IN THE SUPREME COURT OF THE STATE OF ALASKA

DAVID HAEG, Petitioner)
) Supreme Court No. _____
v.)
) Court of Appeals No. **A-13501**
STATE OF ALASKA, Respondent) Trial Court No. **3KN-10-01295 CI**

3-30-21 PETITION FOR HEARING ON 3-3-21 COURT OF APPEALS OPINION

This petition must be granted because it seeks to address compelling evidence of systemic - and ongoing - crime, corruption, and cover-up within Alaska's judicial system – details below. The Court of Appeals' (COA) provably fraudulent opinion - backing up Judge William Morse's corruption - proves it is directly implicated in the cover-up. And has committed crimes to do so. Without prompt intervention by this Alaska Supreme Court under Appellate Rule 304 (a), (b), (c) and (d), more innocent citizens and families will be unconstitutionally and illegally victimized. And while you will be under great pressure to do so, continuing the cover-up by refusing to grant this petition will only delay the inevitable exposure. For an ever-growing number of Alaska's citizens realize that when they are on the grand jury they have the power - and duty - to investigate, report, and indict on this issue – even in the face of opposition from government officials and entities.

So far three separate grand juries (two in Anchorage and one in Kenai) have tried to investigate. All three were ordered to stop by the same government officials and entities the grand juries were investigating for corruption. This directly violates constitution and law - and is a felony.

AS 11.56.590 ***(a)*** *A person commits the crime of jury tampering if the person directly or indirectly communicates with a juror other than as permitted by the rules governing the official proceeding with intent to* ***(1)*** *influence the juror's vote, opinion, decision, or other action as a juror; or* ***(2)*** *otherwise affect the outcome of the official proceeding.* ***(b)*** *Jury tampering is a class C felony.*

SOUTHWELL AFFIDAVIT https://alaskastateofcorruption.com/Southwell Affidavit.pdf

I, Ray Southwell, was on a Kenai Court Grand Jury from the first Wednesday of January 2018 until the last Wednesday of March 2018.

During this time, I attempted to present evidence to my fellow Grand Jurors, so we could investigate it and write a report with our recommendations. Much came from David Haeg; evidence of crimes by district attorney Scot Leaders, judge investigator Marla Greenstein, judges, and troopers. Agencies overseeing these individuals were implicated. It was clear Mr. Haeg was victimized by an unlawful judicial process followed by a coverup. I also obtained evidence implicating the Office of Children's Services in crime and coverup. All evidence pointed to systemic corruption concerning the public's welfare and safety.

Before I could present the evidence to my fellow Grand Jurors, and before we could investigate it, DA Leaders personally stopped the process, gathered up my documents, and obtained an order from Judge Jennifer Wells prohibiting me from disclosing my concerns and evidence to my fellow Grand Jurors.

I believe DA Leaders and Judge Wells violated Article 1, Section 8 of Alaska's Constitution, AS 12.40.030, AS 12.40.040, and pages 16/26 of the Alaska Grand Jury Handbook.

Alaska Constitution, Article 1, Section 8 *The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

AS 12.40.030 Duty of inquiry into crimes and general powers. *The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.*

AS 12.40.040 Juror to disclose knowledge of crime. *If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.*

Alaska Grand Jury Handbook, Page 16 *"Can a grand juror ask the grand jury to investigate a crime that the district attorney has not presented to them? Yes. The Alaska Statutes state: 'If an individual grand juror knows or has reason to believe a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.'"*

Alaska Grand Jury Handbook, Page 26 "*Who decides that the grand jury should investigate something? Generally, grand jury investigations are initiated by the district attorney. They can also be initiated by the presiding judge* ***or by members of the grand jury.***

The Investigative Grand Jury in Alaska (1987 report by the Alaska Judicial Council at Alaska State Senate request), Page 9 "*State grand juries have often exercised investigative powers to battle political corruption. At times, that have acted on their own initiative in the face of opposition from a district attorney."*

Alaska Constitutional Convention, explaining exactly why Article 1, Section 8 was written into Alaska's Constitution (1323-1406) *Now, we have preserved the investigative power of the grand jury. (Buckalew) The grand jury…is useful where any particular fraud or general scandal has occurred. (Rivers) I would say retain the grand jury all right for investigative purposes of officials in public institutions…it serves no useful purpose except for just investigative purposes. (Taylor) The grand jury is there and may take any steps that it feels may be necessary towards investigation. (Davis) The grand jury in its investigative power as well for the fact it is sitting there as a panel sometimes is the only recourse for a citizen to get justice. (Kilcher) The new amendment does not make any mention of the investigating powers of the grand jury…I believe it should be mentioned in our constitution because I think that is one of the most important duties of the grand jury. (Barr) The power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended. (Initial Committee/Barr proposal) I think a grand jury can investigate anything, and it is true that there is little protection against what they call in the vernacular, a runaway grand jury, but in the history of the United States there have been few runaway grand juries, extremely few, and I think the broad statement of power that Mr. Barr asked for is proper and healthy. (Hellenthal)*

AFFIDAVIT OF SHANE SERRANO

I served on an Anchorage Grand Jury from December 6, 2018 through March 29, 2019. During the proceedings I inquired about providing documentation to the Grand Jury I served on, and evidence of Judicial misconduct and crime associated with the trial, and subsequent experience of David Haeg. Judicial Conduct investigator Marla Greenstein, District Attorney Scot Leaders, Trooper Brett Gibbens and others were implicated. I believed this concerned the public's welfare and safety and that, according to Alaska's Constitution, my Grand Jury could investigate and make a recommendation. I was immediately told by Prosecutors that nothing of the sort could be directly provided to the Grand Jury, regardless of what appeared to be clear instruction, or even a responsibility to do so, from the Grand Jury Handbook and Alaska Law.

The Prosecutors strongly indicated that the only way to have evidence introduced was through their office, so I provided a folder of that evidence to them. After providing that to them, I never received a response back for me to testify or provide any additional information to a subsequent Grand Jury. It did not appear to me that the Prosecutors process met the intent of the Grand Jury Handbook, Alaska Law, or Alaska's Constitution on providing that type of information and evidence to the Grand Jury directly or in allowing the Grand Jury to investigate.

I, SHANE SERRANO, declare under penalty of perjury that the statements above are true to the best of my knowledge.

Executed at Soldotna, AK on 1/17/2021.

Shane Serrano
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Judge William Morse (the *presiding* judge of the 3rd judicial district), when asked to initiate a grand jury investigation into the corruption, ruled (now backed up by COA) he did not have authority to initiate a grand jury investigation. Yet the **Alaska Grand Jury Handbook, page 26** (see above) specifically states the *presiding* judge has authority to initiate grand jury investigations.

DA Leaders, Judge Morse, Special Prosecutions Chief Paul Miovas, and Deputy AG Robert Henderson all affirmatively refuse to give a 500 signature public petition for a grand jury investigation into the judicial corruption (petition copy at **www.alaskastateofcorruption.com**) to the grand jury (and no response from AG and Governor when given a copy and asked to provide it to the grand jury) – when the **Alaska Grand Jury Handbook, page 26** makes it perfectly clear public requests for a grand jury investigation must be given to the grand jury:

*"Prosecutors also sometimes receive letters from the public, addressed to the grand jury, requesting investigations. In these situations, the prosecutor will probably conduct a preliminary investigation and make a recommendation to the grand jury about whether to take action**. It will be up to the grand jury to decide whether to investigate the matter requested in the letter."***

Evidence of Corruption and Its Cover-Up by Court of Appeals and/or Judge Morse
(See 7-14-20 Oral Arguments Outline for complete list – www.alaskastateofcorruption)

1. Although I have presented it for decades, COA and Morse never addressed the tape-recording of DA Leaders and Trooper Gibbens discussing, *before trial*, how and why they falsified their trial map to convict me. Or addressed that DA Leaders and Gibbens gave the map to my jury while knowing it was false. Or addressed that the tape-recording proved DA Leaders suborned, and Trooper Gibbens committed, trial perjury to back up their false map. Tampering with evidence is a felony. Trial use of known false evidence is a felony. Perjury is a felony. State use of evidence or testimony it knows is false means you get a new trial. Backing up the tape-recording, state witness Tony Zellers testified under oath he was present at the recorded pretrial meeting and heard DA Leaders and Trooper Gibbens discussing how and why their trial map had been falsified to convict me. See attached **(1) Judge Morse Evidentiary Hearing Transcript** at end of this petition.

