orders Judge Bauman has ruled Haeg cannot bring in new evidence and claims because Haeg's trial happened too long ago. As shown over and over it is the court itself that has delayed Haeg's case for years over Haeg's objections and requests for "expedited" consideration. Earlier the state asked for 380 days in which to file for a single brief – *which Rule 217(d) required to be filed within 20 days – and the court granted the state all 380 days* – over Haeg's repeated objections. *It is the height of injustice to have Judge Bauman and the courts delay proceedings for years over Haeg's objections and then rule Haeg cannot submit evidence and claims because of the delay.*

(7) In his orders Judge Bauman claims that Haeg's "newly discovered evidence" claim is that he was entrapped and since Haeg knew this before trial Haeg cannot claim it is "newly discovered evidence." Yet this is not the "newly discovered evidence" Haeg claimed: (a) in Haeg's PCR memorandum/ affidavit he specifically states "Long after Haeg was convicted, sentenced, or could use it on appeal" he had found out material evidence "had been removed out of the record

while evidence it had been submitted remained in the record." Haeg attached, to his PCR memorandum/affidavit, the very evidence proving this; (b) in Haeg's PCR memorandum/ affidavit he specifically cites the fact that prosecutor Scot Leaders, long after Haeg's trial and sentencing, falsified a sworn document to cover up his illegal and unconstitutional use of Haeg's immunized statement. Haeg attached, to his PCR memorandum/affidavit, the very evidence proving this; (c) in Haeg's PCR memorandum/ affidavit he specifically cites the fact that, long after Haeg's trial and sentencing, irrefutable evidence surfaced that would have prevented Haeg from ever being charged or prosecuted for anything. Haeg attached, to his PCR memorandum/affidavit, the very evidence proving this; and (d) in Haeg's PCR memorandum/ affidavit he specifically cites the fact that, long after Haeg's trial and sentencing, irrefutable evidence surfaced that his attorneys had lied to him. Haeg attached, to his PCR memorandum/affidavit, the very evidence proving this. *Judge Bauman's claim, that Haeg's only "newly discovered evidence" PCR claim is that of entrapment, is proven false.*

(8) In his orders Judge Bauman claims Haeg has no constitutional rights volitions that he can bring up in PCR. Ineffective assistance of counsel is a constitutional right that can be brought up in PCR; the fact the official record of his case was tampered with, tampering only found out long after trial, to remove favorable evidence is a PCR issue that violates the constitutional rights to due process and to the equal protection of the law; and the proof that prosecutor Leaders, falsified a verified document long after trial to cover up his use of Haeg's

immunized statement is a clear PCR violation of the constitutional right against self-incrimination. In Haeg's memorandum/affidavit numerous other instances of PCR appropriate constitutional rights violations are specifically cited and proved.

(9) All private citizens who have seen the evidence that (a) Judge Murphy was chauffeured by the main witness against Haeg (Trooper Gibbens) during Haeg's prosecution (evidence certified as true by Superior Court Judge Joannides); (b) both Murphy and Gibbens lied about this during the official investigation into this by judicial conduct investigator Marla Greenstein (evidence certified as true by Superior Court Judge Joannides); (c) judicial conduct investigator Greenstein falsified all testimony from every single witness to cover up for Judge Murphy's corruption (evidence certified as true by Superior Court Judge Joannides); and irrefutable proof (tape recordings) that, after Judge Joannides' referral was submitted, investigator Greenstein falsified a "verified" document to cover up her own corrupt investigation – meaning she has added felony perjury to her list of crimes. Every single private citizen who has seen this evidence agrees that this ***alone*** would convince him or her that Haeg did not receive a fair prosecution – yet Judge Bauman has ruled this is "too attenuated" (weak) to be included in the evidence Haeg can use to prove he did not receive a fair prosecution. Rule 401 and 402 above and Judge Joannides use of this same evidence to disqualify Judge Murphy from presiding over Haeg's case also prove Judge Bauman's claim is false.

(10) Judge Bauman states Osterman's affidavit claims Haeg fired Osterman before Osterman could finalize Haeg's appeal – implying that since Osterman did not finish Haeg's appeal this negated any effect Osterman may have had on Haeg's appeal. Then Judge Bauman claims that Haeg's claim of ineffective assistance of counsel against Mark Osterman must be dismissed. Yet Haeg's main PCR claim against Osterman (supported by recordings of Osterman, Cole, and Robinson) was that Osterman had a direct conflict of interest with Haeg and was conspiring with Haeg's pretrial and trial attorneys Cole and Robinson to cover up their conflicts of interest. (Osterman was caught on tape stating the reason he could not put the "sellout" of Haeg by Cole and Robinson in Haeg's appellate brief was that Osterman "could not do anything that would affect the lives of Cole and Robinson.") The U.S. Supreme Court in Cuyler v. Sullivan, 446 U.S. 335 (1980), cited in Haeg's PCR, specifically holds that if you prove your attorney had a conflict of interest you do not need to establish the attorney's conduct caused harm. After Osterman's "sell out" Haeg was forced to represent himself on appeal, when he has no training in the law – proving Osterman's conflict of interest irrefutably harmed Haeg. And more shocking yet is the recordings of Osterman while he was Haeg's attorney irrefutably prove Osterman lied throughout the entire affidavit he filed in response to Haeg's PCR claims. In other words *Judge Bauman violated the ruling caselaw in another attempt to deprive Haeg of opportunity to show he did not get a fair trial or appeal, that his attorneys conspired to do this, and are now conspiring to cover it up*.

(11) Judge Bauman claims Haeg "must reconcile his ineffective assistance of counsel claims with the fact that he took the stand at trial and admitted to killing wolves outside the predator control zone. His admissions provide a basis to uphold his conviction, regardless of the conduct of his counsel." In his PCR memorandum/affidavit/attachments Haeg, (a) claimed and provided proof that the state told him he had to kill wolves outside the predator control zone and then claim they were taken inside so the program would be seen as effective; (b) claimed and provided proof that his own attorneys told him this was not a legal defense; (c) claimed and provided proof that when he put evidence of what he had been told into the court record (over his attorneys objections) it was removed while evidence it had been in the court record remained; (d) claimed and provided proof that the state telling Haeg the survival of the Wolf Control Program depended on Haeg doing this was an irrefutable defense - and would have kept Haeg from ever being prosecuted or convicted; (e) claimed and provided proof that the state gave him immunity for a 5-hour statement about his actions with the Wolf Control Program; (f) claimed and provided proof that his attorneys told him he could be prosecuted after being forced to give a statement by a grant of immunity (a grant of immunity replaces your right against self-incrimination - if you refuse to talk you are thrown in jail until you do); (g) claimed and provided proof that if this state gives someone immunity for a statement they can never be charged or prosecuted for the actions talked about in the statement – no matter what other evidence there is; (h) claimed and provided proof that not only was he

prosecuted the state irrefutably used his statement to do so; (i) claimed and provided proof that his attorneys told him that the state could, and was, using his statement against him at trial so Haeg was forced to testify at trial; (j) claimed and provided proof that all of this was one of the most horrendous violations of the right against self-incrimination in any case Haeg has found anywhere in the nation; (k) claimed and provided proof that the state had promised him mild charges if he gave up guiding for a year; (l) claimed and provided proof that, after he had given up the year guiding and it was in the past, the state changed the charges so they were devastating; (m) claimed and provided proof that his attorneys told him nothing could be done about the state changing the charges to severe ones after Haeg had paid in full for minor ones; (n) claimed and provided proof that after he had paid in full for minor charges the state could not charge him with severe charges; (o) claimed and provided proof the state presented known false testimony against him at trial; (p) claimed and proved proof the state falsified all evidence locations to his guide area (which the state claimed justified guide charges against Haeg) on everything from search warrants to trial testimony; (q) claimed and proved Judge Murphy specifically relied on the state's perjury; and (r) *claimed and provided overwhelming caselaw that any of the forgoing render Haeg's conviction illegal no matter what Haeg testified to at trial.*

(12) Judge Bauman claims Haeg did not show what effort was made to get an affidavit from his former attorneys in response to his ineffective assistance claims. Yet Haeg provided proof in his PCR filings that he sent his former

attorneys affidavits to fill out responding to Haeg's claims and provided proof his former attorneys refused to fill out the affidavits - and he cannot force them to.