AS 11.56.610 Tampering With Physical Evidence. (a) *A person commits the crime of tampering with physical evidence if the person (1) destroys, mutilates, alters, suppresses, conceals, or removes physical evidence with intent to impair its verity or availability in an official proceeding or a criminal investigation;* (2) *makes, presents, or uses physical evidence, knowing it to be false, with intent to mislead a juror who is engaged in an official proceeding or a public servant who is engaged in an official proceeding or a criminal investigation. (b) Tampering is a class C felony.*

AS 11.56.200 Perjury *A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true. Perjury is a class B felony.*

Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959) *Conviction obtained through use of false evidence, known to be such by representatives of the State, is a denial of due process, and there is also a denial of due process, when the State, though not soliciting false evidence, allows it to go through uncorrected when it appears. Principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness.* [See also U.S. Supreme Court cases **Mooney v. Holohan**; **Giglio v. United States**; **Giles v. Maryland;** and **Mesarosh v. U.S.]**

2. Presented for decades, COA and Morse never addressed DA Leaders violating a discovery request to keep his and Gibbens' frame job covered up. Before trial, my attorney Arthur Robinson

filed a written request with DA Leaders, asking for copies of anything to be used against me at trial and for copies of any pre-trial tape-recordings of meetings with witnesses against me. Yet DA Leaders never provided a copy of the false trial map or a copy of tape-recorded meeting between he, Trooper Gibbens (trial witness against me) and Tony Zellers (trial witness against me) - where the three discuss how and why the trial map had been falsified to frame me. This also means I get a new trial. See attached **(2) Judge Morse Evidentiary Hearing Transcript** at end of this petition.

Brady v. Maryland, 373 U.S. 83 (U.S. Supreme Court 1963) *Suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good or bad faith of the prosecution.*

3. COA and Morse never addressed Robinson's testimony after being shown map and recording:

Since I was not provided a map copy, so I could check it for accuracy, I cannot be blamed for the jury's use of this map to convict Mr. Haeg and I cannot be blamed for Judge Murphy's use of the map's falsified GMU 19-C/19-D boundaries to sentence Mr. Haeg. Since I was not provided a tape-recording copy prior to trial or during trial, I did not know there was evidence of an intent to falsify the location of where the wolves were taken. Because of Mr. Leaders failure to abide by my discovery request this evidence was withheld and I only found out about it many years after trial.

When I asked what he would have done had DA Leaders provided the required discovery:

I would have argued you didn't get a fair trial because they were using false evidence to convict you. I could have proved they were intentionally lying at trial. And you would have had evidence of their motive to do so. **[R.3145-3170]**

We believe a grand jury will be curious how I, who never went to law school, found all these violations when the attorneys, who I paid over $50,000 to defend me and my family, never did.

4. COA and Morse never addressed that Robinson, when the state deposed him, testified that he used *"subject-matter jurisdiction"* to defend me at trial *while knowing it was completely invalid.* **[Rob. Dep.10-11,126-135]** Worse, he told me for it to work, he could not bring up any other defenses (such as state framing me for something I didn't do) - as this would *"admit"* there was subject-matter jurisdiction. So for a defense he knew was no good, Robinson had me sacrifice all other valid defenses. This is exactly like your doctor giving you a sugar pill for a deadly infection – knowing it won't help – and telling you for the pill to work you must not take any antibiotics or penicillin. Also, COA and Morse never addressed that Brent Cole, when deposed, testified his tactic for my defense was to have me *"fall on my sword".* Or addressed that when I asked Cole what this tactic meant, state attorneys – in violation of deposition rules - told him not to answer.

5. After requiring my tape and CD proving it (see **AK Court View, 3KN-10-01295CI, Docket 02/05/2019 *"Supplement – Filed with Cassette Dated 6/23/04 and CD Dated 3-15-06"***) - COA and Morse never addressed more cover-up. State attorneys first sent me a tape labeled *"6/23/04"*. Only half the DA Leaders/Gibbens meeting was on it. Was told there was nothing else. Kept at it for years. Finally, was given a CD labeled *"3-15-06"*. This CD captured DA Leaders and Gibbens discussing, *before trial,* how they falsified their trial map to prove the exact case they argued to my jury for my conviction. See **(3) Judge Morse Evidentiary Hearing Transcript** below.

6. COA and Morse never addressed: (a) criminal attorneys I hired (Cole and Robinson) told me I could not submit evidence the state told me to take the wolves exactly where I took them; (b) our family's long-time business attorney (Dale Dolifka – formerly a criminal defense attorney) told me I must submit this evidence; (c) I submitted this evidence over my criminal attorney objections; (d) after trial found this evidence was missing from the trial record and found that my jury never got it; (e) found the evidence's cover letter still remained in the trial record – proving the evidence had been properly admitted and then corruptly removed; (f) realized Judge Murphy was in possession of the trial record at the time my evidence went missing – the same time she was presiding over my trial and being chauffeured full-time around McGrath (she flew in to conduct trial) by the main trial witness against me (McGrath resident Trooper Gibbens); and (g) leading to my complaint that Gibbens talked Judge Murphy into destroying my evidence so my jury would never see it. *The state has never disputed that it outright told me to take the wolves exactly where I took them - or disputed that Judge Murphy destroyed legally admitted evidence to strip me of this defense.*

7. Presented for decades, COA and Morse never addressed evidence that the sole investigator of Alaska judges for the last 32 years (and counting) falsified an official investigation to cover up Judge Murphy's trial corruption. I filed an AK Commission on Judicial Conduct complaint against Murphy. Investigated by Marla Greenstein, who claimed she could not investigate the evidence destruction, only the chauffeuring - and asked for a written list of witnesses/phone numbers, other than Jackie and me, to the chauffeuring. I provided 4. To exonerate Murphy, Greenstein reported that she interviewed all 4 and reported that none saw Gibbens chauffeuring Murphy.

Over my protest she couldn't decide a case criminally implicating her, the state assigned Judge Murphy to conduct my post-conviction relief (PCR) case. I motioned to disqualify Murphy, she denied it, and, as required by **AS 22.20.020**, an independent judge was automatically and

immediately assigned to review her denial. Judge Stephanie Joannides was assigned and asked for evidence. Murphy swore out an affidavit that she never rode with Gibbens during my trial or sentencing - yet Jackie found the court tape-recording of my trial and sentencing captured Murphy and Gibbens joking about the chauffeuring Gibbens was giving Murphy – proving Murphy had committed perjury. I contacted the same 4 witnesses I had provided to Greenstein. All 4 swore out affidavits that they each had personally witnessed Gibbens chauffeuring Murphy during my trial and sentencing – and each swore that Greenstein had never contacted them about this. I provided Judge Joannides with Greenstein's report, the witness affidavits proving it was corrupt, and the court tape-recording proving Judge Murphy committed perjury in her affidavit.

Joannides allowed me to subpoena Murphy and David Woodmancy (Murphy's aide during my trial). They hired Peter Maassen (now one of this Supreme Court's justices) to quash my subpoena. Joannides ordered Greenstein to produce her full *"investigative report"* on Murphy and Gibbens. Greenstein refused. Claiming there was no need to hold the already scheduled 2-day evidentiary hearing to decide if Murphy could preside over my PCR, Judge Joannides ruled Gibbens chauffeured Murphy during my trial and sentencing - and removed Judge Murphy from my case.

Judge Joannides: *"On July 28, 2010, this court issued an order narrowing the issue of whether Judge Murphy should recuse herself to the question of whether her contacts with prosecution witness Trooper Gibbens during the trial and sentencing proceedings warranted recusal on the appearance of impropriety.* ***I found that, at a minimum, there was an appearance of impropriety."***

The COA reworded this to *"Judge Murphy was removed because she may be called as a witness during Mr. Haeg's post-conviction relief proceeding."* A judge is prohibited from the appearance of impropriety – meaning Judge Joannides' actual ruling requires I be given a new trial. We believe a grand jury will find this is why the COA corruptly reworded Judge Joannides ruling. **AK Code of Judicial Conduct: Canon 2.** *A Judge Shall Avoid Impropriety & the Appearance of Impropriety.*

Judge Joannides certified the evidence of Greenstein and Murphy's corruption, placed it into the record of my case, and sent copies to the AK Commission on Judicial Conduct (all 9 members individually), Judicial Council, Bar, Department of Law, and Ombudsman. No one investigated.

Using Joannides' evidence, we filed a Bar complaint against attorney Greenstein. In a certified written response, Greenstein testified she didn't just contact the witnesses we provided, she also contacted Robinson. Yet when the state deposed him, Robinson testified that Greenstein had never

contacted him either and that even he remembered Gibbens chauffeuring Murphy during my trial. **[R.256-63]** See also attached **(4) Judge Morse Evidentiary Hearing Transcript** below.

We believe a grand jury will find that when Greenstein got caught lying about contacting all the witnesses – and falsifying their testimony – even she thought it looked bad. We believe a grand jury will find she thought she needed at least one witness at my trial who would verify that she contacted them during her investigation - and would verify Murphy never rode with Gibbens. We believe a grand jury will find she chose Robinson to be her partner in crime, but he refused to lie for her – and find she had now committed perjury to cover up her corrupt investigation.

We provided the perjury evidence to the Bar and still it did nothing. The witnesses Greenstein falsified contacting asked to testify to the ACJC about Greenstein's corruption. The ACJC refused the request, even though its bylaws state it encourages public testimony concerning the ACJC – and Greenstein is the ACJC's only investigator of judges – has been for over 32 years and counting.

The witnesses testified to Morse that Gibbens chauffeured Murphy continuously during my trial and sentencing, testified that Murphy falsified an affidavit to deny this, and testified that Greenstein falsified contacting them and falsified their testimony. All witnesses were cross-examined by state attorneys without a single flaw found. (transcript at **www.alaskastateofcorruption.com**) Yet Judge Morse ruled (now backed up by COA) that none of these witnesses were credible; ruled it didn't matter the state never produced Murphy or Gibbens to refute their testimony; and ruled that proving Greenstein falsified an official investigation to cover up Murphy's corruption during my trial, and committed perjury to cover up, means nothing– in exact opposition your ruling in **Re Johnstone**:

In Re Johnstone 2 P.3d 1226 (AK Supreme Court 2000) *AK statutory law and Code of Judicial Conduct hold judges to the highest standard of personal and official conduct .... [a] judge's unethical or seemingly unethical behavior outside the courtroom detracts from the efficient administration of justice and the integrity of the judicial office, as it diminishes respect for the judiciary in the eyes of the public. One way to protect the public is to remove the offending judge from office.* ***Another way to protect the public is to keep it informed of judicial transgressions and their consequences, so that it knows that its government actively investigates allegations of judicial misconduct and takes appropriate action when these allegations are proved. Judicial discipline thus protects the public by fostering public confidence in the integrity of a self-policing judicial system.***

To further cover up, the COA made this bizarre ruling, *"No witness testified that they heard Judge Murphy and Trooper Gibbens talk about Haeg's case."* How is it possible for witnesses on foot to hear two people talking that are in a truck driving past at 30 mph with its windows closed?

8. COA issued a provably corrupt order and never addressed Morse having me tased and imprisoned for presenting evidence of corruption in DA Leaders, Gibbens, and Greenstein. Google ***"Court Cam: Man Gets Tased in Court While Trying to Clear His Name"***.

To deny an evidentiary hearing on DA Leaders and Gibbens' evidence tampering and perjury, the COA ruled that I never briefed them on this issue and never provided any evidence. Yet oral argument video shows me giving the trial map to the COA and telling and showing them how it had been falsified to convict me. Google ***"David Haeg vs State of Alaska – YouTube".*** The video records me explaining to the COA how DA Leaders and Gibbens tape-recorded themselves discussing, *before trial,* how and why they falsified their trial map to convict me. The court record proves I gave the COA this tape-recording – and 25 pages of written briefing on this issue alone.

To deny an evidentiary hearing on Greenstein falsifying an official investigation to cover up Murphy's corruption during my trial, the COA ruled that I never briefed them on this issue and never provided any evidence. Yet the court record proves I gave the COA 54 pages of written briefing on this issue alone – and 77 pages of transcriptions, affidavits, and orders proving this that Judge Joannides certified as true. This is also at **www.alaskastateofcorruption.com – Greenstein.**

The COA did order an evidentiary hearing on the minor issue of Robinson not protesting Murphy's use of false evidence to sentence me. Yet after carefully researching*, I could not find a single word of briefing or evidence on this ever being given to the COA – proving the COA outright lied in their order to cover up for DA Leaders, Trooper Gibbens, and Greenstein.*

As errors not protested at first opportunity are *"waived"*, I protested the COA's provably fraudulent order - and started presenting the evidence against DA Leaders, Gibbens, and Greenstein - at Judge Morse's December 18, 2017 hearing. Morse ruled I must obey the COA's fraudulent order - and ordered me to stop presenting the evidence against DA Leaders, Gibbens, and Greenstein. When I continued, he had me tased and imprisoned to stop me. And although I submitted a claim and caselaw to the COA that prove Judge Morse had me illegally tased for trying to present evidence of systemic judicial corruption, the COA never addressed it.

***United States v. Nalley*, No. 16-0023-WGC (D. Md. Mar. 31, 2016)**

The Justice Department announced today that Robert C. Nalley, a former judge in Charles County, Maryland, pleaded guilty to one count of the deprivation of rights under color of law for ordering a deputy sheriff to activate a stun-cuff worn by a pro se criminal defendant during a pre-trial court proceeding. 'Disruptive defendants may be excluded from the courtroom and prosecuted for

obstruction of justice and contempt of court, but force may not be used in the absence of danger,' said U.S. Attorney Rod J. Rosenstein District of Maryland.

Morse claims I was tased and imprisoned to clear the courtroom for the next case. Yet I was tased just 30 minutes into my 3-hour hearing. At the next hearing, fully expecting to be tased and imprisoned again for doing so, I again started presenting the evidence against DA Leaders, Gibbens, and Greenstein. Morse reversed his original order and ordered that I could now present the evidence – more proof I was illegally tased the first time. See **(1-5) Judge Morse Evidentiary Hearing Transcript** below, for evidence and testimony I had to be tased and imprisoned to present.

9. The COA failed to rule on more crime by Morse. I filed, on February 21, 2019, a motion with Morse to order the state to provide discovery on my illegal tasing. To date, Morse has failed to rule on my motion - but has continued to file pay affidavits every two weeks since, swearing that he has decided every motion given to him for a decision within the last six months. (See **AS 22.10.190**) Morse has falsified over 40 sworn affidavits so far – so he can be paid while denying me evidence.

10. COA falsified provable facts to cover up for Cole/Robinson. I ordered Robinson to subpoena Cole to my sentencing to make sure I got credit for the guide year Cole had me give up for a plea agreement he made with DA Leaders, Leaders reneged on, and Cole/Robinson said could not be enforced. When Cole failed to show, Robinson said Cole's subpoena couldn't be enforced - and never protested when Leaders and Gibbens testified they had no idea why I gave up guiding for a year before I was sentenced. Cole's testimony would have proved this was perjury to cover up my detrimental reliance on the plea agreement. So I never got credit for the guide year already given up for an agreement DA Leaders reneged on – credit proving my trial was invalid. I was sentenced to a 5-year guide license suspension (state refused to return it after the 5 years was over – ending my guide career), nearly 2 years in prison, $20,000 fine, and forfeiture of our business airplane and property. This drove Jackie and I to the wall – at one point having to choose between heating oil so our daughters would be warm or food so they wouldn't go hungry. Jackie was diagnosed with depression and put on medication for suicidal thoughts. After firing Robinson, I found a letter to him from Cole. In it Cole tells Robinson, *prior to my sentencing*, that he never intended on obeying his subpoena. The COA ruled that since Cole and I were engaged in *"a contentious fee arbitration"* during my sentencing, Robinson didn't have to enforce Cole's subpoena to my sentencing. But my date-stamped application proves I filed fee arbitration against Cole 5 months *after* I was sentenced.