(13) Judge Bauman claims Haeg must now depose Cole "at Haeg's expense" (puzzling as Judge Bauman ruled Haeg indigent) and then "file a succinct and clear memorandum detailing (a) the alleged ineffective assistance of counsel Cole, with citations to the record and to the deposition, addressing both Risher standards, and (b) alleged ineffective assistance of counsel Robinson with citations to the record and to the deposition, addressing both Risher standards." Yet the ruling caselaw in State v. Jones, 759 P.2d 558 (Alaska 1998) proves this is not the proper procedure. Jones states if a PCR application:

> "[S]ets out facts which, if true, would entitle the applicant to the relief claimed, then the court must order the case to proceed and call upon the state to respond on the merits. The filing of a response on the merits by the state commences the second phase of the post-conviction relief proceeding. This stage is designed to provide 'an orderly procedure for the expeditious disposition of non-meritorious applications… without the necessity of holding a full evidentiary hearing.' The rule does so by allowing the parties an opportunity to ascertain whether any genuine issues of material fact actually exist. To this end, Criminal Rule 35.1(f)(3) and (g) place the full range of discovery mechanisms at the disposal of the parties. The final phase of a post-conviction relief proceeding is the evidentiary hearing, as provided for under Criminal Rule 35.1(g). A hearing is required when, upon completion of the discovery and disposition phase, genuine issues of material fact remain to be resolved. "

In his PCR application Haeg has *specifically, irrefutably, and in detail* "set out facts, which, if true" would entitle Haeg to the relief claimed. Yet Judge Bauman has not ordered "the case to proceed and call upon the state to respond on the merits", *as required.* Instead, *Judge Bauman has skipped requiring the state to*

respond on the merits and gone directly to the Rule 26 "discovery mechanisms" of depositions (which have already occurred and which Judge Bauman is requiring more of), admissions and interrogatories – which the state has been using for the last 6 months. (On August 4, 2011 the state required Haeg to fill out 28 pages of interrogatories, admissions, and releases.) It is clear Judge Bauman is violating the rules by not requiring the state to respond to the PCR merits before discovery is conducted, which is a disadvantage for Haeg. It is a further violation for Judge Bauman to *order* further discovery "at Haeg's expense" without requiring the state to respond to the merits of Haeg's case. Further injustice is that on September 22, 2011 state Assistant Attorney General Andrew Peterson filed an affidavit stating: "Following the deposition of Mr. Robinson, I personally spoke with both Mr. Cole and Mr. Osterman and both agreed to file an affidavit responding to Mr. Haeg's allegations of ineffective assistance of counsel."

Haeg never received a copy of Cole's affidavit from the state, (eliminating any need to depose Cole) and now Judge Bauman is ordering indigent Haeg to conduct the expensive (subpoenas, travel, witness fees, camera's, recorders, etc) deposition anyway – when Cole has already provided the state an affidavit.