North Carolina v. Pearce, 395 U.S. 711 (U.S. Supreme Court 1969) *The basic Fifth Amendment guarantee against double jeopardy, which is enforceable against the States by the Fourteenth Amendment, is violated when punishment already exacted for an offense is not fully "credited".*

Closson v. State, 812 P.2d 966 (Ak. 1991) *In the plea bargaining arena, the United States Supreme Court has held that states should be held to strict compliance with their promises. …courts consider the defendant's detrimental reliance as the gravamen of whether it would be unfair to allow the prosecution to withdraw from a plea agreement.*

More COA fraud: it ruled there was no evidence I was given transactional immunity (which prohibits prosecution) to compel the testimony Cole said I was required to give DA Leaders. Yet when deposed, Cole testified that DA Leaders gave me *"transactional immunity"* to get my testimony. Kevin Fitzgerald, the attorney Cole worked with, also testified DA Leaders gave me *"transactional immunity"* – and swore that after I gave my testimony, DA Leaders outright told him and Cole that he (Leaders) was not going to *"honor"* my immunity. I provided Cole's and Fitzgerald's recorded sworn testimony to COA. We believe a grand jury will find that I was given transactional immunity (only kind allowed in Alaska); that DA Leaders violated it without my attorneys protesting; and that the COA covered this up. More COA fraud: it ruled that DA Leaders could use the map, upon which DA Leaders required me to place wolf kill locations during my compelled statement, against me at trial. COA claims this was done for a plea agreement, but **Alaska Evidence Rule 410** proves even this invalidates my conviction. (DA Leaders and Gibbens falsified the map's wolf control boundaries after they required me to put wolf kill locations on it.)

Kastigar v. United States, 406 U.S. 441 (U.S. Supreme Court 1972) *The Government must do more than negate the taint; it must affirmatively prove that its evidence is derived from a legitimate source wholly independent of the compelled testimony.*

11. COA and Morse never addressed Robert Fithian's corruption. When Judge Bauman ordered I must be resentenced, the state said Fithian would testify that I told him I was going to take wolves in my guide area to benefit my business. I told Fithian that DA Leaders and Gibbens conspired to frame me for this and asked why he would now commit perjury against me. Fithian replied that the state worked too hard to get the Wolf Control Program going to see my case end it. **[R.3162]** We finally realized *I had been framed to protect the Wolf Control Program.* We realized the state was not authorized to tell me to take wolves where they had – and this was the evidence that animal rights activists needed to permanently shut down the Wolf Control Program. We realized this was why Judge Murphy destroyed the evidence the state told me to take the wolves where I had. We

also realized why the state falsified evidence to prove I took wolves in our guide area to benefit our guide business - so there was a motive, other than following state orders, for me to take wolves in an area not authorized for wolf control. Immediately after Fithian's *tape-recorded* admission, the COA halted my already scheduled resentencing and reinstated my original sentence – stopping me from proving Fithian was conspiring with the state to cover up with more perjury.

12. The COA corruptly claims my conviction is valid because the wolves were not taken where they should have been – apparently forgetting this was exactly where the state told me to take them; forgetting my evidence proving this was corruptly kept from the jury; forgetting the state manufactured evidence before trial to frame me for guide crimes; and apparently forgetting the state presented it to my jury while knowing it was false – among a host of other facts also proving my trial was unconstitutional and I must be given a new one. To feed my wife and daughters, I now work for Knik Construction building Alaska's runways and roads. On a regular basis, state officials change the location of where we place runways and roads after the contract is signed – exactly like state officials modified the location of where I should take wolves after the contract was signed.

13. The COA corruptly claims I could be charged with career-ending guide crimes instead of minor Wolf Control Program violations. Yet the state's reason for these charges – and argument to my jury for conviction - was that I took wolves inside my guide area to benefit my guide business. And when I motioned before trial that I could not be charged with guide crimes – only WCP violations - DA Leaders opposed, testifying that my jury must decide this – not Judge Murphy - as this was a *"factual"* issue and juries decide *"factual"* issues. Murphy agreed, ruling this was a *"factual"* issue my jury must decide. A week later DA Leaders asked Murphy to bar me from presenting this issue to my jury, now claiming this was a "*legal"* issue that a jury cannot decide. Murphy granted DA Leaders request – now ruling this was a *"legal"* issue I could not present to my jury. I'm not a lawyer, but I do know this issue cannot first be *"factual"* so DA Leaders and Murphy can harm me and a week later be *"legal"* so they can harm me again. We believe a grand jury will find this is more evidence that Judge Murphy was in league with DA Leaders to rig my trial.

14. COA never addressed that Morse assigned *himself* to conduct the evidentiary hearing to determine the guilt of his beer-drinking friend Robinson – when judges are to be assigned randomly – or that Morse, in violation of **AS 22.20.020** and **Judicial Canon 3**, failed to promptly notify me of his beer-drinking friendship with Robinson after assigning himself to my case.

15. Judge Morse issued an order that I couldn't depose Robinson because he was "*deceased*" **[R.3089]** – when in fact Robinson was, and still is, alive and well. After I proved he was alive, Morse still refused to let me depose Robinson. Yet COA ruled this didn't harm me, when deposing adverse witnesses is the single most important way to prepare for an evidentiary hearing.

16. COA never addressed Judge Pallenberg's corruption. After the deadline, the COA assigned Judge Pallenberg to review Judge Morse not disqualifying himself because of his friendship with Robinson. Without addressing Morse's corruption, Pallenberg exonerated Morse by ruling the Morse/Robinson beer-drinking relationship is *"far, far less substantial"* than the relationship in **Phillips v. State 271 P.3d 457 (AK 2012)** - where the judge's *wife* was friends with the *sister* of the person appearing in front of the judge – 3-degrees of separation. So the judge had never even met the person – and didn't have to determine their guilt – as Morse had to do with Robinson. Morse outright admits he drinks beer with Robinson, and then joked with Robinson about a sports rivalry they have – 0-degress of separation. Yet Pallenberg still ruled that the Morse/Robinson relationship is *"far, far less substantial"* than the **Phillips** relationship. Without ever addressing the bizarre rational for Judge Pallenberg's decision, the COA affirmed Pallenberg's exoneration of Morse.

17. COA stated that attorney Dale Dolifka never testified that I was given ineffective assistance of counsel by Cole or Robinson. Yet Dolifka expressly testified that both Cole and Robinson gave me ineffective assistance of counsel. See **(5) Judge Morse Evidentiary Hearing Transcript** below.

18. COA never addressed the issue that DA Leaders and Department of Law are threatening and harming opposing attorneys. When deposed, Cole testified DA Leaders would outright harm if he tried to defend me. Dolifka testified that he was actually harmed for helping me. When asked what happened, he refused to answer, testifying, *"I can't tell you because it will just get worse."*

19. COA falsified numerous pay affidavits to delay this case for 17 years. When I complained, the COA ruled that **AS 22.07.090** *does not apply to court of appeals judges* – and continued to falsify affidavits. Yet **AS 22.07.090** specifically states it applies to judges *"of the court of appeals."* This delay barred me from federal court– as to do so you must first exhaust all state remedies and still be in prison (see **28 U.S.C. 2254**) – and the state forced me to serve all my prison time already.

20. COA never ruled on my motion that they order a grand jury investigation into the forgoing evidence of systemic corruption within Alaska's judicial system.

21. Some claim I must be wrong: that judges, prosecutors, troopers, and defense attorneys would never conspire to rig a trial in complete violation of nearly every constitutional right. **Thirty five-year Alaskan attorney Dale Dolifka's testimony** after reading all documentation in my case:

"Other than just an outright payoff of a judge or jury it is hard to imagine anyone being sold down the river more. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. The reason why you have still not resolved your legal problems is corruption. You have an Appeals Court sitting there looking at a pile of dung & if they do right by you & reveal you know you have the attorneys going down, you have the judges going down, you have the troopers going down. Everyone in your case has had a political price to pay if they did right by you. You had a series of situations which everyone was doing things to protect everyone rather than you because there was a price to pay. I walked over here & lawyer A says 'my God they're violating every appeal rule ever. How can it be like this?' I think almost everyone goes back to that original seminal issue that how the hell did this case go on when it appears to lay people & to me a lot of it was built on a lie in a sworn affidavit? And I don't know how you possibly had due process with regard to the seizure of your airplane. I have read it & read it & read it. I've – I could write a doctors brief on it & I can't – & – & I'm just wore out trying to figure it out. [State's own GPS coordinates prove they falsified evidence locations on all sworn search/seizure warrants – and then never provided the constitutionally required hearing to protest] *Cause I – I can't. You're just one of many. It's absolute unadulterated self-bred corruption. It will get worse until the sleeping giant [public] wakes up. Everyone is scared & afraid."* **[R.523-3105]**

Long-time Alaskan attorney Mark Osterman's testimony after examining my entire case: *"Biggest sellout I've ever seen…you didn't know Cole and Robinson were goanna load the dang dice so the state would always win. Scot Leaders stomped on your head with boots…he violated all the rules & your attorney allowed him, at that time, to commit all these violations."* **[R.174-303]**

FBI Section Chief Doug Klein, February 9, 2011: *"Obvious why Greenstein falsified her investigation - no one in America would believe they got a fair trial if the main witness against them got to chauffeur the judge presiding over their prosecution."* **[R.3160]**

<u>42 U.S.C. 1983</u> (Civil Rights Law) *[S]tate courts were being used to harass and injure individuals, either because the state courts were powerless to stop the deprivations or were in league with those bent upon abrogation of federally protected rights…Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it….all the apparatus and machinery of civil government, all the processes of justice, skulk away as if government and justice were crimes and feared detection. Among the most dangerous things an injured party can do is to appeal to justice.*

A growing number believe that Alaska's courts are indeed being used to injure individuals – and are in league with prosecutors, DAs, troopers, and lawyers to rig trials and get rich. A growing number realize grand jury investigations are being unconstitutionally and illegally suppressed to keep this corruption covered up. A growing number believe an unimpeded grand jury investigation

- as guaranteed by both constitution and law - will uncover systemic, industrial corruption on par with that uncovered in Illinois – where a single investigation resulted in 17 judges, 48 lawyers, 10 deputy sheriffs, 8 policemen, and 8 court officials being indicted – with nearly all pleading guilty.

If this Alaska Supreme Court won't help us, those concerned recommend entering courthouses while the grand jury is in session, handing them the evidence, asking they investigate, and then guarding their door to make sure no one can enter to stop the investigation. When this happens, Alaskans will be justified in not only prosecuting the corrupt officials - and will also be justified in abolishing the corrupt entities that covered up the corruption for so long - and having their duties taken over by grand juries– or have them placed into federal receivership.

***"The grand jury in its investigative power as well for the fact it is sitting there as a panel sometimes is the only recourse for a citizen to get justice."* (Alaska Constitutional Convention)**

If nothing else works I will, until I am killed, start retrieving the airplane and other property that was stolen from my family so long ago. I will ask those concerned to come and help, or just watch – and hope the public outcry from this results in an unimpeded grand jury investigation. Even if I am all alone, still I will go. For even the mightiest of storms still starts with a single drop of rain.

No one can ever give back the life that was stolen from my beautiful wife and daughters. But I can damn well make sure this evil and sophisticated racket doesn't destroy any more lives.

DECLARATION UNDER PENALTY OF PERJURY

I, David S. Haeg, declare under penalty of perjury that the above is true & correct.

David S. Haeg Executed on March 30, 2021

David S. Haeg
PO Box 123, Soldotna, AK 99669 (907) 262-9249 h; (907) 398-6403 cell; haeg@alaska.net

I certify that on March 30, 2021 a copy of forgoing was mailed to AAG Soderstrom. If concerned provide an email address so we can keep you informed. Share/publish/reproduce this freely. Seek out grand jury service (you may request grand jury service when you get a petit jury summons), evidence at **www.alaskastateofcorruption.com**, and investigate. You have a right to do so even in the face of opposition from officials. Ask your DA and legislators for a grand jury investigation. See Alaska Grand Jury Handbook (AK Court System form J-185, page 26) and The Investigative Grand Jury in Alaska, pages 9-24, just google it. To help financially: PayPal accounts (haeg@alaska.net) or (907-398-6403). Book, "A Most Dangerous Domestic Enemy" nearly finished. **GoFundMe: "Silenced and Tased: Help David Haeg Clear His Name"** Petition: https://form.jotform.com/210785438174158

Winston Churchill (1874-1965) *If you won't fight for right when you can easily win without bloodshed; if you won't fight when your victory is sure & not too costly; you may come to the moment when you will have to fight with all the odds against you & only a precarious chance of survival. There may even be a worse case. You may have to fight when there is no hope of victory, because it is better to perish than to live as slaves…. There is only one duty, only one safe course, & that is to try to be right & not to fear to do or say what you believe to be right…. This is the lesson: never give in, never give in, never, never, never, never — in nothing, great or small, large or petty — never give in except to convictions of honour & good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy…. One ought never to turn one's back on a threatened danger & try to run away from it. If you do that, you will double the danger. But if you meet it promptly & without flinching, you will reduce the danger by half…It's not enough that we do our best; sometimes we have to do what's required…. If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back & hit it again. Then hit it a third time-a tremendous whack.*

(1) Judge Morse Evidentiary Hearing Transcript

TRANSCRIBER'S CERTIFICATE *I, Britney E. Dudley hereby certify that the foregoing pages numbered 3 through 575 are a true, accurate, and complete transcript of proceedings in 3KN-10-01295CI, David Haeg vs. State of Alaska, transcribed by me, or at my direction, from a copy of the electronic sound recording to the best of my knowledge and ability.*

DIRECT EXAMINATION BY MR. HAEG: Q. Were you a trial witness for the state [Tr. 376] against me?

A. [Tony Zellers] Yes.

Q. On or about June 23, 2004, did you, Prosecutor Scot Leaders and Trooper Gibbens have a meeting?

A. Yes, we did.

Q. Did Leaders and Gibbens tape record this meeting?

A. Yes.

Q. Is this -- MR. HAEG: Can I approach and have him look at this, see if it's an accurate transcript of the meeting?

THE COURT [Third Judicial District Presiding Judge William Morse]: Yeah.

Q. Does this look like an accurate transcription of that meeting? [Tr. 377]

A. This looks like the meeting.

Q. Okay. During this meeting, did Leaders and Gibbens show you an aeronautical map?

A. Yes, they did.

Q. Can I approach and see if you agree that this is a copy of what you were shown?

THE COURT: Sure.

A. This is a copy. The only thing that's slightly different is the green line on it.

Q. Okay.

THE COURT: That's Exhibit 25?

MR. HAEG: Yes, Trial Exhibit 25.

THE COURT: Hang on. Hang on just a second. When -- that thing has, for example, indications where wolves were killed?

THE WITNESS: Yes, Your Honor.

THE COURT: So when they showed you this map, did the map -- was it exactly the way it is there with the wolf kills on there?

THE WITNESS: Yes, it was.

THE COURT: Okay. But the only thing that was not on there, and correct me if I'm wrong, is the color highlight of some kind of a boundary unit? [Tr. 378]

THE WITNESS: Yes.

THE COURT: That was not there?

THE WITNESS: The boundary unit was drawn on there, but it wasn't highlighted.

THE COURT: The highlight wasn't there?

THE WITNESS: Right.

BY MR. HAEG: Q. Did Prosecutor Leaders and Trooper Gibbens tell you that I had marked the wolf kill locations on this map when they interviewed me during my plea negotiations with them?

A. Yes, they did.

Q. Did you prove to Prosecutor Leaders and Trooper Gibbens that that map had false hand-drawn game management unit boundaries on it?

A. Yes, I did.

Q. Did you use the Alaska Department of Fish and Game game management unit's physical description to do this?

A. I'm pretty sure I did use the -- the written description of the game management units.

Q. Okay. Is this description published in all Alaska hunting regulations?

A. Yes, it is. [Tr. 379]

Q. Can you point out to –

THE COURT: Hang on. Let me just ask a question, make sure I understand what you just said. You were shown this map, and the map had preexisting unit boundary lines marked on it; right?

THE WITNESS: Yes.

THE COURT: Okay. And you looked at those lines and said that they were in error?

THE WITNESS: I looked at the lines and said they were in error. There was a discussion between Trooper Gibbens and myself about he wanted to say the wolf kills were in 19C. I said, no, they were in 19D. And I quoted the boundary line and how this was wrong, to him.

THE COURT: So you -- you told him at the time that the boundary lines shown in the map were inaccurately drawn?

THE WITNESS: Yes.

THE COURT: Okay. Go ahead.

BY MR. HAEG: Q. Can you point out to the Court or me what boundary was falsified and where the correct boundaries should have been? [Tr. 380]

A. Using the map here, 19C area doesn't have what I'll just call is this toe area that encompasses and circles these wolf kills down here. So 19C's western boundary is where the Babel flows into the Swift. And then everything downstream on the Swift is actually 19D. And upstream is 19C. All the wolf kills were downstream of that point.

Q. Okay. Do the false boundaries –

THE COURT: So downstream of Swift is 19D, as in David?

THE WITNESS: 19D is downstream of where the Babel River flows into the Swift River.

MR. HAEG: And the North Fork.

THE WITNESS: And the North Fork, yes, of the Swift.

THE COURT: Go ahead.

Q. Did the false boundaries on that map corruptly make it seem as if the wolves were killed in my game management unit 19C guide area, instead of being killed in game management unit 19D?

A. Yes. [Tr. 381]

Q. Okay. Did Prosecutor Leaders and Trooper Gibbens and you discuss how I was not allowed to guide in 19D but was allowed to guide in 19C?

A. Yes, we had that discussion, so –

Q. Okay. Did Prosecutor Leaders, Trooper Gibbens and you discuss how my killing wolves in 19D would not benefit my guide business?

A. Yes, we had -- I had the discussion with the trooper that because these were killed outside your guide unit, they were not directly related to your guide, so –

Q. Did Prosecutor Leaders, Trooper Gibbens, and you discuss how my killing wolves in 19C would benefit my guide business?

A. Yes.

Q. Was the wolf control program actually taking place in 19C or 19D?

A. As I recall, there was nothing in 19C, but there were parts of 19D that had.

Q. Okay. During this meeting, did you point out to Prosecutor Leaders and Trooper Gibbens that their search warrant affidavits also falsified the wolf kill locations to my 19C guide area? [Tr. 382]

A. Yes. The affidavits listed the wolf kills in 19C. And I pointed out to them that that was incorrect information.

Q. And you may not know this, but did Prosecutor Leaders and Trooper Gibbens tell my jury that I killed the wolves in 19C area to benefit my guide business?

A. I can't testify to what, or the reason why they testified that, but Trooper Gibbens did testify under direct from -- from Prosecutor Leaders that the wolves were killed in 19C.

Q. Did Prosecutor Leaders and Trooper Gibbens [Tr. 383] use the map upon which I placed the wolf kill locations during plea negotiations against me at trial?

A. Yes.

Q. Did Prosecutor Leaders and Trooper Gibbens know the map had been falsified to support their case against me when they presented it to my jury as the reason to convict me?

A. Yes. [Tr. 384]

(2) Judge Morse Evidentiary Hearing Transcript

Q [MR. HAEG]. Did you file a pretrial discovery request while you represented me?

A [MR. ROBINSON]. Yeah.

Q. Was it violated?

A. In what way?

Q. Did you ask, for anything that would be used against me at trial, to be given a copy of it to you before trial?

A. I believe, Mr. Haeg, what I did in your case, as I did in all of my criminal cases, is that I sent a standard broad request to the District Attorney's Office to reveal to me any and all evidence that it had in its possession regarding the charges against you. So I sent them a letter, yeah.

Q. Okay. Is it true that they used a map against me at trial that we, you and I, never got a copy of before trial?

A. I learned that later.

THE COURT [JUDGE MORSE]: -- so, Mr. Robinson, did you get a transcription of this tape that supposedly shows the state and the -- the prosecutor and the trooper talking about falsification or something like that?

A. Prior to trial?

THE COURT: Ever.

A. I didn't get anything prior to trial. And most recently, probably within the last year or so, Mr. Haeg showed me a transcript of an interview that Trooper Gibbens and Scott Leaders had --

THE COURT: -- is an interview of Leaders, Gibbens, and Zeller [sic]?

A. Correct. But, I mean, I -- by the time Mr. Haeg showed that to me, I'd already retired. I retired in January --

THE COURT: Right.

A. -- 2011.

THE COURT: You may be coming back. But you got it way back when. And this is nothing that you had seen prior to trial?

A. Prior to trial, no. [Tr. 174-210]

(3) Judge Morse Evidentiary Hearing Transcript

MR. HAEG: Okay. The -- one more question I'd like to ask Mr. Robinson kind of on this issue, is was part of Leaders' and Gibbens' case against me at trial that I was eliminating wolves in my guide area to improve my guide business?

A. Yes. [Tr. 218]

(4) Judge Morse Evidentiary Hearing Transcript

MR. HAEG: Q. Does this recollect your -- can you read this and tell me if this is a true –

A [MR. ROBINSON]. What is it, David?

Q. It is a response, a certified response by Marla Greenstein to the Alaska Bar Association. And in it she says, in Mr. Haeg's matter, I interviewed Mr. Haeg's attorney, Arthur Robinson. Is that a true statement, Mr. Robinson?

A. I -- I was never interviewed by her. [Tr. 285]

MR. PETERSON [State Assistant Attorney General]: -- So what's –

MR. HAEG: Okay.

MR. PETERSON: -- the purpose of this?

MR. HAEG: This is a proof –

THE COURT [Judge Morse]: I have no idea.

MR. HAEG: -- that there was a cover-up by the Alaska Commission on Judicial Conduct that my judge was chauffeured by the main witness against [Tr. 286] me during my trial. And I, as an American citizen, has a constitutional right to an unbiased judge. And not only was my judge running around full-time with the main witness against me –

THE COURT: Mr. Haeg, let me help you out here.

MR. HAEG: -- the only person that investigates judges in this state falsified an official investigation. And not only did she do that, when I filed a bar complaint, she then falsified a certified document to cover up her corrupt investigation. And I want it on the record.

MR. PETERSON: So it's irrelevant, and it shouldn't be admitted.

THE COURT: It's admitted. (Exhibit 6 admitted)

MR. HAEG: It proves there was a cover-up.

THE COURT: Mr. Haeg, I'm admitting it.

MR. HAEG: Okay. Thank you, Your Honor. [Tr. 287]

THE COURT: Mr. Haeg, rather than spend time convincing me that Gruenstein -- Greenstein made some sort of false allegation, it would be more helpful to your case if you put the witnesses on who saw Judge Murphy driving around with the trooper.

MR. HAEG: Okay.

THE COURT: That's the important part. Not that the judicial conduct commission is a fraudulent entity. Not that Marla is a lying –

MR. HAEG: But you –

THE COURT: -- person.

MR. HAEG: -- see, Your Honor –

THE COURT: What's important –

MR. HAEG: -- you -- what you –

THE COURT: -- for your case in this hearing is for you to prove that, in fact, Judge Murphy drove around with the trooper. So if you have witnesses of that, those are more important witnesses.

MR. HAEG: What I believe –

THE COURT: But your –

MR. HAEG: -- is more important –

THE COURT: But –

MR. HAEG: -- for the citizens of this state to know that the only investigator of judges for the past 30 years, and that's investigator of you –

THE COURT: Mr. Haeg.

MR. HAEG: -- and every other judge in this state –

THE COURT: Mr. Haeg.

MR. HAEG: -- is falsifying –

THE COURT: Mr. Haeg.

MR. HAEG: -- investigations to cover up for corrupt judges. [Tr. 289-290]

(5) Judge Morse Evidentiary Hearing Transcript

VOIR DIRE BY THE COURT [Judge Morse]: Q. My question to you is, you apparently have made an -- after the conclusion of Mr. Cole's representation have done an investigation of some sort and have come to a conclusion about the quality of that representation. Am I correct so far?

A [MR. DOLIFKA]. Yes.

Q. Did you make your opinion about the quality of the representation during his representation or only after it was concluded?

A. Well, both.

Q. Do you think Mr. Cole gave ineffective assistance of counsel?

A. Based on what I've seen and what I'm allowed -- I'm not a criminal attorney -- I would say, yes, it was ineffective counsel.

Q. Okay. Do you have an opinion about whether Mr. Robinson gave ineffective assistance of counsel to Mr. Haeg?

A. Yes.

Q. What is that opinion?

A. It was ineffective. [Tr. 412-418] .

State v. Sexton, 709 A.2d 288 (N.J. 1998) *"Court found both prosecutorial misconduct & ineffective assistance which created the 'real potential for an unjust result.'"*

Attorney Arthur Robinson's testimony: *"Alaska has a good old boys system of judges, troopers, & attorneys who are in a fold…take care of their own…you can't sue anyone unless your conviction is overturned, let me pull the* ***Shaw*** *case for you* **[R.00138-141] [Shaw v. State, Dept. of Admin, 861 P.2d 566 (AK 1991)]**

Tape-recording of Trooper Gibbens to witnesses in this case: *"The governor himself is on the line."*

Adickes v. S. H. Kress & Co., 398 U.S. 144 (U.S. Supreme Court 1970) *"The development of this condition of affairs wasn't the work of a day, or even of a year. It couldn't be, in the nature of things; it must be slow; one fact to be piled on another, week after week, year after year. . . .Such occurrences show that there is a pre-concerted & effective plan by which thousands of men are deprived of the equal protection of the laws. The arresting power is fettered, the witnesses are silenced, the courts are impotent, the laws are annulled, the criminal goes free, the persecuted citizen looks in vain for redress."*

Samuel Adams, U.S. Founding Father *"The liberties of our Country, the freedom of our civil constitution, are worth defending at all hazards: And it is our duty to defend them against all attacks. We have receiv'd them as a fair Inheritance from our worthy Ancestors: They purchas'd them for us with toil & danger & expence of treasure & blood; & transmitted them to us with care & diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle; or be cheated out of them by the artifices of false & designing men. Let us remember that "if we suffer tamely a lawless attack upon our liberty, we encourage it, & involve others in our doom." It is a very serious consideration, which should deeply impress our minds, that millions yet unborn may be the miserable sharers of the event."*

Albert Einstein (1879-1955) *"The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are the constitutional rights secure."*

United States v. R. Enterprises US Supreme Court 498 US 292 (1991) The grand jury occupies a unique role in our criminal justice system. It is an investigatory body charged with the responsibility of determining whether or not a crime has been committed. Unlike this Court, whose jurisdiction is predicated on a specific case or controversy, the grand jury "can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not." United States v. Morton Salt Co., 338 U.S. 632, 642 -643 (1950). The function of the grand jury is to inquire into all information that might possibly bear on its investigation until it has identified an offense or has satisfied itself that none has occurred. As a necessary consequence of its investigatory function, the grand jury paints with a broad brush. "A grand jury investigation `is not fully carried out until every available clue has been run down and all witnesses examined in every proper way to find if a

crime has been committed.'" Branzburg v. Hayes, 408 U.S. 665, 701 (1972), quoting United States v. Stone, 429 F.2d 138, 140 (1970).
"[T]he identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning." Blair v. United States, 250 U.S. 273, 282 (1919). This Court has emphasized on numerous occasions that many of the rules and restrictions that apply at a trial do not apply in grand jury proceedings. This is especially true of evidentiary restrictions. The teaching of the Court's decisions is clear: A grand jury "may compel the production of evidence or the testimony of witnesses as it considers appropriate, and its operation generally is unrestrained by the technical procedural and evidentiary rules governing the conduct of criminal trials," id., at 343. **A grand jury need not accept on faith the self-serving assertions of those who may have committed criminal acts. Rather, it is entitled to determine for itself whether a crime has been committed.** See Morton Salt Co., 338 U.S., at 642 -643.

The Reportorial Power of the Alaska Grand Jury (1986 Duke Law Review, 295-330) Prior to Alaska's statehood, the territorial legislature adopted a statute that required grand juries to investigate the conditions and management of prisons and judicial offices. In 1954, a Ketchikan grand jury investigated police corruption in connection with prostitution and returned a famous report that led to the indictments of the chief of police and the United States Attorney in Ketchikan.

After statehood, article I, section 8 of the Alaska Constitution granted grand juries the power to "investigate and make recommendations concerning the public welfare or safety." Grand juries have also issued reports critical of specific individuals. For example, in 1967, a Fairbanks grand jury investigated jail conditions and returned a report criticizing management of the jail generally and holding the named superintendent responsible. The grand jury also recommended changes in policy, personnel, and supervision at the jail. In 1974, an Anchorage grand jury report criticized the Director of the Division of Corrections and the Commissioner of Health and Social Services. And in 1975, an Anchorage grand jury investigated the criminal justice system and made recommendations concerning a correctional officer, the public defender's office, and the district attorney's office.

Courts in jurisdictions favoring reports have emphasized the growing complexity of modern government "that defies the best intentions of the citizen to know and understand it." With an ever-expanding government bureaucracy, public employees become further removed from those officials directly answerable to the voters, while the public's awareness of the activities even of elected officials lessens. If the people are to remain confident in this type of government, there should be a body of citizens capable of monitoring official wrongdoing.

Proponents of the grand jury's reportorial power maintain that the grand jury is the appropriate body to accomplish this important purpose. Increasing government complexity has spurred the adoption of other investigatory bodies. These include legislative and executive bodies as well as private organizations, most notably the news media. These bodies may lead to greater accountability among public officials, but they are unlikely to be as effective as the grand jury in achieving impartial disclosure of official misconduct. A comparison of the grand jury with these groups suggests that the grand jury should continue as an investigatory body.

One significant problem with legislative and executive committees is that political concerns often influence their investigations.
Finally, since the outcome is often politically influenced, there may be an intentional lack of thoroughness in legislative and executive investigations. Weaknesses also plague private investigations. First, editorial policies and profit motives may influence investigations by the news. Second, private investigations cannot compel persons to supply necessary information.

Although some authorities suggest that grand juries are not completely free from political motivations, most agree that jurors do not have the same sensitivity to political considerations as legislative or executive committees. The subpoena power possessed by grand juries facilitates complete investigations. The grand jury is not without shortcomings as an investigatory body. Jurors are not professional investigators. Because grand

juries have limited budgets, they seldom hire their own counsel or detectives. This increases the grand jury's dependence on the prosecutor to perform the investigation and to conduct the proceedings. If the prosecutor is able to dominate the proceedings, he may interject his own political ambitions into the investigation.
Alaska Constitution, article I, section 8 provides in pertinent part: "The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended." No Alaska appellate court has addressed the meaning of this sentence.

On December 15, 1955, the Alaska Constitutional Committee on the Preamble and the Bill of Rights submitted Committee Proposal Seven, which included the section on grand jury authority. Proposal Seven initially provided in pertinent part: "[T]he power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith shall never be suspended."

The Convention, however, did not adopt the Proposal. Instead, the framers approved a slightly altered version of an amendment to Proposal Seven offered by Delegate Barr. On January 6, 1956, Delegate Barr proffered the following amendment: "The power of grand juries to investigate and make recommendations concerning conditions detrimental to the public welfare shall never be suspended." This provision grants broad investigatory powers to the grand jury. Although courts in other jurisdictions disagree as to whether the power to investigate, standing alone, implies the power to report the results of such an inquiry, the Convention expressly granted Alaska grand juries the power to make recommendations in connection with its investigations. Thus, the framers contemplated a power to issue statements other than indictments.
Conversations between the delegates also shed light on the proper subject matter of these recommendations. During the debates over article I, section 8, Delegate Rivers explained that the grand jury's authority at the time of the Convention extended to the investigation of public officers and institutions. Rivers then asked Delegate Barr if he would agree to express the grand jury's authority as the power to "investigate public offices and institutions and make recommendations." Barr would not so consent. He stated that his amendment would grant a broader power than Rivers suggested. Barr's amendment would allow the grand jury to "make recommendations concerning other things than public offices and officers."' By implication, the framers intended, at the least, to grant the grand jury the power to issue recommendations concerning public offices and officers, something which Barr maintained was the duty of the grand jury.

The fact that the framers granted the grand jury the power to issue recommendations concerning public officers supports the argument that they intended that the grand jury have the power to name those officers in at least some circumstances.

Most jurisdictions permitting reports condemn reports reflecting on private individuals as opposed to public officials. This distinction makes sense. A public official assumes some risk of criticism upon entering office, and, when an official becomes derelict in his duties, a report should reveal this breach of trust. Courts in jurisdictions allowing reports hold that the community benefits derived from a justifiable report on official misconduct outweigh any resulting personal hardship. When private individuals are involved, however, the balance of public benefits against protection of the individual tips in favor of disallowing reports. Private individuals do not possess the semi-fiduciary capacity of public officers. Additionally, private persons do not have the same access to the news media as do public officials to rebut allegations. The Alaska Constitution does not appear to sanction such reports because the private actions of individuals do not concern the "public welfare."

As noted above, a true report on conditions concerning public welfare can be beneficial in ensuring an effective government, even if it contains incidental criticism of a public official responsible for the conditions. Indeed, the framers of the Alaska Constitution considered this power sufficiently important to preserve it in the constitution. They viewed this power as necessary "to protect the rights of... citizens."
One concern expressed by those courts which have disallowed reports involves prosecutorial overzealousness. If the prosecutor dominates the investigation, his own ambitions can lead to a one-sided investigation and presentation of evidence. The prosecutor may initiate investigations into areas where there is no apparent corruption merely to harass certain officials or to guide the grand jury to a result he desires.

To curb this abuse, the grand jury should become less dependent upon the prosecutor. Currently, because of his access to information and investigative tools, the prosecutor directs the grand jury's operations. Alaska could reduce this dependence by allowing the grand jury to conduct investigations on its own in certain situations. At least in those areas in which the prosecutor might have a special interest, Alaska could permit the grand jury to retain its own investigators and counsel. This procedure would help to insure a disinterested presentation of the evidence and a thorough investigation, which would in turn protect against the publication of false or misleading reports. These actions would not impinge the suspension clause.

CONCLUSION The framers of the Alaska Constitution intended that the grand jury have the power to investigate and make recommendations on matters that concern the public welfare. They contemplated that such recommendations would contain criticism of public officials in limited circumstances.

APPENDIX: MINUTES OF THE PROCEEDINGS OF THE ALASKA CONSTITUTIONAL CONVENTION CONCERNING ARTICLE I, SECTION 8.

R. RIVERS: The present province of our grand jury is to investigate public offices and institutions, not just to investigate anything involving the public welfare. I wonder if Mr. Barr is intending to try to preserve what we already have now, as the province of the grand jury. Would you consent to having it worded as "investigate public offices and institutions and make recommendations"?

BARR: No. I think that their power should be a little broader than that. I don't know what the powers are right now exactly, but I do know that they make recommendations concerning other things than public offices and officers, and under this provision it would only investigate and make recommendations concerning things that endangered public welfare's safety, and I believe that is what the grand jury is for is to protect the rights of its citizens. They do not necessarily have to defame any person or mention him by name. If the tax collector was using methods not acceptable to the public, they might make a recommendation for a change in the system of tax collection, etc., and I think it would be their duty to do so.

PRESIDENT EGAN: Is there further discussion of the proposed amendment to the amendment? Mr. Hellenthal.

HELLENTHAL: Mr. President, my suggestion was that the word "detrimental" be stricken and the word "involving" be inserted because I agree with Mr. Barr that the investigatory power of a grand jury is extremely broad, not as narrow as Mr. Rivers contends. I think a grand jury can investigate anything, and it is true that there is little protection against what they call in the vernacular, a runaway grand jury, but in the history of the United States there have been few runaway grand juries, extremely few, and I think that the broad statement of power that Mr. Barr asked for is proper and healthy.

PRESIDENT EGAN: Mr. Sundborg. [Vol. 3:295 1986]

SUNDBORG: Mr. President, I move and ask unanimous consent that the amendment to the amendment offered by Mr. Barr be amended by striking the words "detrimental to" in the second line and substituting therefore the word "involving."

BARR: I would like to submit the same amendment but using the word "involving" instead of "detrimental to" and I ask unanimous consent for its adoption.

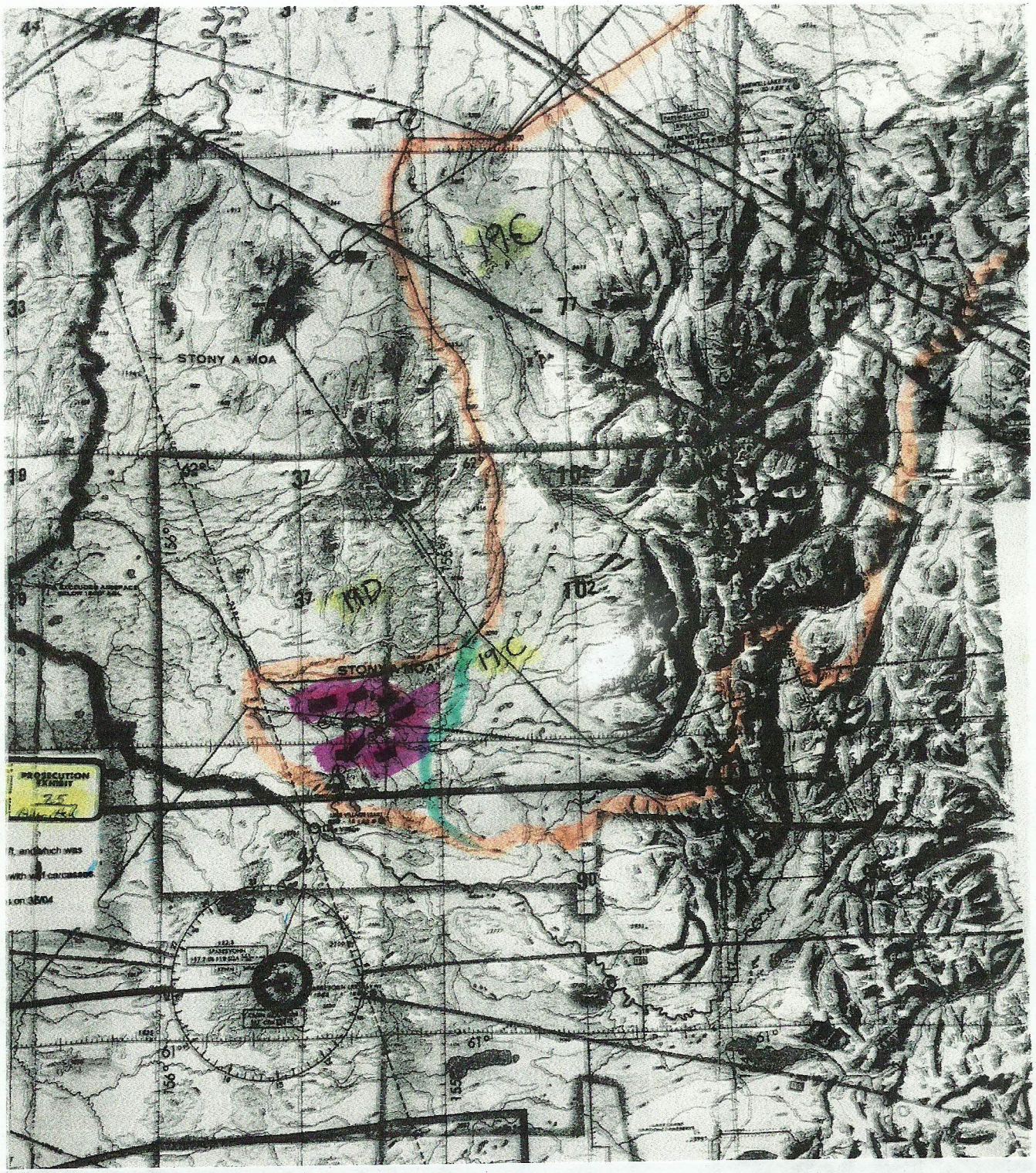
JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr moves and Mr. Johnson seconds the motion. If there is no further discussion, the question is, "Shall the proposed amendment as offered by Mr. Barr to the amendment as amended be adopted by the Convention?" All those in favor of the adoption of the proposed amendment to the amendment as amended will signify by saying "aye," all opposed by saying "no." The "ayes" have it and the proposed amendment is ordered adopted.

Yeas: 44 - Armstrong, Awes, Barr, Boswell, Coghill, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 8 - Buckalew, Doogan, H. Fischer, Laws, Riley, V. Rivers, Smith, Mr. President.

Absent: 3 - Collins, Cooper, Hilscher.



To prove their case the wolves (pink rectangles) were taken in GMU 19C, district attorney Scot Leaders and Trooper Brett Gibbens gave the orange GMU 19C boundary line map to the jury. In truth, the lower left orange boundary should have crossed where the green line is – meaning the wolves were actually taken in GMU 19D. A pretrial tape-recording captures DA Leaders and Trooper Gibbens discussing how the map's boundaries had been falsified to corruptly prove their case the wolves were taken in GMU 19C.