(14) As shown above Haeg made an irrefutable and shocking "prima facie" case against all his attorneys in his 19 page application 43 page PCR memorandum/affidavits (in which Haeg specifically identified when, where, how, and why his attorneys lied to him about each issue, specifically identified the facts along with the proof proving they had lied to him, and then specifically applied the

law that established that had he not been lied to there would have been a different outcome). See Haeg's PCR filings; the state's motion to dismiss, Haeg's opposition to the state's motion to dismiss; and the state's reply. These documents prove Judge Bauman's claim Haeg has not made a "prima facie" case of ineffective assistance to be false; prove his claim Haeg's testimony at trial prevents him from relief is false; proves the evidence against investigator Greenstein and attorney Osterman is incredibly relevant to Haeg's PCR; proves new evidence has been discovered; and proves there are constitutional violations properly brought up in this PCR. It is as if Judge Bauman never read Haeg's PCR memorandum/affidavits and instead relied only upon the state's motion to dismiss.

> Barry v. State, 675 P.2d 1292 (Alaska 1984) "As the supreme court of California pointed out in People v. Pope, 23 Cal.3d 412 (1979), *an evidentiary hearing is almost always a prerequisite to an effective assertion of ineffective assistance of counsel."*
>
> Wood v. Endell 702 P.2d 248 (Alaska 1985) "It is settled that a claim of ineffective assistance of counsel is one that generally requires an evidentiary hearing to determine whether the standard adopted in Risher v. State, 523 P.2d 421 (AK 1974) was met by counsel's performance."
>
> Machibroda v. United States, 368 U.S 487 (U.S. Supreme Court 1962) We cannot agree with the Government that a hearing in this case would be futile because of the apparent lack of any eyewitnesses to the occurrences alleged, other than the petitioner himself and the Assistant United States Attorney. *The petitioner's motion and affidavit contain charges which are detailed and specific.*
>
> Not by the pleadings and the affidavits, but by the whole of the testimony, must it be determined whether the petitioner has carried his burden of proof and shown his right to a discharge. The Government's contention that his allegations are improbable and unbelievable cannot serve to deny him an opportunity to support them by evidence. *On this record, it is his right to be heard.*

> There will always be marginal cases, and this case is not far from the line. *But the specific and detailed factual assertions of the petitioner, while improbable, cannot at this juncture be said to be incredible. If the allegations are true, the petitioner is clearly entitled to relief. Accordingly, we think the function of 28 U.S.C. 2255 can be served in this case only by affording the hearing which its provisions require.*

Haeg's claims are incredibly specific, factual, and detailed; backed up by court documents, tape recordings, affidavits, and sworn testimony – and also by a certified finding of corruption by a Superior Court Judge – ***who ruled Haeg had a right to a PCR evidentiary hearing.*** *And, according to the U.S. Supreme Court in Machibroda v. United States above Haeg has overwhelmingly met his burden of proving his right to an evidentiary hearing so he may prove his case in open court.*

(15) Judge Bauman's orders irrefutably altered Haeg's claims to strip them of substance. Judge Bauman's claim Haeg had only complained of Judge Murphy and Trooper Gibbens' conspiracy to seize the plane – Haeg's actual claim was that Judge Murphy and Trooper Gibbens had conspired to illegally prosecute and convict Haeg and to then to sentence Haeg to almost 2 years in jail, $19,500 fine, forfeiture of $100,000 in property, and the deprivation of Haeg's guide license (Haeg family's only income) for 5 years. *In other words if Judge Murphy and Trooper Gibbens were conspiring during Haeg's case, why would Haeg claim the conspiracy was limited to a now worthless plane (rusted to pieces in the last 8 years) instead of claiming the conspiracy covered everything including conviction and all penalties?*

(16) As shown above Judge Bauman's orders strips Haeg of numerous claims and mountains of compelling, pertinent evidence by falsely claiming defects of form in Haeg's PCR application/memorandum/affidavits. Even if there were defects, which there isn't, *Rule 35.1 specifically states, "a court must consider substance and disregard defects of form" when someone is "pro se" or representing himself or herself in PCR – as Haeg is doing.*

(17) Every single member of the public who has read Judge Bauman's orders, made without Haeg's required, open-to-the-public "day in court" - believes wholeheartedly that it is a corrupt and illegal attempt by Judge Bauman to cover up the corruption and conspiracy rather then exposing it in open court - and that it is a deliberate and malicious deprivation of Haeg's constitutional right to an effective opportunity to present his case of shocking corruption in open court where the public, news reporters, and the U.S. Department of Justice can attend. Every single member of the public also believes Judge Bauman's orders were further driven by the "can of worms", "scandal", and "toxic release" that would spread to other cases if Haeg proved his own prominent attorneys were conspiring with the state prosecution and judges to frame people and rig trials – and then that the only investigator of judges in Alaska for the past 25 years was falsifying official investigations to cover up for the corrupt judges. How many cases could this place in jeopardy? Every judge investigated by Marla Greenstein in the past 25 years would be suspect. The reality of this is proven by the recent "Jailing Kids for Cash" scandal in Pennsylvania – *where the outing of just two corrupt judges*

caused over 4000 convictions to be overturned. The public believes the incredible number and length of delays Haeg has experienced, totaling nearly 8 years at present, is a deliberate attempt to "starve" Haeg and his family into submission.

Conclusion

In light of the above:

(1) Haeg respectfully asks that Judge Bauman be disqualified from Haeg's PCR for cause – as Judge Bauman has intentionally, knowingly, and maliciously violated law, court rule, and mandatory judicial cannon to prevent Haeg from exposing the conspiracy and corruption surrounding his prosecution. *Since Judge Bauman has broken law, rule, and cannon to harm Haeg - denying Haeg the prompt public oral argument hearing that irrefutably was Haeg's right and to "set the stage" for denying Haeg what was supposed to be a prompt public evidentiary hearing at which Haeg can present the shocking evidence of corruption and conspiracy of his own attorneys, Judge Murphy, Trooper Gibbens, prosecutor Leaders, and investigator Greenstein – Judge Bauman cannot be allowed to preside any further over Haeg's case.* Haeg is filing criminal and judicial conduct complaints against Judge Bauman. Marla Greenstein, the only investigator of judges in Alaska, will investigate Judge Bauman for covering up the corruption of Marla Greenstein - another fantastic conflict of interest.

(2) Haeg respectfully asks that Judge Bauman's January 3, 2012 orders be stricken from the record.

(3) Haeg respectfully asks that a new, uncorrupt judge - one unwilling to cover up for the crimes and conspiracy of previous judges, attorneys, troopers, and judicial investigators - be immediately assigned to decide Haeg's PCR. On tape Robinson has stated the "good old boys club of Judges, Troopers, and prosecutors protect their own" when Haeg asked how they can get away with such blatant crimes. When Haeg said he was going to sue Robinson stated the Shaw v. State, 861 P.2d 566 (AK 1993) prevented Haeg from suing his attorneys unless he overturned his conviction on an ineffective assistance claim. Haeg also asks the new Judge allow him to supplement the record of his case with the evidence and claims of Judge Bauman's corruption; that after a new judge is assigned he or she immediately schedule oral arguments in open court on the state's motion to dismiss; and that Haeg be given at least 45 minutes for his oral argument.

(4) Haeg asks oral argument be held in Kenai's largest courtroom because of the growing crowd wishing to witness this judicial corruption scandal unfold in person. The last hearing had standing room only.

(5) After oral arguments on the state's motion to dismiss is over Haeg asks that a scheduling hearing be promptly held to schedule a PCR evidentiary hearing of at least one week long in order that Haeg may fully and fairly present his evidence and witnesses proving he did not receive a fair trial or sentencing.

(6) In the bitter end, paid for by almost 8 years of agony by the Haeg family, all Haeg asks for is his basic constitutional right to present evidence and witnesses in his favor effectively in open court *and then to allow the state every*

opportunity to refute it. This means Haeg must be able to subpoena and examine, in open court and under oath, at a very minimum all three of Haeg's attorneys, judicial conduct investigator Marla Greenstein, the witnesses whose testimony Marla Greenstein falsified, Judge Margaret Murphy, Trooper Brett Gibbens, and prosecutor Scot Leaders – exactly as Superior Court Judge Joannides allowed Haeg when making the case Judge Murphy should be disqualified. *In other words Haeg asks for the same opportunity to put on his case as the state was allowed when prosecuting Haeg almost 8 years ago – where the state was allowed to present any and all evidence and any and all witnesses they wished in Haeg's week-long trial and two day sentencing.* Superior Court Judge Joannides has already determined Haeg made a "prima facie" of Judge Murphy's corruption during Haeg's prosecution, *granted a two day long evidentiary hearing on this issue alone*, and then, *for cause*, disqualified Judge Murphy from presiding over Haeg's PCR – ruling that *"I granted Mr. Haeg's request to disqualify Judge Murphy from the Post Conviction Relief case because I found that, at a minimum, there was an appearance of impropriety."* It seems clear that if Judge Murphy's actions during Haeg's prosecution prevent her from presiding over Haeg's PCR it is evident her same actions prevented Haeg from a fair prosecution. And Cannon 2 of Judicial Conduct states a judge shall avoid impropriety and the appearance of impropriety. Judge Joannides ruled Judge Murphy has already, ***at a minimum*** violated a Judicial Cannon that is ***required*** to be complied with. But if Judge Bauman never allows Haeg to present, in an open court hearing, the evidence

along with witnesses Judge Murphy, Marla Greenstein, Haeg's attorneys, Trooper Gibbens, and prosecutor Leaders, they will never have to refute anything and the blatant violations of the "Bill of Rights" in Haeg's case by the government will never be known or addressed - rights to equal protection of law, right to due process, right against unreasonable searches and seizures; right against self incrimination; right to compel witnesses; right to the assistance of counsel; and right to petition the Government with grievances.

> *"The object of any tyrant would be to overthrow or diminish trial by jury, for it is the lamp that shows that freedom lives."* Sir Patrick Devlin (1905-1992) British Lord of Appeal, lawyer, judge and jurist

> "During the debates on the adoption of the Constitution, *its opponents repeatedly charged that the Constitution as drafted would open the way to tyranny by the central government. Fresh in their minds was the memory of the British violation of civil rights before and during the Revolution. They demanded a "bill of rights" that would spell out the immunities of individual citizens.* Several state conventions in their formal ratification of the Constitution asked for such amendments; others ratified the Constitution with the understanding that the amendments would be offered." U.S. National Archives and Records Administration

> "In my judgment *the people of no nation can lose their liberty so long as a Bill of Rights like ours survives and its basic purposes are conscientiously interpreted, enforced and respected so as to afford continuous protection against old, as well as new, devices and practices which might thwart those purposes.* " Justice Hugo L. Black, US Supreme Court Justice

Judge Bauman has clearly "opened the way to tyranny by the government" by breaking law, Cannon, and rule to deny Haeg the public hearing process due under the numerous and specific rights, rules, Cannons, statutes, and laws above.

(7) Haeg, and what he feels is a growing number of those seriously concerned, will continue to very carefully document the expanding web of corruption and conspiracy and will eventually, when no more are willing (or forced) to enter the net to cover up for everyone else, fly to Washington DC to demand federal prosecution of everyone involved for the felonies of conspiring to use positions of trust and the color of law to intentionally violate our constitution.

(8) Finally, Haeg asks that oral arguments be held on both his motion to disqualify Judge Bauman for cause and his motion to strike Judge Bauman's January 3, 2012 orders.

I declare under penalty of perjury the forgoing is true and correct. Executed on January 13, 2012. A notary public or other official empowered to administer oaths is unavailable and thus I am certifying this document in accordance with AS 09.63.020. In addition I would like to certify that copies of many of the documents and recordings proving the corruption are located at:

www.alaskastateofcorruption.com

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Certificate of Service: I certify that on January 13, 2012 a copy of the forgoing was served by mail to the following parties: Peterson, Judge Gleason, Judge Joannides, U.S. Department of Justice, FBI, and media.
By: