"The Good Old Boys"

By David S Haeg

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

DAVID HAEG, **Appellant,** v. **STATE OF ALASKA, Appellee.**	) Court of Appeals No. A-11349

Trial **Court** No. **3HO-10-00064 CI**
3KN-10-01295 CI

APPELLANT'S OPENING BRIEF

Appeal from a final judgment of the Superior Court
Third Judicial District at Kenai
The Honorable Carl Bauman

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

By: David S. Haeg

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Adickes v. S. H. Kress & Co., 398 U.S. 144 (U.S. Supreme Court 1970) "Such, then, is the character of these outrages -- numerous, repeated, continued from month to month and year to year, extending over many States; all similar in their character, aimed at a similar class of citizens; all palliated or excused or justified or absolutely denied by the same class of men. Not like the local outbreaks sometimes appearing in particular districts, where a mob or a band of regulators may for a time commit crimes and defy the law, but having every mark and attribute of a systematic, persistent, well defined organization, with a fixed purpose, with a regular plan of action. The development of this condition of affairs was not 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 and 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."* 51

Adkins v. Stansel, 204 P3d 1031 (AK 2009) "We have explained that: *'If, within the framework of the complaint, evidence may be introduced which will sustain a grant of relief to the plaintiff, the complaint is sufficient. We must presume all factual allegations of the complaint to be true and make all reasonable inferences in favor of the non-moving party. Because motions to dismiss are disfavored, 'a*

complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts that would entitle him or her to relief.' Even if the relief demanded is unavailable, the claim should not be dismissed as long as some relief might be available on the basis of the alleged facts." 38, 42

Albrecht v. United States, 273 U.S. 1 (U.S. Supreme Court 1927) The claims mainly urged are that, because of defects in the information and affidavits attached, there was no jurisdiction in the District Court and that rights guaranteed by the Fourth Amendment were violated… As the affidavits on which the warrant issued had not been properly verified, the arrest was in violation of the clause in the Fourth Amendment, which declares that 'no warrants shall issue but upon probable cause, supported by oath or affirmation.' Ex parte Burford, 3 Cranch, 448, 453; United States v. Michalski (D. C.) 265 F. 839. *But it does not follow that, because the arrest was illegal, the information was or became void*. 8, 12, 22

Anders v. California, 386 U.S. 738 (U.S. Supreme Court 1967) *[Defendant] has a right to an attorney who wants to protect the defendant's 'rear end', not the attorney's."* 39

Barry v. State, 675 P.2d 1292 (AK 1984) "Practically speaking, an appellate court is almost never able to find ineffective assistance of counsel in the absence of an explanation in the record for counsel's actions. As the supreme court of California pointed out in People v. Pope, 23 Cal.3d 412, 152 Cal. Rptr. 732, 590 P.2s 859, 967 (1979), *an evidentiary hearing is almost always a prerequisite to an effective assertion of ineffective assistance of counsel*." 38

Bracy v. Gramley, 520 U.S. 899 (U.S. Supreme Court 1997) "[T]he Due Process Clause clearly requires a 'fair trial in a fair tribunal.' Where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is…entitled to relief, it is the duty of the courts to provide the necessary facilities and procedures for an adequate inquiry." 40

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 of to punishment, irrespective of the good or bad faith of the prosecution."* 34

Closson v. State, 812 P.2d 966 (Ak. 1991) "Where an accused relies on a promise… to perform an action that benefits the state, this individual…will not be able to "rescind" his or her actions. … *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. 7

Conley v. Gibson, 355 U.S. 41 (U.S. Supreme Court 1957) *"It is true that, for purposes of determining whether a claim of ineffective assistance of counsel may be rejected summarily, without affording the defendant an opportunity for an evidentiary hearing, the court must provisionally accept as true any facts asserted by the defendant."* 42

Cuyler v. Sullivan, 446 U.S. 335 (U.S. Supreme Court 1980) *"[A] defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief.* An actual conflict of interest negates the unimpaired loyalty a defendant is constitutionally entitled to expect and receive from his attorney."..... 7, 14, 39

Division of Family and Youth Serv. v. Native Village of Curyung, 151 P3d 388 (AK 2006) *"Motions to dismiss are viewed with disfavor and, unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief, the motion should be denied."* 2

Elkins v. United States, 346 U.S. 206 (U.S. Supreme Court 1960) "Our people may tolerate many mistakes of both intent and performance, but, with unerring instinct, they know that, when any person is intentionally deprived of his constitutional rights, those responsible have committed no ordinary offense. A crime of this nature, if subtly encouraged by failure to condemn and punish, certainly leads down the road to totalitarianism*"* 59

Franks v. Delaware, 438 U.S. 154 (U.S. Supreme Court 1978) *"[I]t would be an unthinkable imposition upon [the authority of a magistrate judge] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment."* 23

Gerstein v. Pugh, 420 U.S. 103 (U.S. Supreme Court 1975) *"The constitution does not require judicial oversight of the decision to prosecute by information,* and a conviction will not be vacated on the ground that the defendant was detained pending trial without a probable cause determination." 8, 12, 22

Giles v. Maryland, 386 U.S. 66 (U.S. Supreme Court 1967) *"The principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, [is] implicate in any concept of ordered liberty…"* 10, 23, 34, 45, 47, 48

Holloway v. Arkansas, 435 U.S. 475 (U.S. Supreme Court 1978) *"[I]n a case of joint representation of conflicting interests, the evil -- it bears repeating -- is in what the advocate finds himself compelled to* refrain *from doing, not only at trial but also as to possible pretrial plea negotiations and in the sentencing process…to assess the impact of a conflict of interests on the attorney's options, tactics, and decisions in plea negotiations would be virtually impossible."* 7, 39

Jacobson v. United States, 503 U.S. 540 (U.S. Supreme Court 1992) "Entrapment" is a complete defense to a criminal charge, on the theory that *"Government agents may not originate a criminal design, implant in an innocent person's mind the disposition to commit a criminal act, and then induce commission of the crime so that the Government may prosecute."* Mere suggestion without inducement is fatal to an entrapment defense, as is a predisposition to commit the crime - such as a prior conviction of the same or related crime". 4, 27

Kastigar v. United States, 406 U.S. 441 (U.S. Supreme Court 1972) The federal government holds that a defendant required to give a statement can still be prosecuted for actions referred to in the statement as long as there is no use whatsoever made of the statement. *"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."* 5, 10, 24, 30, 47

Lewis v. State, 9 P.3d 1028, (Ak.,2000) *"Once defendant has shown that specific statements in affidavit supporting search warrant are false, together with statement of reasons in support of assertion of falsehood, burden then shifts to State to show that statements were not intentionally or recklessly made."* … *"[I]t would be an unthinkable imposition upon [judge's authority] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment."* 54, 23

Lott v. State, 836 P.2d 371 (AK 1992); *"It is true that, for purposes of determining whether a claim of ineffective assistance of counsel may be rejected summarily, without affording the defendant an opportunity for an evidentiary hearing, the court must provisionally accept as true any facts asserted by the defendant."* 38, 42

Mapp v. Ohio, 367 U.S. 643 (U.S. Supreme Court 1961) *"[A]ll evidence obtained by searches & seizures in violation of the Federal Constitution is inadmissible in a criminal trial in a state.* Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence." 4

Mesarosh v. U.S., 352 U.S. 1 (U.S. Supreme Court 1956) *"[T]he dignity of the U.S. Government will not permit the conviction of any person on tainted testimony.* The government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them." 10, 23, 34, 45, 47, 48

Monroe v. Pape, 365 U.S. 167 (United States Supreme Court 1961) "[T]he local administrations have been found inadequate or unwilling to apply the proper corrective. Combinations, darker than the night that hides them, conspiracies, wicked as the worst of felons could devise, have gone unwhipped of justice. *Immunity is given to crime, and the records of the public tribunals are searched in vain for any evidence of effective redress.*

Whenever, then, there is a denial of equal protection by the State, the courts of justice of the nation stand with open doors, ready to receive and hear with impartial attention the complaints of those who are denied redress elsewhere. Here may come the weak and poor and downtrodden, with assurance that they shall be heard. Here may come the man smitten with many stripes and ask for redress. Here may come the nation, in her majesty, and demand the trial and punishment of offenders, when all, all other tribunals are closed. . . .

The United States courts are further above mere local influence than the county courts; their judges can act with more independence, cannot be put under terror, as local judges can; their sympathies are not so nearly identified with those of the vicinage; the jurors are taken from the State, and not the neighborhood; they will be able to rise above prejudices or bad passions or terror more easily. The marshal, clothed with more power than the sheriff, can make arrests with certainty, and, with the aid of the General Government, can seize offenders in spite of any banded and combined resistance such as may be expected. Thus, at least, these men who disregard all law can be brought to trial.

Does the grim shadow of the State step into the national court, like a goblin, and terrify us? Does this harmless and helpless ghost drive us from that tribunal -- the State that mocks at justice, the State that licenses outlawry, the State that stands dumb when the lash and the torch and the pistol are lifted every night over the quiet citizen?" 51

Mooney v. Holohan, 294 U.S. 103 (U.S. Supreme Court 1935) *"Requirement of 'due process' is not satisfied by mere notice and hearing if state, through prosecuting officers acting on state's behalf, has contrived conviction through pretense of trial which in truth is used as means of depriving defendant of liberty through deliberate deception of court and jury by presentation of testimony known to be perjured,* and in such case state's failure to afford corrective judicial process

to remedy the wrong when discovered by reasonable diligence would constitute deprivation of liberty without due process.".....10, 23, 34, 45, 47, 48

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." 10, 34, 45, 47, 48

Osborn v. Shillinger, 861 F.2d 612 (10th Cir. 1988) "In fact, *an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition.* The performance of [defendant's] counsel was constitutionally unreasonable, but more importantly, the evidence presented overwhelmingly established that his attorney abandoned the required duty of loyalty to his client. *[Defendant's] attorney didn't simply make poor strategic choices; he acted with reckless disregard for his clients best interests and, at times, apparently with the intention to weaken his client's case.* Prejudice, whether necessary or not, is established under any applicable standard." 39, 54

Risher v. State, 523 P.2d 421 (Ak Supreme Court 1974) *"Defense counsel … must conscientiously protect his client's interest, undeflected by conflicting consideration."* 7, 41

Santobello v. New York, 404 U.S. 257 (U.S. Supreme Court 1971) *"Government must adhere strictly to the terms of agreements made with defendants—including plea, cooperation, and immunity agreements…"* 7, 24, 30

Shaw v. State, 816 P2d 1358 (AK 1991) "[A] convicted criminal defendant must obtain post-conviction relief as a precondition to maintaining a legal malpractice claim against his or her attorney. *[T]he legal standards for ineffective assistance of counsel.. and for legal malpractice in this action are equivalent."*.....13

Smith v. State, 531 P.2d 1273 (Alaska Supreme Court 1975) *"[R]eferences to accusations or arrests which didn't lead to convictions are not proper considerations in sentencing."*.....31

Smith v. State, 717 P.2d 402 (Ak 1986) *"We believe it self-evident that an indispensable component of the guarantee of effective assistance of counsel is the accused's right to be advised of basic procedural rights, particularly when the accused seeks such advice by specific inquiry.* Without knowing what rights are provided under law, the accused may well be unable to understand available legal options and may consequently be incapable of making informed decisions." 47

Sorrells v. United States, 287 U.S. 435 (U.S. Supreme Court 1932) "Entrapment" is a complete defense to a criminal charge, on the theory that *"Government agents may not originate a criminal design, implant in an innocent person's mind the disposition to commit a criminal act, and then induce commission of the crime so that the Government may prosecute."* Mere suggestion without inducement is fatal to an entrapment defense, as is a predisposition to commit the crime - such as a prior conviction of the same or related crime." 4, 27

State v. Davenport, 510 P.2d 78, (Ak.,1973) "State & federal constitutional requirement that warrants issue only upon a showing of probable cause *contains the implied mandate that the factual representations in the affidavit be truthful."*… 4, 23

State of Alaska v. Gonzalez, 853 P2d 526 (Ak Supreme Court 1993) "Procedures and safeguards can be implemented, *such as isolating the prosecution team or certifying the state's evidence before trial,* but the accused often will not adequately be able to probe and test the state's adherence to such safeguards. One of the more notorious recent immunity cases, United States v. North, 910 F.2d 843 (D.C.Cir.) modified, 920 F.2d 940 (D.C.Cir.1990) illustrates another proof problem posed by use and derivative use immunity. First, the prosecution could use the compelled testimony to refresh the recollection of a witness testifying at North's criminal trial. The second problem, however, is more troublesome. In a case such as North, *where the compelled testimony receives significant publicity, witnesses receive casual exposure to the substance of the compelled testimony through the media or otherwise.* Id. at 863. In such cases, a court would face the insurmountable task of determining the extent and degree to which "the witnesses' testimony may have been shaped, altered, or affected by the immunized testimony." Id. The second basis for our decision is that the state cannot meaningfully safeguard against nonevidentiary use of compelled testimony. Nonevidentiary use *"include assistance in focusing the investigation, deciding to initiate prosecution, refusing to plea-bargain, interpreting evidence, planning cross-examination, and otherwise generally planning trial strategy."* United States v. McDaniel, 482 F.2d 305, 311 (8th Cir.1973). Innumerable people could come into contact with the compelled testimony, either through official duties or, in a particularly notorious case, through the media. *Once persons come into contact*

with the compelled testimony they are incurably tainted for nonevidentiary purposes. This situation is further complicated *if potential jurors are exposed to the witness' compelled testimony through wide dissemination in the media.*

When compelled testimony is incriminating, the prosecution can "focus its investigation on the witness to the exclusion of other suspects, thereby working an advantageous reallocation of the government's financial resources and personnel." With knowledge of how the crime occurred, the prosecution may refine its trial strategy to "probe certain topics more extensively and fruitfully than otherwise." Id. These are only some of the possible nonevidentiary advantages the prosecution could reap by virtue of its knowledge of compelled testimony. Even the state's utmost good faith is not an adequate assurance against nonevidentiary uses because there may be "non-evidentiary uses of which even the prosecutor might not be consciously aware." State v. Soriano, 68 Or.App. 642, 684 P.2d 1220, 1234 (1984) (only transactional immunity can protect state constitutional guarantee against nonevidentiary use of compelled testimony). We sympathize with the Eighth Circuit's lament in McDaniel that "we cannot escape the conclusion that the [compelled] testimony couldn't be wholly obliterated from the prosecutor's mind in his preparation and trial of the case." McDaniel, 482 F.2d at 312. *This incurable inability to adequately prevent or detect nonevidentiary use, standing alone, presents a fatal constitutional flaw in use and derivative use immunity.* Because of the manifold practical problems in enforcing use and derivative use immunity we cannot conclude that [former] AS 12.50.101 is constitutional. Mindful of Edward Coke's caution that 'it is the worst oppression, that is done by colour of justice,' *we conclude that use and derivative use immunity is constitutionally infirm.*" .....
.....5, 24, 47

State v. Jones, 759 P.2d 558 (AK 1988) "[Tactical] choice will be subject to challenge as ineffective only if tactic itself is shown to be unreasonable, that is, a tactic that no reasonably competent attorney would have adopted under the circumstances." 16

State v. T.M., 860 P2d 1286 (AK 1993) *"In general, when a statute or rule specifies a time limit on the court's power to modify or vacate a judgment, the court has no power to act outside this time limit.* 46 Am.Jur.2d, *Judgments,* § 704, pp. 854-56; W. LaFave & J. Israel, *Criminal Procedure* (1984), § 25.2(e), Vol. 3, p. 131. In Davenport v. State, 543 P.2d 1204 (AK 1975)the supreme court declared that the superior court has no inherent power to retain jurisdiction over a criminal case and modify its judgment based on later events. Any power the superior court might have to modify a criminal judgment must stem from statute or rule. The rule is the same in civil cases. See *Stone v. Stone,* 647 P.2d 582, 585-86 (Alaska 1982), in which the supreme court held that, after the expiration of the 1-year time limit specified in AK Civil Rule 60(b), the superior court no longer has the power to modify a judgment in a civil action on the basis of alleged

fraud. 31

Strickland v. Washington, 466 U.S. 668 (U.S. Supreme Court 1984) [A] defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case. The result of a proceeding can be rendered unreliable, and hence the proceeding itself unfair, even if the errors of counsel cannot be shown by a preponderance of the evidence to have determined the outcome"… *"[P]rejudice is presumed when counsel is burdened by an actual conflict of interest. In those circumstances, counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties. Moreover, it is difficult to measure the precise effect on the defense of representation corrupted by conflicting interests."* 7, 39

Surina v. Buckalew, 629 P.2d 0969 (AK 1981) *"Modern notions of due process have belied the notion that a prosecutor may invoke his discretion to evade promises made to a defendant or potential defendant as part of an agreement or bargain.* That being the case, a defendant or witness does have more to rely upon than merely the "grace or favor" of the prosecutor… to allow the defendant some redress for prosecutorial reneging.*"*.....7, 24, 30

Tumey v. Ohio, 273 U.S. 510 (U.S. Supreme Court 1927) "No matter what the evidence was against him, he had the right to have an imprtial judge."*.....*40

United States v. Cronic, 466 U.S. 648 (U.S. Supreme Court 1984) *"Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have."* 38

United States v. Goodrich, 493 F.2d 390, 393 (9th Cir. 1974). *"When the prosecution makes a 'deal' within its authority and the defendant relies on it in good faith, the court will not let the defendant be prejudiced as a result of that reliance."* 7, 30

United States v. Theodore F. Stevens, No. 08-231 (DC Cir. 2008) "The original prosecutors almost got away with it. Had an extraordinary trial judge, Emmet G. Sullivan, not presided over this case, the miscarriage of justice would not have been discovered. The investigation and prosecution of U.S. Senator Ted Stevens were permeated by the systematic concealment of significant exculpatory evidence which would have independently corroborated Senator Stevens's defense and his testimony, and seriously damaged the testimony and credibility of the government's key witness. Months after trial, when a new team of prosecutors discovered, in short order, some of the exculpatory information that had been withheld, the Department of Justice ("DOJ") moved to set aside the verdict and to dismiss the indictment with prejudice. The Report serves to remind that *every*

citizen is at risk of wrongful conviction unless honest, skilled professionals perform their respective roles in the criminal justice system with diligence, zeal and respect for the rule of law. Needless to say, if this can happen to a United States Senator in a federal courtroom in Washington, D.C., it can happen to any citizen anywhere in America." 50

United States v. W.R. Grace, No. 05-07 (D. Mont. 2009) *"Useful falsehoods are particularly dangerous in a criminal case, where the cost of a wrongful conviction cannot be measured in the impact on the accused alone.* Such tainted proof inevitably undermines the process, casting a dark shadow not only on the concept of fairness, but also on the purpose of the exercise of the coercive power of the state over the individual. *No man should go free nor lose his liberty on the strength of false, misleading, or incomplete proof."* 41

U.S. v. North, 910 F.2d 843 (D.C. Cir. 1990) *"[N]one of the testimony or exhibits…became known to the prosecuting attorneys…either from the immunized testimony itself or from leads derived from the testimony, directly or indirectly*…we conclude that the use of immunized testimony by witnesses to refresh their memories, or otherwise to focus their thoughts, organize their testimony, or alter their prior or contemporaneous statements, constitutes evidentiary use rather than nonevidentiary use. This observation also applies to witnesses who studied, reviewed, or were exposed to the immunized testimony in order to prepare themselves or others as witnesses.

When the government puts on witnesses who refresh, supplement, or modify that evidence with compelled testimony, the government uses that testimony to indict and convict.

From a prosecutor's standpoint, an unhappy byproduct of the Fifth Amendment is that Kastigar may very well require a trial within a trial (or a trial before, during, *or after the trial) if such a proceeding is necessary for the court to determine whether or not the government has in any fashion used compelled testimony to indict or convict a defendant.* If the government chooses immunization, then it must understand that the Fifth Amendment and Kastigar mean that it is taking a great chance that the witness cannot constitutionally be indicted or prosecuted.

Finally, and most importantly, an ex parte review in appellate chambers is not the equivalent of the open adversary hearing contemplated by Kastigar. See United States v. Zielezinski, 740 F.2d 727, 734 (9th Cir.1984) Where immunized testimony is used… the prohibited act is simultaneous and coterminous with the presentation; indeed, they are one and the same. There is no independent violation that can be remedied by a device such as the exclusionary rule: the…process itself is violated and corrupted, and the [information or trial] becomes indistinguishable from the constitutional and statutory transgression.

This burden may be met by establishing that the witness was never exposed to North's immunized testimony, or that the allegedly tainted testimony contains no evidence not "canned" by the prosecution before such exposure occurred. If the government has in fact introduced trial evidence that fails the Kastigar analysis, then the defendant is entitled to a new trial. If the same is true as to grand jury evidence, then the indictment must be dismissed." 5, 10, 24, 30, 47, 65

Waiste v. State, 10 P.3d 1141 (AK Supreme Court 2000) "This court's dicta, however, and the persuasive weight of federal law, both suggest that the Due Process Clause of the Alaska Constitution should require no more than a prompt postseizure hearing... The State argues that a prompt postseizure hearing is the only process due, both under general constitutional principles and under this court's precedents on fishing-boat seizures, whose comments were not dicta...*But given the conceded requirement of a prompt postseizure hearing on the same issues, in the same forum, 'within days, if not hours' the only burden that the State avoids by proceeding ex parte is the burden of having to show its justification for a seizure a few days or hours earlier...* The State does not discuss the private interest at stake, and Waiste is plainly right that it is significant: even a few days' lost fishing during a three-week salmon run is serious, and *due process mandates heightened solicitude when someone is deprived of her or his primary source of income...* As the Good Court noted, moreover, *the protection of an adversary hearing 'is of particular importance [in forfeiture cases], where the Government has a direct pecuniary interest in the outcome.'* An ensemble of procedural rules bounds the State's discretion to seize vessels and limits the risk and duration of harmful errors. The rules include the need to show probable cause to think a vessel forfeitable in an ex parte hearing before a neutral magistrate, *to allow release of the vessel on bond, and to afford a prompt postseizure hearing."* 3, 4

Widermyre v. State, 452 P.2d 885 (AK Supreme Court 1969) *"Unless the motion and files and records of the case conclusively show that [PCR applicant] is entitled to no relief, the court shall cause notice thereof to be served upon the State District Attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. In the case at bar the superior court denied appellants application for post conviction relief without holding an evidentiary hearing."* 2, 38

Withrow v. Larkin, 421 U.S. 35 (U.S. Supreme Court 1975) "A fair trial in a fair tribunal is a basic requirement of due process. Circumstances and relationships must be considered. This Court has said, however, that 'Every procedure which would offer a possible temptation to the average man as a judge . . . not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.' Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice

equally between contending parties. But, to perform its high function in the best way, 'justice must satisfy the appearance of justice.'" 40

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 (Alaska 1974), was met by counsel's performance.* Particularly where, as here, it is the pretrial and post-trial performance of counsel as well as the performance during trial that is specifically alleged to have been inadequate, it is not sufficient that the trial judge found counsel's performance as observed in the course of trial to be adequate."....41, 42

Alaska Statutes

AS 11.56.200. Perjury (a) *A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true.* (b) In a prosecution under this section, it is not a defense that (1) the statement was inadmissible under the rules of evidence; or (2) the oath or affirmation was taken or administered in an irregular manner. (c) Perjury is a class B felony...10, 23, 46

AS 11.56.235. Retraction as a defense. (a) In a prosecution under AS 11.56.200 or 11.56.230, if the false statement was made in an official proceeding, *it is an affirmative defense that the defendant expressly retracted the false statement* (1) during the course of the same official proceeding;*(2) before discovery of the falsification became known to the defendant.*.....10, 23

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;* (3) prevents the production of physical evidence in an official proceeding or a criminal investigation by the use of force, threat, or deception against anyone; or (4) does any act described by (1), (2), or (3) of this subsection with intent to prevent the institution of an official proceeding. (b) Tampering with physical evidence is a class C felony. 16

AS 11.56.230. Perjury By Inconsistent Statements. (a) *A person commits the crime of perjury by inconsistent statements if (1) in the course of one or more official proceedings the person makes two or more sworn statements which are irreconcilably inconsistent to the degree that one of them is necessarily false;*

(2) the person does not believe one of the statements to be true at the time the statement is made; and (3) each statement is made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged. (b) *In a prosecution under this section, it is not necessary for the state to prove which statement was false but only that one or the other was false and not believed by the defendant to be true at the time the defendant made the statement. Proof of the irreconcilable inconsistency of the statements is prima facie evidence that one or the other of the statements was false.* (c) Perjury by inconsistent statements is a class C felony. 27

AS 12.50.101 Immunity of Witnesses. (a) If a witness refuses, on the basis of the privilege against self-incrimination, to testify or provide other information in a criminal proceeding before or ancillary to a court or grand jury of this state, and a judge issues an order under (b) of this section, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination. *If the witness fully complies with the order, the witness may not be prosecuted for an offense about which the witness is compelled to testify,* except in a prosecution based on perjury, giving a false statement or otherwise knowingly providing false information, or hindering prosecution. (c) An order issued under (b) of this section is effective when communicated to the individual specified in the order. 6, 42

AS 12.55.088 Modification of Sentence. (a) The court may modify or reduce a sentence by entering a written order under a motion *made within 180 days of the original sentencing*.....31

AS 22.07.020 Jurisdiction. (a) The court of appeals has appellate jurisdiction in actions and proceedings commenced in the superior court involving (1) criminal prosecution; (2) post-conviction relief.....1

AS 22.15.060 Criminal Jurisdiction. (a) *The district court has jurisdiction (1) of the following crimes: (A) a misdemeanor*.....8, 22

AS 28.05.131 Opportunity For Hearing Required. (a) Unless otherwise specifically provided, or unless immediate action in suspending, revoking, canceling, limiting, restricting, denying, or impounding is necessary for the protection of the health, safety, or welfare of the public, the Department of Public Safety or the Department of Administration, as appropriate, shall give notice of the opportunity for an administrative hearing before a license, registration, title, permit, or privilege issued or allowed under this title or regulations adopted under this title is suspended, revoked, cancelled, limited, restricted, or denied *or a vehicle is impounded by that department. If action is required under this section and prior opportunity for a hearing cannot be afforded, the appropriate department shall promptly give notice of the opportunity for a hearing as soon*

after the action as possible to the parties concerned. (b) The notice under this section must state the reasons for the proposed action of the Department of Public Safety or of the Department of Administration, and must provide for a reasonable attendance date of not less than 10 days after service of the notice. If there is no request for a hearing by the attendance date specified in the notice, the hearing is considered to have been waived. 3

Court Rules

Alaska Criminal Rule 12 *All pretrial motions…must be filed within 45 days after the defendant's arraignment. The court may vary the time for good cause shown.* 44

Alaska Criminal Rule 12(b)(3) *allows a motion to suppress evidence on the ground it was illegally obtained*.....4

Alaska Criminal Rule 17(g) Subpoena Contempt**.** *Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued.*.....47

Alaska Criminal Rule 32.5 "Appeal From Conviction or Sentence--Notification of Right to Appeal. *A person convicted of a crime after trial shall be advised by the judge or magistrate… at the time of imposition of any sentence of imprisonment, the judge or magistrate shall advise the defendant as required by Appellate Rule 215(b)"* 12

Alaska Criminal Rule 35 "Reduction, Correction or Suspension of Sentence. (b) Modification or Reduction of Sentence. The court (1) may modify or reduce a sentence within 180 days of the distribution of the written judgment upon a motion made in the original criminal case…" 12

Alaska Criminal Rule 35.1(e)(2) Post-Conviction Procedure. (e) Indigent Applicant. **(**2) Within 60 days of an attorney's appointment on behalf of an indigent applicant, the attorney shall file with the court and serve on the prosecuting attorney.....50

Alaska Criminal Rule 37(c) *allows a motion for the return of property and to suppress evidence on the ground it was illegally seized.*.....4

Alaska Rules of Appellate Procedure Rule 202 (b) Judgments from Which Appeal May Be Taken. (b) An appeal may be taken to the court of appeals from a final judgment entered by the superior court or the district court, in the circumstances specified in AS 22.07.020. 1

Alaska Rules of Appellate Procedure Rule 215 "Sentence Appeal. (a) Appellate Review of Sentence. (5) Right to Seek Discretionary Review for Excessiveness. A defendant may seek discretionary review of an unsuspended sentence of imprisonment which is not appealable under subparagraph (a)(1) by filing a petition for review in the supreme court under Appellate Rule 402. A defendant who is filing a sentence petition and a sentence appeal, or a sentence petition and a merit appeal, must follow the procedure set out in paragraph (j). (b) Notification of Right to Seek Review of Sentence. *At the time of imposition of any sentence of imprisonment, the judge shall inform the defendant of the defendant's right to appeal or petition for review of the sentence."*.....12

Alaska Rules of Appellate Procedure Rule 217. Appeals from District Court. (d) The appellant's brief shall be served and filed within 20 days after notice of the certification of the record has been served. *The appellee's brief shall be served and filed within 20 days after service of the brief of the appellant.* The appellant may serve and file a reply brief within 10 days after the service of the brief of the appellee. 16, 49

Evidence Rule 410 Inadmissibility of Plea Discussions in Other Proceedings. (a)Evidence of a plea of guilty or nolo contendere, or of an offer to plead guilty or nolo contendere to the crime charged or any other crime, *or of statements or agreements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case or proceeding against the government or an accused person who made the plea or offer if: (i) A plea discussion does not result in a plea of guilty or nolo contendere*....1, 26, 43,47,48

US & Alaska Constitutions/Alaska Administrative Codes

Fifth Amendment of the U.S. Constitution .....xi, 5

Article 1, Section 9 of the Alaska Constitution.....5

5AAC 92.039 Permit for taking wolves using aircraft (h) *"The methods and means authorized in a permit issued under this section are independent of all other methods and means restrictions"*.....6, 16

5AAC 92.110(m) *"A wolf population reduction or wolf population regulation program established under this section is independent of, and does not apply to, hunting"* 6, 16

Other

Black's Law Dictionary (9th Ed.2009). "Transactional immunity" affords immunity to the witness from prosecution for the offense to which the compelled testimony relates. 20, 27, 35

Webster's New World Law Dictionary, copyright 2010 Transactional immunity – a grant of immunity to a witness by a prosecutor that exempts the witness from being prosecuted for the acts about which the witness will testify.....20, 27, 35

Testimony resulting in 42 U.S.C. 1983 (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*….[A]ll 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." 51

Louis Brandeis - U.S. Supreme Court Justice: *"In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . . If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself*." 58

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."* 59

AUTHORITIES PRINCIPALLY RELIED UPON

Haeg primarily relies on the United States constitution, including, but not limited to: (a) the rights to due process; (b) that no State shall deprive any person of life, liberty, or property without due process of law; (c) that no State shall deny to any person within its jurisdiction the equal protection of the laws; to assistance of counsel free from conflicts of interest; (d) against self-incrimination; (e) against unreasonable searches and seizures; (f) that no warrants shall issue but upon

probable cause, supported by Oath or affirmation; (g) against a State threatening to harm private defense attorneys if they defend their clients; and (h) against corrupt judges, troopers, prosecutors, attorneys, investigators, and those who oversee them.

JURISDICTIONAL STATEMENT

Haeg appeals the July 23, 2012 final decision issued by Kenai Judge Carl Bauman. This Court has jurisdiction under AS 22.07.020 and Appellate Rule 202 (b).

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Bauman failed to address Haeg's post conviction relief (PCR) claims.

2. Bauman ruled on merits of Haeg's PCR claims without an evidentiary hearing for Haeg to prove the merits with evidence and witness testimony.

3. Bauman falsified Haeg's PCR claims.

4. Bauman used Haeg's statement, violating Evidence Rule 410.

5. Bauman maintained Haeg's conviction after Bauman admitted State knowingly used false evidence & testimony against Haeg at trial.

6. Bauman failed to rule on motions establishing Haeg entitled to PCR.

7. Bauman was blackmailed, extorted, and/or corruptly influenced.

8. Bauman is corrupt.

9. Greenstein/Alaska Commission on Judicial Conduct (ACJC) are corrupt.

10. Alaska Bar Association is corrupt.

11. Alaska Court of Appeals is corrupt.

12. Alaska Supreme Court is corrupt.

13. Alaska Public Defenders Office is corrupt.

14. As this Court authorized - Judge Bauman wrongfully denied Haeg's request for evidentiary hearing to present evidence showing he was wrongfully convicted.

STANDARD OF REVIEW

1. Judge Bauman granting state's motion to dismiss:

"Motions to dismiss are viewed with disfavor and, unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief, the motion should be denied." Division of Family and Youth Serv. v. Native Village of Curyung, 151 P3d 388 (AK 2006) See also Adkins.

2. Judge Bauman's PCR denial without an evidentiary hearing:

"*Unless* the motion and files and records of the case conclusively show that *[PCR applicant] is entitled to no relief, the court shall* cause notice thereof to be served upon the State District Attorney, *grant a prompt hearing* thereon…." Widermyre v. State, 452 P.2d 885 (AK Supreme Court 1969)

3. Judge Bauman's denial of post conviction relief (PCR):

The standard of review for denying a motion for post conviction relief is one of abuse of discretion. Hensel v. State, 604 P2d 222 (AK 1979).

STATEMENT OF CASE & ARGUMENT

Prior To Private Attorney Participation

After wolf predation increased so Alaskans depending on moose were going hungry, the State of Alaska (State) proposed the controversial solution of public shooting wolves from airplanes. [Tr.224, 656] In 2003 guide Haeg flew State Board of Game (BOG) member Ted Spraker to survey Game Management Unit (GMU) 19, proposed location for the "trial" wolf control program (WCP). [Tr.257, 708] Spraker stated if this trial were successful the BOG would expand WCP to help all Alaska. [Tr.257 R.00008, 00104] Spraker told Haeg the situation was so serious he was surprised people were not poisoning wolves & told Haeg how/where to obtain poison. [R.0008, 00104] Later in 2003, amid lawsuits by animal right activists to stop it, Spraker & BOG started the trial WCP in GMU

19D with a goal to kill 55 wolves in 6 months. [Tr.224-228, 656] After 4 months only 4 wolves were killed, leading activists to claim WCP ineffective & be abolished. [Tr.225-227] Haeg/Zellers applied for permit to help. [Tr.230] In February 2004 State asked Haeg to immediately start killing wolves & Haeg agreed to after testifying at March 2004 State BOG meeting - where numerous State officials confronted Haeg & told him it far more important for as good a pilot/hunter as Haeg to be killing wolves than testifying. [R.00104] State officials told Haeg there was a big concern the program would be abolished as ineffective. [Tr.225, R.00104] *State BOG member Spraker told Haeg more wolves must be taken in the last 2 months so the program would not be abolished & told Haeg that if Haeg had to kill the wolves outside the program area to just report they had been taken inside the area.* [R.00104-105] In March/April 2004, by falsifying affidavits/warrants claiming evidence was found Haeg killed wolves in GMU 19C & correctly claiming Haeg guided in GMU 19C, State conducted five search/seizures of Haeg's home/lodge/property/plane. [R.00010-12, 00047-49] Haeg asked when he could get plane back because he had clients coming the next day. [00052] State told Haeg he would never get plane back & never informed Haeg of his right to an immediate postseizure hearing. [00013] Yet *AS 28.05.131 & Waiste v. State, 10 P.3d 1141 (AK Supreme Court 2000) require immediate notification of the right to a prompt postseizure hearing*. Haeg contacted his business attorney Dale Dolifka & asked Dolifka to represent him. [Tr.27] Dolifka stated Haeg needed the best and was referred to attorney Brent Cole. [Tr.27-28]

Private Attorney Cole

Haeg hired Cole, who stated it no defense/couldn't be protested State told Haeg for the greater good he must take wolves wherever they could be found but claim they were taken in the WCP. [R.00008-10] *Yet Jacobson v. United States, 503 U.S. 540 (U.S. Supreme Court 1992) & Sorrells v. United States, 287 U.S. 435 (U.S. Supreme Court 1932) holds this a complete defense.* Haeg documented evidence State told him it was for the greater good to do what State charged him with doing, showed it to Cole, who stated Haeg must not present it in his defense, showed it to Dolifka, who stated if Haeg did nothing else he must present this in his defense. [Tr. 261] Haeg demanded Cole present this evidence to the court, which Cole did. [R.00009, 000104]. *Yet afterward this evidence was removed out of court record while Cole's cover letter proving it had been admitted remained. [R.00009, 00549]* Cole told Haeg nothing could be done about false evidence/ affidavits/warrants. [R.00010-12] *Yet AK Criminal Rules 12(b)(3) & 37(c); Mapp v. Ohio, 367 U.S. 643 (U.S. Supreme Court 1961); Lewis v. State, 9 P.3d 1028, (Ak.,2000); & State v. Davenport, 510 P.2d 78, (Ak.,1973) prove property could have been returned & false evidence suppressed.* Haeg told Cole plane was his livelihood, asked if there was anyway to get it back, & Cole responded there was no way to get plane back. [R.00012-14 Cole Dep. 123-130] *Yet Waiste v. State, 10 P.3d 1141 (Ak Supreme Court 2000) holds a person has a right to bond out property used for livelihood – so they aren't starved out before trial.* Cole told Haeg State had given Haeg "immunity" that compelled him to give an

interview/statement. [R.00016-19, 68-78] Haeg gave State prosecutor Scot Leaders & Trooper Brett Gibbens a 5-hour statement/interview about everything & is recorded telling Leaders/Gibbens/Cole the wolves were not taken in Haeg's GMU 19C guide area but in GMU 19D, an area Haeg could not guide in. [R.00092] Leaders/Gibbens are recorded requiring Haeg to mark wolf kill locations in *"pen"* with *"digits"* on a map. Cole let State prosecute Haeg about everything discussed in interview/ statement, & let State use Haeg's interview/ statement to do so. [R.00017-19, 98-103, 106-115] *Yet Alaska Statute 12.50.101& State of Alaska v. Gonzalez, 853 P2d 526 (Ak Supreme Court 1993) prohibit prosecution for anything discussed in a statement/interview given after immunity; the Fifth Amendment of the U.S. Constitution & Article 1, Section 9 of the Alaska Constitution prohibit compelling defendants to be witnesses against themselves; & Kastigar v. United States, 406 U.S. 441 (U.S. Supreme Court 1972) & U.S. v. North, 910 F.2d 843 (D.C. Cir. 1990) prohibit any use of an immunized statement against person giving statement – excluding anyone exposed to statement from being involved in prosecution – & it was Leaders/Gibbens who prosecuted Haeg after taking Haeg's statement.* [R.00092-93] Zellers interview/statement recorded him telling/proving to Leaders/Gibbens the search/seizure affidavits/warrants were falsified to Haeg's guide area. [R.00095] Leaders/Gibbens are recorded presenting Zellers with a "sectional" [R.00095] aircraft map, telling Zellers to confirm wolf kill locations "Dave/David" [Haeg] had already placed on map, & asking Zellers to confirm the GMU boundaries on the map. [R.00095] *Zellers is recorded telling*

Leaders/Gibbens the hand-drawn "pencil" [R.00095] GMU boundary on the map was incorrect – corruptly making it appear the wolf kill locations Haeg put on the map were in the same GMU in which Haeg was allowed to guide. [R.00095] Zellers is recorded telling Leaders/Gibbens *the northern boundary of the WCP was incorrectly marked as a straight line with yellow highlighter.* [Interview Bauman refused to allow Haeg a hearing to present] *At Haeg's trial Leaders stated the "aircraft sectional"* [Trial record 333] *map admitted against Haeg was the one used during Haeg's/Zellers' interviews.* [Trial record 281] *And the "sectional" map used against Haeg had wolf kill locations marked in "ink" with "digits", had a false hand-drawn "pencil" GMU boundary corruptly making it appear wolf kill locations were in Haeg's guide GMU, & a northern WCP boundary incorrectly marked with yellow highlighter.* [State trial exhibit #25] Cole claimed State giving Haeg a WCP permit to shoot wolves same day airborne & telling him he must shoot wolves same day airborne wherever he could find them was no defense to devastating guide charges of hunting wolves same day airborne. [R.00004] *Yet 5AAC 92.039 & 5AAC 92.110(m) state the WCP is specifically not "hunting".* Cole told Haeg he must make a plea agreement (PA) to guide charges & Haeg, told by Cole there was no option, accepted a PA negotiated by Cole with Leaders that required Haeg to give up guiding for 1 year but didn't require plane forfeiture. [R.00020] After Cole told him to do so Haeg cancelled a year guiding for PA. [R.00020] After forfeited guide year was past, Leaders, using Haeg's interview/ statement, increased severity of already filed charges so Haeg would lose at least 3

years guiding. [R.00020] *When asked what could be done Cole stated State would harm him/his career if he tried to do anything for Haeg & "immense pressure" was being used to make an example of Haeg.* [R. 00034, 355-381, Cole Dep.137] *Yet Cuyler v. Sullivan, 446 U.S. 335 (U.S. Supreme Court 1980); Holloway v. Arkansas, 435 U.S. 475 (U.S. Supreme Court 1978); Strickland v. Washington, 466 U.S. 668 (U.S. Supreme Court 1984); & Risher v. State, 523 P.2d 421 (Ak Supreme Court 1974) hold it unacceptable for an attorney to have an actual conflict of interest.* When Haeg persisted Cole stated all he could do was call Leaders boss – & then stated, "I left a message. I haven't been in touch." [R.00057] Yet *Santobello v. New York, 404 U.S. 257 (U.S. Supreme Court 1971); U.S. v. Goodrich, 493 F.2d 390 (9th Cir 1974); Closson v. State, 812 P.2d 966 (Ak. 1991); Surina v. Buckalew, 629 P.2d 0969 (AK 1981) hold a motion to enforce PA could be filed as State must honor agreements relied upon.* Leaders asked for plane to change charges back, Haeg asked if this was legal, & Cole said, "Yes, this is how the game is played." [R.00056] *When asked what was to stop Leaders from again breaking the PA to get more after he also got the plane, Cole couldn't answer.* [R.00061] Dolifka stated Haeg must fire Cole as something was wrong. [Tr.29-33] Before firing Cole Haeg tape-recorded Cole to document his counsel (at $200/hour) to then ignorant Haeg. [R.00052-91]

Private Attorney Robinson

After firing Cole Haeg hired attorney Arthur "Chuck" Robinson. Robinson stated Cole gave State "everything"; everything with Cole was "water under the

bridge" & nothing could be done about it; nothing could be done about the false evidence/affidavits/warrants moving everything to Haeg's guide area; Haeg couldn't enforce PA or get credit for guide year given for it; it couldn't be brought up State told Haeg it was for greater good to take wolves anywhere; Haeg should go to trial because court didn't have "subject matter jurisdiction" - as Leaders didn't swear to charging informations [R.00004-46] *(Yet AS 22.15.060 & Gerstein v. Pugh, 420 U.S. 103 (U.S. Supreme Court 1975) & Albrecht v. United States, 273 U.S. 1 (U.S. Supreme Court 1927) prove this is not true – & Robinson later testified he knew Leaders had sworn to the charging information at the time – making Robinson's tactic doubly invalid)*; for this tactic to work Haeg must not present any other defenses as this would "admit" court had subject matter jurisdiction; Haeg would lose at trial with this but "would not doubt win" on appeal; & that this defense was so strong Haeg should not present any defense at trial & "just stand mute". [R.00036, 000123] Investigator Joseph Malatesta recorded Cole admitting Haeg had an enforceable PA Leaders broke by increasing severity of charges to also get plane. [R.00061-66] Robinson, pretrial in *"reply"* brief, protested Leaders use of Haeg's interview/statement in charging information forcing Haeg to trial. [R.00164-165] *Yet this Court ruled in Haeg's original appeal Robinson was not allowed to protest in a reply brief & this is why nothing had to be done about Haeg's statement being used against Haeg*. [R.00437-449] Robinson sent protest to Leaders office by fax, courier [R.00164-165] & by "urgent" fax to prosecutor's conference Leaders was attending. [R.01988-1990]

Leaders continued using Haeg's statement in charging informations [R.00111-115] & wrote a verified statement to Bar that he never used Haeg's statement in any charging information (perjury). [R.00050- 51] In spite of Robinson's advice no defense be mounted, Haeg demanded a defense. [R.00122-163] Judge Murphy flew to McGrath (pop. 321) to conduct Haeg's trial in an Iditarod Sled Dog Race checkpoint where jury pool had to be breathalyzed (worst blew .38 BAC). Murphy was picked up by Gibbens (State's main witness against Haeg & McGrath's sole trooper) & was then chauffeured everywhere every day by Gibbens & eating with him. [R.00572-586] *Robinson testified Murphy ruled he couldn't argue Haeg's defense;* [Rob. Dep. 203] & *"was a law enforcement type of judge & not the independent judiciary type you're supposed to have."* [Rob. Dep. 204] Leaders case to Haeg's jury for conviction was Haeg hunted wolves same day airborne in Haeg's guide area to benefit his guide business. [R.000341, Rob. Dep. 64] *Leaders stated at trial the map admitted against Haeg (Exhibit #25) was the "same used during the interviews of David Haeg & Tony Zellers."* [Trial Rec. 281, 286, 333] At trial Leaders asked where Haeg killed the wolves & *Gibbens, already told & proven it was false, testified Haeg killed the wolves in GMU 19C (Haeg's guide area) & Leaders accepted this even though he also knew this was false.* [R.00023] Robinson didn't want to expose Gibbens false testimony & only after Haeg flat demanded did Robinson do so – where, only after he knew his falsehood had been discovered, Gibbens admitted the wolves were not killed in GMU 19C. [R.00023] In spite of this proof Gibbens had knowingly given false sworn testimony (felony

perjury – AS 11.56.200 & AS 11.56.235) nothing was done – Haeg's trial continued as if nothing happened. *Yet Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959); Mesarosh v. U.S., 352 U.S. 1 (U.S. Supreme Court 1956); Mooney v. Holohan, 294 U.S. 103 (U.S. Supreme Court 1935); & Giles v. Maryland, 386 U.S. 66 (U.S. Supreme Court 1967) hold no one may be convicted with testimony known by a State to be false*. Robinson told Haeg he must testify at trial because State was using Haeg's interview/statement against Haeg. [Rob. Dep. 140, 141] Haeg, told by Robinson his interview forced him to, testified at trial - but Robinson failed to elicit testimony exonerating Haeg: such as State told Haeg it was for greater good of all Alaskans to shoot wolves wherever they could be found but claim they were taken in WCP (making Haeg's actions no longer a crime); Haeg & Zellers, before trial, were recorded telling/proving to Leaders/Gibbens the wolf kill locations had been falsified to GMU 19C (requiring all evidence suppressed, Haeg's property returned, & proving Leaders/Gibbens knowingly gave false testimony to Haeg's jury to corruptly make their case Haeg was taking wolves to benefit his guide business); State was prosecuting Haeg in violation of Haeg's immunity & using Haeg's interview/map to do so; Haeg had paid for, with year not guiding, for charges far less severe then ones Haeg was charged with; etc; etc (all case ending violations – see caselaw above). [R.00001-46] Zellers testified against Haeg because Haeg's interview/statement forced him to. (Zellers & attorney testified to this.) [R.00093] *Yet Kastigar & North prove this not allowed.* Haeg was convicted; demanded Cole be subpoenaed to sentencing to

testify about his sellout of Haeg to State. Haeg gave Robinson a list of questions to ask Cole concerning how Haeg had given up years guiding for PA State broke & Cole claimed he couldn't be enforced because State would harm him if he did. [R.00020-21] Cole failed to show up as subpoenaed & Robinson told Haeg nothing could be done about it. [R.00024-25] Leaders/Gibbens admitted Haeg had no prior criminal history of anything [Trial rec. 1390]; testified they had no idea why Haeg gave up guiding before conviction (Cole testified Leaders/Gibbens knew Haeg gave up guide year for PA Leaders broke); & *stated Haeg must be sentenced severely to protect WCP.* [Trial rec. 1394-1395] Robinson stated this "smacked of vindictiveness", State was "not looking for justice", "want to string this man up & make an example of him", "take his livelihood away from him, so his wife & kids starve", "so the State is really asking you to destroy this man's life", & "all that's going to result in one big ending. And that is the ending of David Haeg who is a man who has no prior criminal record at all." [Trial rec. 1421-1423] Before sentencing the official record of Haeg's case recorded Murphy "commandeering" Gibbens for rides "because I don't have any transportation." [R.00164] Murphy sentenced Haeg to nearly 2 years in prison, over $20,000 in fines/restitution, plane/property forfeitures of over $100,000.00, & to a 5-year revocation of Haeg's guide license [Trial rec. 1442-1444] – destroying Haeg's life. No credit was given for guide year given for PA State broke. [R.00001-46] Murphy's sentence justifications: Haeg killed "most if not all wolves in GMU 19C – where you were hunting"[Trial rec. 1437, 1441] (apparently forgetting her

chauffeur Trooper Gibbens had admitted this was known false testimony by him); "*the politics involved. Such as the affects to the wolf kill program. "* [Trial rec. 1441] Murphy never told Haeg he could appeal his sentence & Robinson told Haeg he couldn't appeal his sentence. [R.00027]. Yet *Criminal Rule 32.5, 35, & Appellate Rule 215 require Haeg be told he could appeal sentence.* Robinson only appealed lack of "subject matter jurisdiction" because Leaders didn't swear to charging information [R.00028], stated Gerstein and Albrecht supported this, & didn't appeal State knowingly presented false testimony/evidence to convict Haeg and used Haeg's statement against Haeg – although Robinson knew about these defenses. [R.00028] Haeg started researching & found numerous things didn't add up: immunity State gave him prevented prosecution; State cannot use known false testimony/evidence to convict; Haeg's interview/statement could not be used against him in any way; Leaders had sworn to charging information before trial - so why did Robinson claim there was no subject matter jurisdiction during trial & still claim this on appeal? Gerstein & Albrecht holds that when a prosecutor signs a charging information he does so under his oath of office – so no swearing is required – so why did Robinson tell Haeg Gerstein & Albrecht required prosecutors to swear to charging informations? – *And how could Robinson tell Haeg he must forgo all other defenses for this doubly invalid defense?* – & tell Haeg this defense was so strong Haeg should "just stand mute" at trial & put on no defense? Forgoing defenses State told Haeg it was for the greater good to kill wolves wherever they could be found but claim they were killed in WCP; State

using known false testimony/evidence at trial; Haeg had immunity; State used Haeg's interview/statement against Haeg; etc, etc, etc. Haeg confronted/recorded Robinson stating it was Cole's duty to do all this, he (Robinson) had no duty to fix Cole's errors, and Cole lying to Haeg was not ineffective assistance. [R.00122-163] Haeg stated he was going to sue everyone & Robinson replied Shaw v. State, 816 P2d 1358 (AK 1991) prevented Haeg from suing unless he overturned his conviction. [R.00034, 00137] *Haeg said everyone was going to jail & Robinson replied this would not happen because Alaska had a "good old boys system of judges, troopers, & attorneys" who are "in a fold… take care of their own" to prevent criminal prosecution, & that "this was the American way."* [R.00138-141] Dolifka stated Alaska's attorneys had turned on Haeg & he must hire an attorney outside Alaska as he had "the goods" to sue 2 law firms. [Tr. 58-59]

Private Attorney Osterman

Haeg fired Robinson, couldn't find outside attorney to go after Robinson/Cole, & hired Alaskan attorney Mark Osterman. Haeg recorded every conversation with Osterman – from hire to fire. [R.00174-303] After looking at the evidence for a week Osterman stated "It was a disaster in it, what Chuck [Robinson] did was wrong, what Cole did was wrong", "Robinson should have went after Cole", "it is the biggest sell-out of a client I have ever seen", "when the Court of Appeals sees the sellout they will overturn your conviction", it was "ineffective assistance of counsel", "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", "I can't figure out why Chuck's protecting him [Cole]", & "we will sue for millions." [R.00174-187] Osterman stated everything should have been protested – & *"you didn't realize [Robinson/Cole] was goanna set it up so that their [State's] dang dice was always loaded. They [State] were always goanna win."* [R.00178-179] Osterman stated Bar protected crooked attorneys; [R.00176] he charged $3000 to $5000 per point on appeal; would charge $12,000 for entire appeal because Haeg had done most the work; required all $12,000 up front so if Haeg went broke he would still be paid in full; & agreed Haeg should help write appeal. [R.00180-182] Haeg paid all $12,000 up front & then Osterman refused to let Haeg help write brief. [R.00189-197] Haeg went to see "caselaw" Osterman said would overturn Haeg's conviction, Osterman couldn't find it, looked in trash cans for 30 minutes trying to find it, never did, & finally told Haeg "Cole fucked you. Point blank." [00194-196] Osterman stated both Cole/Robinson screwed Haeg. [R.00198] When deadline was days away Haeg told Osterman he was fired if Haeg didn't see brief. [R.00200-203] Osterman showed it, Haeg asked why the "sell-out" was not included, & Osterman replied "Court of Appeals could give a shit less… will laugh & throw your case out if you go after the attorneys" & he couldn't do anything affecting lives or livelihoods of Cole/Robinson [R.00235-236] – *proving Osterman had a actual conflict of interest that he acted upon to Haeg's detriment* - violating Cuyler & Holloway. Osterman stated this Court would not let Haeg fire him or give more time to write brief [00229-234]; Haeg was "goanna be written off as some kind of

weirdo kook"[R.00236]; "the paranoia that you're experiencing can be solved with medication" [R.00236-237], & admitted proving Cole/Robinson ineffective also proved malpractice. [R.00245] Osterman stated, "these sons of bitches have been in this particular area of practice for so long they've been schmoozing so many people that then they hit Scot Leaders, the new kid on the block, they had no idea what was goanna happen. And it happened to them…Scot Leaders could give a shit less as long as he gets you behind bars". Osterman couldn't say what Cole would have done different if he was a prosecutor in disguise. **Please read Attachment B.** Haeg fired Osterman, who claimed Haeg owed $24,000 on top of the $12,000, as he "charges $8000 per point on appeal" [R.00263-275]

Haeg As His Own Attorney (Pro Se)

Haeg moved to represent himself, & this Court remanded for Woodmancy (Murphy's clerk at Haeg's trial) to decide. To prove he was forced to represent himself, Haeg called Osterman, [R.00275] who testified agreement with Haeg was "$8,000 per point on appeal plus expenses" & didn't deny billing Haeg $36,000 for unfinished appeal. [R.00276] Haeg asked to admit tapes of Osterman stating he charged $3000 to $5000 per point on appeal but would do Haeg's entire appeal for $12,000 total upfront, both Osterman & State objected, and Woodmancy refused to admit the tapes. [R.00278-279] Osterman admitted he couldn't do anything affecting Cole/Robinson & there were severe problems about State's prosecution of Haeg. [R.00280-288] Woodmancy (who, like Murphy, flew to McGrath to hold hearing) stated he had no transportation, asked Gibbens to chauffeur him, &

Gibbens stated he couldn't because of all the trouble he got into before by doing this. [R.00826] State, using Haeg's interview, filed 14-page opposition to Haeg representing himself. [R00304-310] Woodmancy claimed Haeg was "out in the ozone" & ordered psychiatric evaluation. [R.00310] Psychologist Tamara Russell reported Haeg's intelligence "may be higher than average" & was "able to present a logical argument for self representation" [R.00310-312] Haeg, allowed to represent himself, asked this Court stay his appeal so he could conduct PCR to prove his attorneys had sold him out, & this Court refused, violating its own ruling this was proper procedure for appellants claiming their attorneys sold them out. State v. Jones, 759 P.2d 558 (AK 1988) Haeg found court record had been tampered with to remove all evidence State told him he must shoot wolves wherever he could find them but claim they were taken in WCP. Yet cover letter proving this evidence had been admitted remained in record. AS 11.56.610 - felony tampering with evidence. Haeg submitted appeal brief & although rules hold State must file within 20 days this Court gave State 380 days. Appellate Rule 217. This Court then refused to rule on Haeg's main point – State presented known false testimony to convict Haeg. As justification for not overturning Haeg's conviction, this Court ruled WCP was "hunting" & thus it legal for Haeg to be convicted of illegally "hunting" same day airborne even though he had wolf control permit allowing shooting of wolves same day airborne. [R.00437-449] *Yet WCP law specifically states it's not "hunting" – 5AAC 92.039 & 5AAC 92.110(m)*

This Court's refusal to stay Haeg's appeal, combined with giving State 380 days instead of 20 days, delayed Haeg's PCR proceeding by 3 years.

Alaska Commission on Judicial Conduct (ACJC) Proceedings

Haeg complained main witness against him (Gibbens) chauffeured/ate with Murphy while she presided over Haeg's trial. [R.00523-586] ACJC investigator Marla Greenstein (only investigator of Alaskan judges for last 26 years) requested witnesses & Haeg provided 4. Haeg's wife Jackie also sent ACJC documentation she personally witnessed Murphy being chauffeured by/eating with Gibbens full time during Haeg's trial. [R.00550] Greenstein is recorded stating complaint was dismissed after Murphy/Gibbens testified no chauffeuring took place until after Murphy sentenced Haeg & that she (Greenstein) contacted all witnesses provided by Haeg & none witnessed Gibbens chauffeuring Murphy. [R.00551-571]

Disqualification of Murphy by Superior Court Judge Stephanie Joannides

Haeg filed PCR application & State asked Murphy decide it – even though one of Haeg's claims was Murphy was corrupt. [R.00733-737] Over Haeg's objection she couldn't decide a case against herself, Murphy was assigned. Haeg asked she disqualify herself [R.00717-727], Murphy refused, [R.00670-676] & Judge Joannides was assigned to review refusal. [R.00456] Haeg approached same witnesses he had given to Greenstein & *all swore out affidavits that no one, other than Haeg, had ever contacted them regarding the chauffeuring of Murphy by Gibbens & each personally witnessed this chauffeuring during Haeg's trial and/or before sentencing.* [R.00578-586] Haeg found trial record recorded Murphy joking

with Gibbens about his chauffeuring her before Haeg was sentenced. [R.00572-577] Haeg presented Judge Joannides: (a) recordings of Greenstein claiming she contacted Haeg's witnesses & none of them seen chauffeuring; (b) documentation Murphy/Gibbens denied chauffeuring before Haeg was sentenced; (c) affidavits from the witnesses that Greenstein had never contacted any of them & that each personally seen Gibbens chauffeuring Murphy before Haeg was sentenced; & (d) court record of Murphy/Gibbens joking about the chauffeuring before Haeg was sentenced. [R.00523-531] Judge Joannides, over Peterson's objection this *"may be a career ender for Judge Murphy"*, allowed Haeg to subpoena Murphy, Leaders, Robinson, Woodmancy, Cole, Greenstein, & Dolifka [R.02851-2855]; ordered Gibbens be produced [R.02851-2855]; & scheduled a 2-day evidentiary hearing for Haeg to question all (and witnesses who Greenstein falsified contacting and whose testimony she falsified) to prove Murphy/Gibbens/Greenstein lied & conspired to cover up Gibbens chauffeured Murphy during Haeg's trial/before sentencing – & Greenstein falsified contacting witnesses/falsified their testimony. [Tr.4-24] All subpoenaed (other than Dolifka) tried quashing their subpoenas with Murphy & Woodmancy hiring Peter Maassen (Alaska Supreme Court Justice) to do so. [R.01104-1113] Judge Joannides ordered ACJC/Greenstein to timely provide the investigative report into the chauffeuring *"in order to more fully access the issues of impartiality and information provided to the Judicial Conduct Commission by Judge Murphy, Officer Gibbens, and any other witnesses in the Commission's investigation of Mr. Haeg's complaint." ACJC/Greenstein refused.*

[R.03038-3040] Judge Joannides disqualified Murphy, *ruling Haeg had already produced enough evidence to justify disqualifying Murphy without the 2-day evidentiary hearing all subpoenaed witnesses, except Dolifka, were now trying to avoid.* [R.03063-3105] Judge Joannides stated she didn't resolve if chauffeuring "occurred during the trial as well as the sentencing"; "any of Haeg's concerns about what occurred at the Judicial Conduct Commission" & that witness "affidavits raising questions over the extent of her [Murphy's] contact with prosecution witness Gibbens during trial raise a sufficient appearance of impropriety that will negatively affect the confidence of the public, & Haeg himself, in the impartiality of the judiciary". Judge Joannides stated Haeg's claims, *"Would require an evidentiary hearing that is best held in the post-conviction relief proceeding itself."* [R.03063-3105] (Haeg never got an evidentiary hearing in his 3-year long PCR proceeding – resulting in this appeal) Judge Joannides gave Haeg a hearing to prove he was not representing himself voluntarily – that corruption in Alaska's attorneys forced him. [Tr. 6]

Judge Joannides: "My role was very limited in deciding whether Judge Murphy's decision not to recuse herself should be upheld & I decided that on appearance of impropriety grounds, without reaching on issues of specific wrongdoing, I agreed with you…there was an appearance of impropriety *at a minimum."* [Tr. 9-15]

Dolifka: *"absolute unadulterated self-bred corruption…if they do right by you [Haeg] & reveal you know you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down."* **Please read Attachment "A" at the end of this brief.**

Judge Joannides certified evidence Murphy/Gibbens/Greenstein conspired to falsify an official ACJC investigation to corruptly exonerate Murphy and referred this evidence to authorities for prosecution. [R.01335-1421, 03063-3105]

Alaska Bar Association (Bar) Proceedings

Haeg filed Bar complaint against Cole, who testified under oath State gave Haeg immunity for his interview/statement. [R.00064-91] Cole's witness, attorney Kevin Fitzgerald, testified Haeg was given transactional immunity by State for his interview/statement [R.00312-318] and testified that *after Haeg had given the interview/statement Leaders stated the State "would not be honoring Haeg's immunity"*; [R.00072] & testified Zellers testified for State because of Haeg's interview. [R.00312-318] Cole testified he never told Haeg motions to suppress the false evidence could be filed & testified *the reason he never told Haeg he could get the plane back was Haeg was "almost comatose because you [Haeg] were so depressed about the State walking in & taking all this stuff."* [R.00067-91] Although recordings of Cole proved nearly all his Bar testimony was false, the Bar ruled Cole had given Haeg good representation & ordered Haeg to pay Cole $3000 more in addition to the tens of thousands he had already paid Cole. [R.00052-91]

Haeg filed Bar complaint against Leaders – claiming Leaders used Haeg's interview in informations charging Haeg. Leaders, in a "verified" Bar response testified: (a) Haeg gave an interview that couldn't be used against Haeg & (b) he never used Haeg's interview in the informations charging Haeg. [R.00050-51] Haeg then produced the charging informations – all signed by Leaders & quoting

"David Haeg's interview" as reason to charge Haeg with crimes. [R.00098-103, 106-115] Although this proved Leaders illegally convicted Haeg & committed perjury to cover up, Bar exonerated Leaders.

Haeg filed Bar complaint, using Judge Joannides' certified evidence, that Greenstein falsified an official ACJC investigation to corruptly exonerate Murphy. [R.00896-908] Greenstein, in a "verified" response, testified that, in addition to contacting the witnesses Haeg provided, she also contacted Robinson about the chauffeuring. [R.01494-1495] Haeg called Robinson & recorded him stating that until Haeg's call no one had ever contacted him about Murphy being chauffeured by Gibbens & that he (Robinson) remembered Gibbens chauffeuring Murphy during Haeg's prosecution. [R.01482] Haeg provided this to Bar, and, although this was evidence Greenstein had now committed perjury to cover up her false ACJC official investigation, Bar refused to investigate. [R.00776-787]

United States Department of Justice Proceedings

In 2006, without knowing days later the FBI would raid 10% of Alaska's legislature for corruption, Dolifka, Zellers, Wendell Jones (former Trooper whose testimony Greenstein falsified), Greg Kaplan (then Congressman Don Young's Deputy Director), & Haeg met with DOJ Section Chief Colton Seale to testify of the forgoing corruption. [R.01982-1983] Seale stated DOJ had multiple complaints defense attorneys in Alaska were conspiring with prosecution/judges to rig trials against their own clients - with every investigation "expanding rapidly & implicating nearly everyone involved." Seale stated Haeg must exhaust all State

remedies before DOJ was allowed to prosecute. DOJ investigated Haeg's complaint & Cole documented giving DOJ information. Cole then provided this documentation to State, which gave it to Haeg in PCR discovery. [R.01982-1983] Afterward Cole, while under oath, denied knowing anything indicating DOJ was investigating Haeg's case. [Cole dep.5-6] DOJ told Haeg to provide proof of Trooper perjury to Trooper internal affairs. Trooper internal affairs Lieutenant Keith Mallard stated he would not "dignify" Haeg's evidence with an address to send it to. Haeg provided the evidence to State ethics attorney David Jones – who wrote, "Perjury by Troopers is not unethical." Haeg sent Alaska's AG proof and Deputy AG Richard Svobodny wrote he "found them to be without merit…move on." [R.02531-2563] Haeg presented DOJ with proof Greenstein falsified official ACJC investigation of Murphy & committed perjury to cover up. Section Chief Doug Klein stated Greenstein falsified her investigation because *no one would believe it fair if main witness against Haeg were chauffeuring the judge presiding over his trial - & asked Haeg continue providing DOJ evidence.* [R.02531-2563]

Depositions of Cole & Robinson

Robinson testified: Haeg's only defense at trial/appeal was court didn't have subject matter jurisdiction because Leaders didn't swear to charging informations [Rob. Tr. 9, 10, 30, 128, 129]; Albrecht & Gerstein supported this [Rob. Tr.126] (Yet *Albrecht & Gerstein specifically hold a prosecutor need not swear to a charging information for court's jurisdiction & subject matter jurisdiction is granted by AS 22.15.060*); this defense was so strong Haeg should

"stand mute" & not put on a defense [Rob. Tr.135] (Yet before Haeg's trial Robinson knew Leaders had sworn to the charging information [Rob. Tr. 10, 11, 35] – *meaning he told Haeg to pursue a defense he knew at the time was invalid – and that for this defense to work Haeg couldn't bring up any other defense, as this would "admit" to the court Haeg submitted to subject matter jurisdiction. [R.00028] In other words Robinson had Haeg sacrifice all other defenses for a defense that was doubly invalid)*; nothing could be done about State falsely claiming the evidence was found in Haeg's guide area [Rob. Tr. 12, 40, 41]; nothing could be done about State telling Haeg he must shoot wolves wherever he could find them [Rob. Tr. 18, 19]; Haeg was concerned about wolf kill locations being falsified to his guide area but it wasn't perjury when Gibbens, only after he knew his false sworn trial testimony had been discovered, admitted it was false [Tr. 41, 42, 43, 44, 154-156] (*Yet this was perjury requiring Haeg's conviction be overturned.* See AS 11.56.200, AS 11.56.235, Mesarosh, Mooney, & Giles); State's case was Haeg killing wolves where he guided to improve his guide business [Rob. Tr. 64] –(P*roviding motive for State's perjury.*); he didn't know if State had duty to correct false evidence locations on affidavits/warrants when informed about this before trial [Rob. Tr. 152, 153] (Yet Franks, Lewis, and State v. Davenport prove State had to correct this.); it was unjust if Murphy specifically used State's false testimony/evidence to justify Haeg's sentence [Rob. Tr. 171-172]; *if Murphy specifically used the false locations to sentence Haeg it was possible Haeg's jury used them to convict Haeg* [Rob. Tr. 171-172]; he was

allowed to protest, in a reply brief, use of Haeg's interview/statement in charging informations [Tr. 137, 138] (*Yet this Court ruled Robinson wasn't allowed to bring this up in a reply & ruled this is why Murphy didn't have to do anything about State's use of Haeg's interview against Haeg* [R.00437-449]; "why would it have been?" when Haeg asked why Robinson never appealed State's use of Haeg's interview/statement against Haeg [Rob. Tr. 138] (Y*et use by State required Haeg's conviction to be overturned.* Kastigar, North, & Gonzalez); he didn't know penalty for State using Haeg's interview against Haeg [Rob. Tr. 139] (*Yet this requires Haeg's conviction to be overturned.* Kastigar, North, & Gonzalez); Haeg was concerned about giving up year guiding for deal State/Cole swindled Haeg out of [Rob. Tr. 167, 168]; not trying to enforce Cole's subpoena that Haeg wanted enforced to get credit for the guide year already given for lesser charges. [Rob. Tr. 55–62]; ot trying to get credit for year guiding Haeg gave State for lesser charges [Rob. Tr. 62] (*Yet credit would prove Haeg's conviction of severe charges invalid.* Santobello, Surina, & Closson); & he never told Haeg a motion to suppress could be filed – even though State falsified evidence locations to Haeg's guide area on all warrants seizing evidence/property. [Rob. Tr. 41]. *Robinson refused to answer if court would have to do something if Haeg proved his attorneys & State conspired against Haeg.* [Tr. 62] No one other than Haeg contacted him about Gibbens chauffeuring Murphy [Rob. Tr. 84] (proof Greenstein committed perjury to conceal her corrupt investigation exonerating Murphy); Murphy/Gibbens lying about chauffeuring raised suspicion Murphy was not impartial [Rob. Tr. 200];

Murphy refused to let him argue Haeg's defense. [Rob. Tr. 203] (*Yet Robinson never brought this up on appeal.)*; Haeg couldn't be prosecuted if he had been given immunity. [Rob. Tr. 178]; he never asked if Haeg had been given immunity for his interview/statement [Rob. Tr. 179]; *it would be significant if Cole testified Haeg was given immunity because it would have prevented Haeg's prosecution* [Rob. Tr. 180-181] *(Cole twice testified the State gave Haeg immunity [Cole Tr. 22 & R.00074] & Cole's witness, Fitzgerald, testified the State gave Haeg immunity for his interview & afterward Leaders stated he was not going to honor it.)* [R.00072-73); he saw no reason to suppress State's use of Haeg's statement "*other than the fact the State couldn't use it"* [Rob. Tr. 180]; it might be a violation when State published Haeg's interview in Anchorage Daily News so everyone could read it [Rob. Tr. 193]; w*hen Zellers pointed to wolf kill locations Haeg placed on map this cured violation of using Haeg's map against Haeg at trial* [Rob. Tr. 218]; & *it was his right to overrule Haeg's demand to show Cole had sold him out to State – even though he had told Haeg he would do so & charged Haeg for subpoenaing Cole. [Rob. Tr. 187]* Recordings also prove Robinson gave sworn deposition testimony he knew to be false (perjury) on numerous other issues – that Leaders didn't present Haeg's map against Haeg at trial [Rob. Tr. 175-177 Trial rec. 281, 332-333]; Haeg wanted to testify [Rob. Tr. 25, 26, 27] (Robinson told Haeg he must testify because State was using his interview against him) [R.00017); Cole didn't give State anything [Rob. Tr. 29] (Robinson is recorded stating Cole gave State "everything"); he never said Cole lying to Haeg was not

ineffective assistance [Rob. Tr. 203-204] (Robinson is recorded stating Cole lying to Haeg was not ineffective assistance) [R.00130]); he couldn't bring up Cole's ineffectiveness at trial or appeal. [Rob. Tr. 208, 209] (can be brought up anytime); State never used Haeg's interview before Haeg got on stand [Rob. Tr. 73] (State used Haeg's interview in the charging informations [R.00098-103, 00106-115], *that Robinson himself protested* [R.00164-165], & State presented map, upon which Haeg marked wolf kill locations during his interview, to Haeg's jury before Haeg got on stand.) [Trial rec. 281, 332-333]; State was only prevented from using Haeg's interview at trial [Rob. Tr. 140] (Evidence Rule 410 states it couldn't be used anywhere, civil or criminal); & he never stated Troopers & prosecutors can lie with immunity [Rob. Tr.74] (he is recorded stating exactly this); Haeg didn't want to bond out the plane [Rob. Tr. 165, 166] (Haeg is recorded at time asking if he could bond plane out); he appealed Murphy's denial of Haeg's defense (when his appeal points prove this false); etc; etc; etc. [R.00122-163]

Cole was deposed & refused to answer incriminating questions – after Peterson told him not to answer them. [Cole Dep. 5, 9, 19, 20, 150, 162] Cole testified: that he testified truthfully about Haeg's case in past. [Cole Dep. 19] (Cole previously testified State gave Haeg immunity – and AS 12.50.101 & State v. Gonzales hold you cannot be prosecuted after being given immunity.); he submitted evidence State told Haeg he must, for the greater good, kill wolves wherever they could be found but claim they were taken in WCP [Cole Dep. 105, 157]. State telling Haeg it was for greater good to do exactly what State then

charged him with doing was not a legal defense. [Cole Dep. 44-46, 105] (Yet Jacobson & Sorrells hold this a "complete" defense to criminal charges.) Cole refused to answer if court should have been told State falsified all evidence locations to Haeg's guide area & then used false locations to justify charges against Haeg. [Cole Dep. 166-167] Cole testified State gave Haeg immunity for interview & testified in Alaska the only immunity that can be given for an interview is "transactional immunity" – immunity preventing any prosecution for actions discussed. [Cole Dep. 21, 22, 33] (*Yet Haeg was prosecuted for all actions discussed during his interview.)* State could prosecute Haeg & use Haeg's statement to do so [Cole Dep. 28, 71, 72] – directly contradicting his prior testimony. *(This is perjury by inconsistent statements – AS 11.56.230)*; State couldn't use Haeg's statement anywhere – again perjury by inconsistent statements. [Cole Dep. 72]; Haeg objected to State using his statement to prosecute him but State never used Haeg's statement. [Cole Dep. 28, 69, 74] (Yet State's charging informations, filed when Cole represented Haeg, prove this false – and Cole admitted at the time State used Haeg's statement) [R.00098-103, 00106-115]); if State has someone give interview State has a better chance of conviction [Cole Dep. 111]; it was Robinson's duty to file motions to protect Haeg. [Cole Dep. 33] (Robinson is recorded stating it was Cole's duty to file motions to protect Haeg) [R.00122-163]; he didn't know if it was legal for 2 attorneys to blame each other for not filing motions to protect their own client [Cole Dep. 168]; *Haeg put wolf kill locations on a map during his interview & this map couldn't be used*

against Haeg. [Cole Dep. 24, 25, 68 Trial R. 281]; *State had a duty to correct false evidence locations after it was pointed out to them* [Cole Dep. 100, 101] (Yet they never did.); he didn't have a duty to protest the false evidence locations. [Cole Dep.101]; *the State would harm him/his business if he tried to defend Haeg.* [Cole Dep. 36-38, 137]; *it didn't matter State falsified evidence locations to Haeg's guide area & then said reason for charging Haeg was evidence was found in Haeg's guide area* [Cole Dep. 104]; he never represented Haeg [Cole Dep. 10] (Yet Haeg paid Cole tens of thousands to represent him.); he expected Haeg would be made an example of & *it was possible the State intentionally falsified evidence locations to Haeg's guide area to make an example of Haeg.* [Cole Dep. 106-108] Cole refused to answer when asked if his tactic for Haeg's defense was having Haeg "fall on his sword" [Cole Dep. 162, 163] *Yet Cole testified at Bar his tactic for defending Haeg was having Haeg "fall on his sword."* [R.00074]) Peterson claimed Cole "explained this repeatedly without using that phrase" when Haeg asked Cole to explain exactly what "fall on his sword" meant. [Cole Dep. 163] *Cole then refused to answer what "falling on his sword" meant, and refused to answer if Haeg ever agreed to "fall on his sword"*. [Cole Dep. 162-163] Cole testified that he personally thought WCP was very important & that Haeg had jeopardized it [Cole Dep. 153, 154] (Yet Cole, in his written contract with Haeg, stated he had no conflicts of interest.) Cole refused to answer if exposing State told WCP permittees they must shoot wolves wherever they could be found but claim they had been taken for WCP would jeopardize program [Cole Dep. 155]

(Explaining why Cole told Haeg this was not a legal defense & why evidence of this was removed out of court record after it was admitted.) Cole testified he told Haeg to give up guiding prior to conviction & testified State promised to give Haeg credit for this guide year [Cole Dep. 11, 75, 76] (Yet State testified at Haeg's sentencing they had no idea why Haeg gave up this guide year, Cole failed to appear & testify as subpoenaed, Robinson told Haeg nothing could be done about it, & thus Haeg was never given credit for this year.) [Trial Rec.1037-1454]); it didn't make any difference State used Haeg's interview against Haeg. [Cole Dep. 23, 24] (Yet this requires Haeg's conviction be overturned - see caselaw above.); 2 warrants were used against Haeg & false evidence locations were in only 1 of them [Cole Dep. 43] (Yet 5 warrants were used against Haeg & false evidence locations were in all of them.) [R.00046-49); *it was Haeg's fault if Haeg's attorneys didn't tell Haeg he might not get credit for guide year he told Haeg to give up.* [Cole Dep. 115-116] Cole refused to answer what was to stop Leaders from breaking new agreements after he broke first agreement unchallenged. [Cole Dep. 120-121] Cole testified that while he was Haeg's attorney he didn't have to tell Haeg how to bond out plane Haeg needed to provide a livelihood & didn't have to tell Haeg it was illegal for State to keep plane without providing Haeg a prompt post-seizure hearing [Cole Dep. 123-127]; *the reason he never told Haeg he could get the plane back was because Haeg was so depressed about State taking it* [Cole Dep. 128-129]; *it was reasonable for him to not tell Haeg how to get plane back even if Haeg was depressed about State taking it* [Cole Dep. 130];

it was good State no longer has recordings of Haeg's interview, because State then had to defend what they did [Cole Dep. 146, 147] (as Kastigar & North require but no one has enforced); Haeg broke PA [Cole Dep. 140] (Yet Cole is recorded testifying State broke PA so they could also get plane.) [R.00061-63]; he was not representing Haeg when Anchorage Daily News published Haeg's statement [R.00096-97, 00117-121) (*Yet he was.)*; while representing Haeg he told Haeg he could file motions to enforce PA, to protest statement use, & to protest false evidence locations. [Cole Dep. 15-17, 40-43, 50, 51, 53, 59, 61, 64, 70, 85, 131] (Yet recordings of Cole at time prove he never told Haeg a motion protesting anything could be filed. [R.00056-91]); everyone was happy night of November 8, 2004 because a deal had been made [Cole Dep. 14, 92, 93] (Yet recordings at time prove no deal was made & everyone (including Cole) was incredibly angry Leaders had broken PA to ask for plane in addition to guide year Haeg had already given for PA [R.00056-91]); he was never told Leaders would not be honoring Haeg's immunity. [Cole Dep. 52] (Yet Fitzgerald testified Leaders told he & Cole exactly this [R.00072-73]); he never said Leaders increased severity of charges to also get plane. [Cole Dep. 54, 55, 57, 87, 95, 97] (Yet is recorded stating exactly this. [R.00056]); Leaders didn't renege after Haeg had relied on agreement. [Cole Dep. 55-57] (Yet Cole is recorded stating this. [R.00055-56]); *Leaders was allowed to break PA after Haeg relied on it* [Cole Dep. 58, 119] (Yet Santobello, United States v. Goodrich, Closson, & Surina prove otherwise.); it was legal for State to use uncharged, unproven accusations to enhance Haeg's sentence. [Cole

Dep. 82] (Yet this isn't allowed. Smith v. State, 531 P.2d 1273 (Alaska Supreme Court 1975)); there were no talks after November 9, 2004 about calling Leaders boss to complain about Leaders breaking PA [Cole Dep. 89] (Yet he is recorded discussing this with Haeg after November 9, 2004 [R.00056]); Haeg gave up his right to go to trial [Cole Dep. 112] (Yet Haeg went to trial.); he never told Haeg his statement could be used against him [Cole Dep. 133] (Yet Cole is recorded telling Haeg his statement could be used against him. [R.00054]); Haeg agreed to give up plane. [Cole Dep.176] (Recordings at time prove this false.) [R.00054-63]

State Falsifies Law To Title and Sell Airplane

State tried to title plane to sell it; FAA refused (stating judgment against Haeg was not judgment against plane's owner, Bush Pilot Inc.); 5 years after Haeg's judgment State motioned Woodmancy to amend Hag's judgment to include forfeiting plane owned by Bush Pilot Inc [R.01165-1179]; & on June 8, 2011 (over 5 years after judgment against Haeg) Woodmancy did so - even after Haeg pointed out this violated AS 12.55.088 & State v. T.M., 860 P2d 1286 (AK 1993) – which prohibit judgment modification on a motion made more than 180 days after judgment – & after Haeg pointed out it's illegal to pronounce judgment against a legal entity without notice & opportunity to defend (charges & trial). [R.01136-1160] Bauman then denied Haeg's appeal of this. [R.02204-2205]

Further Proceedings Before Alaska Commission on Judicial Conduct

After Judge Joannides' referral to ACJC that Greenstein/Murphy/Gibbens were corrupt, Haeg inquired into it. ACJC chairman Judge Ben Esch stated

nothing would be done, as ACJC/Greenstein didn't consider Judge Joannides' certified evidence as "genuine". Witnesses whose testimony Greenstein/ACJC falsified asked to testify at ACJC public meeting, Esch refused (ACJC rules encourage public testimony), & when witnesses showed up hoping to testify anyway a Trooper SWAT team met them at the door. [R.02013-2040] ACJC could find no record of Jackie Haeg's letter documenting she had also witnessed Gibbens chauffeuring Murphy full-time during Haeg's trial (ACJC/Greenstein is recorded acknowledging receipt of Jackie's letter) - meaning all witness testimony confirming the chauffeuring had been eliminated from ACJC records. [R.00789] Judge Joannides, when informed ACJC/Greenstein claimed her 43-page referral "was not genuine", referred 77-pages of certified evidence proving Murphy/ Gibbens/Greenstein's corruption to all 9 ACJC members, Greenstein, Murphy's attorney Maassen (Supreme Court Justice), Alaska Judicial Council, Alaska Bar Association, Bauman, Office of Special Prosecutions, & Ombudsman [R.01335-1421] To date not a single entity has investigated Judge Joannides' referral.

Proceedings Before Kenai Superior Court Judge Carl Bauman

Bauman was assigned to Haeg's PCR December 8, 2010; Haeg asked for public defender assistance; Bauman declared Haeg indigent & appointed PD to help; PD was so overloaded they couldn't meet "statutory obligations" [Tr.119, 121] of reviewing Haeg's PCR within required 60 days (they needed up to 6 years); this was unacceptable to Haeg [Tr. 115-121, 135]; & so Haeg once again was forced to represent himself. [Tr. 143] Bauman stayed Haeg's PCR on May 27,

2011 & lifted it on August 3, 2011, a period of 68 days. [R.01756-1757] Haeg asked to supplement PCR with claims Murphy/Gibbens/Greenstein were corrupt & included Judge Joannides certified evidence proving this. [R.00776-845] *Bauman dismissed these claims as "attenuated" (weak) & without a PCR evidentiary hearing for Haeg to prove them – even though Judge Joannides ruled it so strong, even without hearing, that it required Murphy be disqualified from presiding over Haeg's PCR; required her to refer evidence to authorities for prosecution; & to rule Haeg's claims must be addressed in a PCR evidentiary hearing – to see if Murphy was chauffeured by Gibbens during Haeg's trial and then lied/conspired to cover it up.* [Tr. 4, 9, 14] Bauman, in violation of AS 22.10.190 (requiring him to file affidavits nothing presented to him was undecided for more than 6 months) failed to decide many of Haeg's motions within 6 months - such as Haeg's 1-10-11 Motion for Hearing & Rulings before Deciding the State's Motion to Dismiss, decided by Bauman on 1-17-12 or over a year later, making it long overdue even after Bauman's 68 day stay. Haeg filed criminal and ACJC complaint against Bauman for perjury, & asked Bauman be disqualified for corruption [R.02179-2203] Troopers dismissed criminal complaint, Greenstein dismissed ACJC complaint, & Kenai Judge Anna Moran refused to disqualify Bauman by ruling Haeg miscalculated time. [R.01995-1999] *Yet Haeg didn't miscalculate.* After these complaints Bauman immediately ruled on about 20 outstanding motions – backdating some so they would appear to have been made within 6-month time limit. [R.02013-2040] Haeg issued subpoenas for in person

depositions of Murphy/Greenstein/Leaders but Bauman refused to allow this. [Tr. 193] After Haeg claimed map used against him at trial was one he marked wolf kill locations on during his interview [Tr. 275-278 R.00017], Bauman ordered State to produce it - but then never let Haeg prove he put kill locations on it. [Tr. 222-223] After State refused Haeg a copy he looked at Bauman's & found not only was it the map he placed kill locations on during his interview, it had a false GMU boundary hand-drawn in *"pencil"* that corruptly made it appear kills were in GMU in which Haeg guided – a falsehood that exactly matched falsehood on all warrants & a falsehood that exactly matched Gibbens admitted false testimony against Haeg at trial. [R.00046-49 Trial Tr. 418-420] Haeg realized Zellers, during his interview, had pointed out to Leaders/Gibbens a false GMU *"pencil"* boundary on the map that corruptly made it appear wolves Haeg marked were taken in GMU in which Haeg guided [R.00094-96] – *so State knew the map had a false GMU boundary on it, that exactly supported their case, before they used it against Haeg at trial. And Peterson had to know it was false when he presented it to Bauman & used it as evidence to dismiss Haeg's PCR (without ever admitting it was false) meaning State now presented known false evidence to Bauman to oppose Haeg's PCR. This also explains why State tried preventing Haeg from obtaining a map copy & why a copy was never provided to Haeg before trial as required after his discovery requests.* Brady. Because Napue, Mesarosh, Mooney, & Giles prohibit a state from using known false evidence to convict Haeg filed a "5-11-12 Motion for Immediate Evidentiary Hearing on Newly Discovered Known False Evidence

Presented During Haeg's Trial (and now to Judge Bauman)". [R.02917-2928] *Bauman refused an evidentiary hearing on this – even though it meant Haeg's conviction was invalid.* Peterson claimed State affidavits never indicated wolves were killed in same GMU as Haeg's lodge. [Tr. 228] Yet State affidavits prove this false. [Tr. 265-266] Peterson claimed Cole never testified Haeg had immunity. [Tr. 230] Yet Cole, in 2 different proceedings, testified Haeg had immunity [R.00068-74 Cole Dep. 21-22] & Fitzgerald testified Haeg was given transactional immunity by State & afterward Leaders told Cole he was not going to honor it. [R.00068-73] Peterson claimed Haeg's interview wasn't used in filing the higher charges in amended information. [Tr. 246] Yet both amended informations with the higher charges specifically used Haeg's interview. [R.00106-115] Peterson claimed Robinson never asked State Board of Game member Spraker if he told Haeg he must take wolves anywhere they could be found but claim they were taking in the WCP because this would "in effect, admit for Mr. Haeg that he killed wolves outside of the predator control area." [Tr. 250-251] *Yet Robinson told Haeg he had to testify at trial [R.00017], where Robinson required Haeg testify he knowingly killed wolves outside the predator control area - exactly as Robinson would have done had he been Haeg's prosecutor in disguise.* [Trial Rec. 762] So what possible harm could there have been to ask Spraker if he told Haeg, for the greater good of all Alaskans, he must shoot wolves anywhere? *None - other than proving Haeg couldn't be charged because State itself was responsible for Haeg's actions.* Murphy filed affidavit she never accepted rides/meals from Gibbens until after

Haeg was sentenced. [R.02521-2523] Yet witnesses swore affidavits they personally witnessed chauffeuring/meals during Haeg's trial & before sentencing & the official record of Haeg's case records Murphy/Gibbens joking about Gibbens chauffeuring Murphy before Murphy sentenced Haeg [R.03063-3105] – meaning Murphy has now committed perjury to cover up her corruption during Haeg's trial. Bauman asked Peterson if it was a factual issue that Murphy/Gibbens filed affidavits no chauffeuring/meals took place while other witnesses filed affidavits chauffeuring/meals did take place. [Tr. 255-256] *Peterson stated it was & still Bauman didn't hold an evidentiary hearing to determine the truth* & did nothing about Peterson telling Cole not to answer incriminating questions during Cole's deposition – violating Haeg's right to full/fair hearings. [Tr. 289, 305, 306] Haeg filed for independent investigation by Henry Schuelke, investigator of Senator Ted Stevens' prosecution [R.02958-3000] *Bauman refused – even though evidence of corruption in Haeg's case far exceeds that in Stevens' case - Haeg's own attorneys & judge helped prosecution rig Haeg's trial.* Peterson admitted Haeg's ineffective assistance claim would survive State's motion to dismiss [Tr. 218] – but it didn't - Bauman dismissed even it without evidentiary hearing for Haeg to prove his attorneys turned on him – but ruled, without hearing, Haeg's sentence must be overturned. [R.02725-2759] So, without giving Haeg a chance to prove his claims with mountains of evidence/witness testimony, Bauman ordered Haeg's sentence vacated but not conviction - fulfilling Robinson's recorded

prediction “The Good Old Boys” would never overturn Haeg’s conviction if he were innocent – as this would prevent Haeg from suing everyone. [R.00137-144]

Class-Action Lawsuit After State Refuses to Return Guide License

After Haeg’s 5-year guide license suspension ended State refused to return it - claiming the license expired forever as a license cannot be renewed if suspended, licenses not renewed every 4 years expire, & if they gave Haeg’s back they would have to give back all others they claimed expired for same reason. [R.0763-775] Haeg produced evidence this unconstitutional & asked Bauman for order to this effect. [R.0763-775] Bauman declared this policy unconstitutional & ordered State return Haeg’s license. [R.01872-1884] Lawfirm Flanigan & Bataille approached Haeg; stated he proved State liable; asked Haeg head a class-action for compensation to all guides illegally deprived licenses; &, after Haeg agreed, filed lawsuit with Haeg as lead plaintiff. [R.01523-1551, case 3KN-12-00204 CI]

State Will Give Airplane Back if Haeg Agrees Not to Sue

Peterson informed Haeg State would return plane if Haeg agreed not to sue anyone. [R.02239-2242] Haeg laughed and declined.

State Appeals Haeg’s Sentence Being Overturned

Woodmancy was assigned to resentence Haeg - over Haeg’s claim he could not (Woodmancy was witness to Gibbens chauffeuring Murphy during Haeg’s trial, requested chauffeuring from Gibbens also, & hired Maassen (Alaska Supreme Court Justice) to quash Haeg’s subpoena requiring him testify about this. [Tr. 344-346]) Woodmancy asked how long Haeg needed to put on sentencing

evidence; Haeg replied 4 days were needed - to prove he was framed by State threatening his attorneys so they would conspire with State to do so. [Tr. 346-353] Peterson asked Woodmancy limit Haeg's evidence; Woodmancy started to agree; Haeg argued this unacceptable; & Woodmancy backed down. Haeg requested Kenai sentencing; Woodmancy refused, stating Haeg must fly all to McGrath; Haeg stated he couldn't as he was indigent; Woodmancy stated Haeg was not indigent (Bauman ruled Haeg was), would have to pay for everything, & ordered 4-day hearing. [Tr. 350-358] Immediately after State appealed Bauman overturning Haeg's sentence, & this Court, even though State's request was past time limit, granted appeal & stayed Haeg's resentencing. [Appeal A-11370] *So again Haeg was denied a hearing to present evidence/testimony proving State threatened his attorneys so they would help State frame Haeg in violation of nearly every constitutional right supposed to protect citizens from government abuse.*

Recap of Some of the Above Facts, Law, & Argument

1. Judge Bauman failed to address numerous claims – & never held an evidentiary hearing to prove - even though all claims required relief if proved. Widermyre, Conley, Lott, Adkins & Barry

A. State harmed, & threatened to harm, Haeg's attorneys if they tried to defend Haeg. United States v. Cronic, 466 U.S. 648 (U.S. Supreme Court 1984)

B. Haeg's attorneys had interests in conflict with Haeg's & this affected how they represented Haeg. *The State's threats, & resulting conflicts, explain perfectly all puzzling action/inaction by Cole, Robinson, Osterman, and even Dolifka.*

"[I]n a case of joint representation of conflicting interests the evil – it bears repeating – *is in what the advocate finds himself compelled to refrain from doing*….It may be possible in some cases to identify from the record the prejudice resulting from an attorney's failure to undertake certain trial tasks, but even with a record of the sentencing hearing available it would be difficult to judge intelligently the impact of a conflict on the attorney's representation of a client. And to assess the impact of a conflict of interests on the attorney's options, tactics, and decisions in plea negotiations would be virtually impossible." Holloway

"[T]he conflict itself demonstrated a denial of the right to have the effective assistance of counsel. Thus, a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief. Because it is in the simultaneous representation of conflicting interests against which the Sixth Amendment protects a defendant, he need go no further than to show the existence of an actual conflict." Cuyler

"[P]rejudice is presumed when counsel is burdened by an actual conflict of interest. In those circumstances, counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties. Moreover, it is difficult to measure the precise effect on the defense of representation corrupted by conflicting interests." Strickland

"In fact, *an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition.* The performance of [defendant's] counsel was constitutionally unreasonable, but more importantly, the evidence presented overwhelmingly established that his attorney abandoned the required duty of loyalty to his client. *[Defendant's] attorney didn't simply make poor strategic choices; he acted with reckless disregard for his clients best interests and, at times, apparently with the intention to weaken his client's case*." Osborn

"[Defendant] has a right to an attorney who wants to protect the defendant's 'rear end', not the attorney's." Anders.

C. Robinson used a defense for Haeg's trial he knew at the time was invalid –

while telling Haeg for this defense to work Haeg must forgo all other defenses.

D. Leaders used Haeg's statement to force Haeg to trial; Robinson protested in

reply brief; testified this was allowed when this Court ruled it not & why Murphy

never had to enforce Haeg's rights; and then Leaders falsified a verified document to cover up he used Haeg's statement to force Haeg to trial.

E. Gibbens chauffeured/ate with Murphy during Haeg's trial; both conspired with Greenstein to cover it up; and both falsified sworn affidavits to cover it up.

Withrow v. Larkin, 421 U.S. 35 (U.S. Supreme Court 1975) Bracy v. Gramley, 520 U.S. 899 (U.S. Supreme Court 1997). "No matter what the evidence was against him, he had the right to have an imprtial judge."Tumey v. Ohio, 273 U.S. 510 (U.S. Supreme Court 1927).

F. During his interview Haeg put wolf kills on map used against him at trial.

G. Both State & Robinson used Haeg's statement against Haeg before/at trial.

H. Haeg's attorneys never protested State's use of known false evidence/ testimony against Haeg; effectively never protested use of Haeg's statement against Haeg; never protested use of Haeg's map at trial; and affirmatively gave Haeg false advice of rights after Haeg specifically asked about them. Haeg's attorneys then committed perjury during their depositions to cover this up. Smith

I. State used known false evidence/testimony to convict Haeg.

J. The official court record was tampered with to remove Haeg's evidence.

K. Haeg's attorneys stated he must testify at trial because State was using his interview against him

L. Zellers trial testimony was a result of Haeg's statement.

M. State used Haeg's statement to find/prepare trial witnesses against Haeg.

N. Haeg's attorneys gave him ineffective assistance of counsel.

"*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 (Alaska 1974), was met by counsel's performance. Particularly *where, as here, it is the pretrial and post-trial performance of counsel as well as the performance during trial that is specifically alleged to have been inadequate, it is not sufficient that the trial judge found counsel's performance as observed in the course of trial to be adequate."* Wood.

Haeg alleged inadequate attorney performance pre, during, & post trial - & since Bauman didn't preside over Haeg's trial, he *never* observed their performance.

O. State never produced requested pretrial discovery – including trial map which 9 years later was found to be falsified to make it appear wolves had been killed in Haeg's guide area – the exact case used to destroy Haeg family's life.

"Useful falsehoods are particularly dangerous in a criminal case, where the cost of a wrongful conviction cannot be measured in the impact on the accused alone. Such tainted proof inevitably undermines the process, casting a dark shadow not only on the concept of fairness, but also on the purpose of the exercise of the coercive power of the state over the individual. *No man should go free nor lose his liberty on the strength of false, misleading, or incomplete proof."* United States v. W.R. Grace, No. 05-07 (D. Mont. 2009)

P. Cole/Robinson conspired to keep Cole from testifying at sentencing about PA State/Cole conspired to deprive Haeg of after he paid for it. [R.00168-171]

Q. Peterson told Cole not to answer incriminating questions when deposed.

R. *Judge Joannides ruled an evidentiary hearing must be held to determine if Gibbens chauffeured Murphy during Haeg's trial.*

2. **Judge Bauman ruled on merits of Haeg's claims without an evidentiary hearing for Haeg to prove merits with evidence/testimony – violating Haeg's rights to present evidence, due process, & equal protection of law.**

"It is true that, for purposes of determining whether a claim of ineffective assistance of counsel may be rejected summarily, without affording the defendant an opportunity for an evidentiary hearing, the court must provisionally accept as true any facts asserted by the defendant." Conley, Lott, & Adkins.

Bauman had to accept Haeg's claims - he had immunity; State blackmailed & conspired with his attorneys; & attorneys lied to deprive him of a fair trial - as true in deciding if an evidentiary hearing was required. It's clear Haeg was unjustly convicted if he had immunity preventing prosecution; state blackmailed & conspired with his attorneys; &/or attorneys lied to deprive him of a fair trial – so an evidentiary hearing had to be given. State, Parker, Barry, & Wood.

Issues Judge Bauman decided against Haeg without an evidentiary hearing:

A. Murphy/Gibbens corruption tainted Haeg's sentence but not conviction. *Yet Judge Joannides ruled a PCR evidentiary hearing must be held to determine if Murphy's corruption infected Haeg's trial*. Murphy, at State request, prevented Haeg from claiming his State permit for shooting wolves from air protected him from devastating guide charges of shooting wolves from air; was in possession of court record when Haeg' evidence was removed; knew Gibbens knowingly testified falsely at trial & did nothing; and specifically cited Gibbens false testimony as justification to destroy Haeg's life. *If Murphy used Gibbens false testimony it's clear Haeg's jury did same.*

B. Haeg was never given immunity "although a rogue or unauthorized offer of immunity is possible." If it's possible Haeg had to be given an evidentiary hearing to prove it. Cole/Fitzgerald testified State gave Haeg immunity & Leaders stated

he would not honor it. Only way this could happen without Haeg's attorneys protesting is if State threatened them - exactly as Cole/Dolifka testified State did.

C. Haeg's statement had "cloak of privilege…as part of settlement negotiations". This means under Evidence Rule 410 it couldn't be used anywhere, in anyway, when Haeg didn't plead guilty or nolo contendere (no contest). But then Bauman refuses to address that Evidence Rule 410 was violated when State used Haeg's statement in charging informations and map/testimony at trial.

D. Haeg didn't make a "prima facie" (at first look) case requiring evidentiary hearing. When Haeg claimed under oath he had immunity, a "prima facie" case was made – not even counting the mountain of other evidence and issues.

E. Gibbens didn't falsify evidence locations in order to intentionally deceive Murphy. Bauman could not know this without an evidentiary hearing.

F. Action by State wolf control program officials during State Board of Game meetings is not "State" action. What kind of action is it then?

G. State WCP officials were not working with law enforcement officials. WCP officials were working with law enforcement officials. [Trial rec. 302-303]

H. Greenstein conspiring with Murphy/Gibbens & falsifying an official investigation to cover up Murphy's corruption was too "attenuated" (weak) to require an evidentiary hearing. Judge Joannides ruled it so strong she made 43 & 77 page referrals of it to authorities for prosecution.

I. Haeg “eschewed” (weaseled out of) PA & never gave up a year guiding for PA State broke. Cole testified State broke PA to get plane by increasing severity of charges after Haeg had given up a years guiding in reliance on minor charges.

J. Osterman never harmed Haeg. Osterman is recorded: “Cole & Robinson’s sellout is the biggest I have ever seen”, he would use their “sellout” to overturn Haeg’s conviction, & make millions. Afterward is recorded stating he couldn’t use sellout because he couldn’t affect their livelihoods & that Haeg owed 3 times what is recorded as full payment – forcing Haeg to represent himself as he was broke. Bauman must believe there is no harm in paying a surgeon to operate & him/her refusing after taking all your money – forcing you to operate on yourself. Everyone knows you can do your own heart surgery as well as a trained surgeon. Judge Joannides confirmed how shocking this is by specifically asking if Haeg had these recordings of Osterman (which Haeg does). [R.00174-303].

K. Deadline for filing motions to suppress was 20 days prior to calendar call, Cole thought filing a motion would jeopardize plea negotiations, & Robinson contends he came into Haeg’s case after deadline for filing motions to suppress. Yet no one would negotiate when filing a motion would end prosecution. Criminal Rule 12 states, “All pretrial motions…must be filed within 45 days after the defendant’s arraignment. The court may vary the time for good cause shown.” Haeg hired Robinson within 45 days of arraignment and Robinson later testified he could have filed motions to suppress – so Bauman is falsifying facts. Haeg’s claim was he asked Cole/Robinson what to do about State inducement/false

evidence & both said nothing could be done – allowing truth to be hidden & State to present known false evidence to Haeg's jury after using it to seize Haeg's property. False counsel after specific inquiry is ineffective assistance. Smith. Hidden evidence & false wolf kill locations (that all knew of & never protested, other than Haeg) were gift that just kept giving to ensure Haeg's conviction.

L. State falsifying wolf kill locations to Haeg's guide area was not material. Robinson testified State's case was Haeg killed wolves in his guide area to benefit his guide business. Its clear killing wolves outside Haeg's guide area would not benefit Haeg's business like inside would. Napue, Mesarosh, Mooney, & Giles hold State cannot use false known testimony to convict even if it's not material. And it was so material Murphy specifically used it to justify Haeg's sentence and Dolifka correctly testified this false evidence, when it appeared in all warrants seizing Haeg's property/evidence, would "poison" everything from that point on.

M. Gibbens corrected State's false trial map. This never happened, proven by the fact the map to this day has false GMU boundaries that corruptly make it appear wolves were killed in Haeg's guide area. [Exhibit #25/map]

N. Contact between Murphy/Gibbens was a matter of convenience/necessity. No one would agree (as Judge Joannides & DOJ state) Haeg got a fair trial if, during Haeg's trial, Murphy was riding/eating with main witness against Haeg. And Murphy would not have falsified a sworn affidavit to deny the contact if it didn't harm Haeg. Murphy repaid Gibbens by ensuring Haeg was convicted.

O. There would be no purpose in conducting an evidentiary hearing on issue of appearance of impropriety. Other than proving Murphy/Gibbens rode/ate maybe discussed Haeg's case/slept together during Haeg's trial, knowingly lied in sworn affidavits (B felony – AS 11.56.200) & conspired with Greenstein to cover up what happened – any one of which would convince a rational person (as Judge Joannides & DOJ state) Haeg didn't receive a fair trial. *Even Peterson said in open court an evidentiary hearing may be a "career ender" for Murphy.*

P. Haeg claims his attorneys were incompetent for raising a defense that didn't prevail. Haeg claimed his attorneys used a defense they knew at the time was invalid and told Haeg for it to work he couldn't raise valid defenses. Haeg' isn't concerned a defense didn't work – *Haeg's concern is Robinson used it when he knew it would not work - while telling Haeg for it to work no other defense could be raised. This is possibly the best, most imaginative, & devious way possible to ensure convicting your own client.* "The Good Old Boys" must teach classes on this one so not one "Good Old Boy" misses out on using it.

Q. Robinson could decide not to call Cole to testify at Haeg's sentencing. Haeg demanded Cole testify in person, *Robinson agreed to do so,* Haeg paid Robinson to subpoena Cole, & gave Robinson questions to prove Cole/State swindled him out of PA after he paid for it [R.00168-171]. When Cole failed to show, Robinson told Haeg nothing could be done (Cole could have been arrested/produced by force under Criminal Rule 17(g)). An attorney lying to a client about specific rights when asked is automatic ineffective assistance. Smith

3. Bauman falsified Haeg's claims, including but not limited to:

A. Haeg argued he took stand to counter Gibbens false testimony. Haeg claimed Robinson told him he must testify because State was using statement against him. Robinson admitted this when deposed. Haeg testified because State used his statement, violating Evidence Rule 410 & overturning Haeg's conviction.

B. Zellers testimony was allowed & cured Gibbens false testimony. Zellers & Fitzgerald testified Zellers testimony was a result of Haeg's statement. Thus Zellers couldn't be used against Haeg. In other words, if Haeg had not given a statement Zellers would not have testified. See Evidence Rule 410, Kastigar, North, & Gonzalez. And Napue, Mesarosh, Mooney, & Giles make clear nothing cures State's use of known false testimony.

C. Haeg didn't show any impropriety of Murphy. *Judge Joannides found Haeg had done so without evidentiary hearing, ruled there must be an evidentiary hearing for Haeg to prove additional impropriety, & referred evidence of Murphy's corruption to authorities for prosecution.* Bauman himself admitted Haeg produced witness affidavits & trial record showing Murphy had knowingly falsified a sworn affidavit to cover up her actions – a B felony.

D. Haeg's case isn't as bad as State Trooper living with Magistrate Ketchikan police got warrants from. In this case court held Trooper/Magistrate relationship private & not professional. In Haeg's case Gibbens privately chauffeured/dined with Murphy; professionally got warrants from Murphy; Murphy professionally presided over case in which Gibbens was main witness against Haeg;

professionally granted all Gibbens' requests during Haeg's trial; professionally denied all Haeg's requests; did nothing professionally about Gibbens trial perjury against Haeg; & professionally cited Gibbens perjury to justify destroying Haeg.

4. Bauman used Haeg's statement, violating Evidence Rule 410

Bauman stated he reviewed Exhibit 25, & wolf kills Haeg placed on it during his interview, to dismiss Haeg's PCR application. Evidence Rule 410 prevents this.

5. Bauman never overturned Haeg's conviction after admitting State used known false evidence to convict. Napue, Giles, Mesarosh, & Mooney

6. Judge Bauman failed to rule on motions establishing Haeg was entitled to PCR. These include motions for evidentiary hearings to present newly discovered evidence State used known false evidence to convict; to compel discovery; & for independent investigate of Haeg's prosecution, appeal & PCR.

7. Bauman was blackmailed, extorted, and/or corruptly influenced to deny evidentiary hearings. If State threatened Haeg's attorneys to frame Haeg it's clear State/ACJC/Bar/will have threatened Bauman to keep this covered up.

8. Bauman is corrupt - including but not limited to: (a) Falsifying 6-month affidavits to starve Haeg out; (b) delaying PCR decision for 3 years to starve Haeg out; (c) predating decisions to corruptly make it appear they had been made within 6-months; (d) corruptly dismissing Haeg's claim (supported by Judge Joannides certified evidence) of Greenstein/ Murphy's corruption; (e) failing to hold required evidentiary hearings before ruling on merits of Haeg's claims – above; (f) failing to address Haeg's claims - above; & (g) falsifying Haeg's claims - above.

9. Greenstein/ACJC are corrupt, including but not limited to: (a) Conspiring with Murphy/Gibbens; (b) falsifying investigation of Gibbens chauffeuring Murphy during Haeg's trial – by falsely claiming to contact the witnesses & by falsifying testimony witnesses would have given had they been contacted; (c) falsifying verified documents to cover up; (d) refusing Judge Joannides' request for prompt review of documentation into investigation; (e) claiming Judge Joannides certified evidence of corruption "not genuine"; (f) corruptly exonerating Bauman of falsifying affidavits; & (g) calling in Trooper SWAT team to prevent witnesses, whose testimony Greenstein/ACJC falsified, from publicly testifying of this corruption.

10. Bar is corrupt, including but not limited to: (a) Destroying Bar record criminally implicating Cole/Fitzgerald; (b) refusing to reconstruct destroyed Bar record with recordings made at same time as destroyed record; (c) corruptly exonerating attorneys from complaints; (d) refusing to prosecute perjury by Cole, Fitzgerald, Leaders, & Greenstein; & (e) failing to timely investigate complaints.

11. This Court of Appeals is corrupt, including but not limited to: (a) Refusing to address State knowingly presented false testimony to convict Haeg; (b) refusing to expedite Haeg's appeal while granting State 380 days to file its brief after Haeg filed his – when Appellate Rule 217 requires State file brief 20 days after Haeg's; (c) refusing to stay Haeg's appeal pending PCR, when this Court ruled this proper procedure - adding years/cost of appealing twice; & (d) giving State a "do over" when State's brief failed to refute Haeg's.

12. The Alaska Supreme Court is corrupt, including but not limited to:

Refusing to consider Haeg's appeal of corrupt decisions above.

13. Alaska public defenders office is corrupt including but not limited to:

Not meeting "statutory obligations" by requiring up to 6 years to review Haeg's PCR when time limit for doing so is 60 days. See Criminal Rule 35.1(e)(2).

14. As this Court authorized - Bauman wrongfully denied Haeg's request for evidentiary hearing to present evidence he was wrongfully convicted.

Reason Corruption Remains Hidden

Robinson is recorded stating the "good old boys" of judges, attorneys, & Troopers in Alaska protect each other when they commit crimes. Anchorage Daily News president/publisher Patrick Doyle told Haeg the evidence can't be published until arrests are made – until then those implicated will decide retaliatory lawsuits. Senator Thomas Wagoner refused to even say out loud the FBI officials he wanted Haeg to contact – handing notes to Haeg instead – "cloak & dagger" at its finest.

Examples of Similar Corruption

United States v. Theodore F. Stevens, No. 08-231 (DC Cir. 2008) (Above) Misconduct in Stevens's case is nonexistent compared to Haeg's case – *Stevens' attorneys were on his side, his judge was honest, & Stevens was a former federal prosecutor - Haeg was an ignorant lamb led to slaughter by his own attorneys.*

"The development of this condition of affairs was not 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 and 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." Adickes v. S. H. Kress & Co., 398 U.S. 144 (U.S. Supreme Court 1970)

"[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*….Among the most dangerous things an injured party can do is to appeal to justice." Testimony resulting in 42 U.S.C. 1983 (Civil Rights Law)

"Combinations, darker than the night that hides them, conspiracies, wicked as the worst of felons could devise, have gone unwhipped of justice. *Immunity is given to crime, and the records of the public tribunals are searched in vain for any evidence of effective redress.* Whenever, then, there is a denial of equal protection by the State, the courts of justice of the nation stand with open doors, ready to receive and hear with impartial attention the complaints of those who are denied redress elsewhere. Here may come the weak and poor and downtrodden, with assurance that they shall be heard. Here may come the man smitten with many stripes and ask for redress. Here may come the nation, in her majesty, and demand the trial and punishment of offenders, when all, all other tribunals are closed. . . ." Monroe v. Pape, 365 U.S. 167 (United States Supreme Court 1961)

WHY?

Without doubt justification to frame Haeg was to protect infant wolf control program from program ending scandal had it been exposed State was telling permittees to shoot wolves anywhere but claim they were taken for program - so it would seem effective when animal rights activists were asking it be shut down as ineffective. Now everyone is covering up that State, Haeg's attorneys, & Murphy conspired to frame Haeg. "The cover up is worse then the crime." Watergate - ending in President Nixon's resignation & imprisonment of 43 top officials. Operation Greylord - corruption so bad Illinois judicial system "was held hostage" & DOJ imprisoned 15 judges, 48 lawyers, 10 sheriffs, 8 police, 8 court staff, & 1

State legislator). Alaska's tally? Greenstein has been only investigator of Alaskan judges for 26 years – so every judge she investigated is suspect. Greenstein gets 20 complaints a month x 26 years = 6,240 possibly corrupt Alaskan judges. Attorney & Trooper tally may be equally shocking.

See Attachment C articles/cases also explaining "why" [R00117-121]

There is no doubt why evidence State told Haeg he must, for the greater good, shoot wolves wherever he could find them was taken out of court record & replaced with false evidence Haeg was shooting wolves in his guide area to benefit his business. State could then claim they had nothing to do with Haeg's actions.

There is no doubt why Haeg was told he could not get plane back & why his lawyers told him to give up guiding prior to charges, trial, or conviction:

"Power over a mans subsistence is power over a mans will." Alexander Hamilton (1757- 1804)

State, Haeg's attorneys, & Murphy illegally took away Haeg's subsistence to break his will/ability to fight. And then this court and Bauman stepped in to delay relief until Haeg was starved out - now over 9 years and counting. But while Haeg is just one small man he still swings the world's most mighty weapon – the United States Constitution. What is in its path is a large, domestic, & entrenched enemy. And Haeg will swing it with the same gusto & determination shown by all those who died for it – knowing that when he also goes down many others across the world have given their word they will pick it up & swing some more.

CONCLUSION

It's clear Bauman never gave Haeg a single evidentiary hearing to prove his claims because too much would be proven against those in the highest positions of Alaska's judicial system. As Robinson is recorded, "The good old boys of judges, troopers, & attorneys protect their own." [R.00122-163] *No other explanation is possible when Bauman overturned Haeg's sentence without an evidentiary hearing for Haeg to prove his claims – when caselaw requires PCR applicants be given an evidentiary hearing if any relief is possible.* What would Haeg prove with an evidentiary hearing in which to present, in one public hearing, the mountain of evidence/witnesses painstakingly gathered over years? What DOJ calls a "Racketeering Influenced Corrupt Organization" & Dolifka calls "absolute, unadulterated, self-bred corruption." What would happen if Murphy, Gibbens, Leaders, Cole, Robinson, Osterman, Fitzgerald, Woodmancy, & Peterson were all questioned under oath at public hearing now? All would be criminally implicated; investigation into all their cases would be required; god only knows how many unjust convictions would be discovered; & "Good Old Boys" would go down by the score. But, as Robinson predicted, "Good Old Boy" Bauman prevented this.

It's incomprehensible State is threatening & harming private attorneys to obtain convictions – as both Cole & Dolifka testified is happening:

> "In fact, *an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition.* The performance of [defendant's] counsel was constitutionally unreasonable, but more importantly, the evidence presented overwhelmingly established that his attorney abandoned the required duty of loyalty to his client. *[Defendant's] attorney didn't simply make poor*

strategic choices; he acted with reckless disregard for his clients best interests and, at times, apparently with the intention to weaken his client's case. Prejudice, whether necessary or not, is established under any applicable standard." Osborn

Things unraveled only after investigation – forcing Cole & Fitzgerald to testify under oath State gave Haeg immunity for statement & afterward Leaders stated he was no going to honor it. Immunity in Alaska means there can be no prosecution - ***BIG PROBLEM*** – when prosecution cost Haeg, wife, & daughters everything. Sellout's result? If Haeg's attorneys protested State's involvement/ false evidence/warrants on day 1, prosecution would have ended on day 1. Haeg would have paid his attorneys about $1500 – but, by letting State illegally build a devastating case, they forced Haeg into paying them hundreds of thousands – *increasing their take a hundred fold.* State got to corruptly protect WCP, got hundreds of thousands from Haeg in fines/forfeitures – & will get lodge & improvements Haeg built on leased State land for a guide career that's gone. "The Good Old Boys" win big, unbelievably big. Unimaginably lucrative "carrot" for attorneys to play ball, overpowering when combined with "stick" of State retaliation if they defend their clients. Unfortunately for "The Good Old Boys", Haeg put the pieces together in time, presented it to the "sleeping giant" (what Dolifka calls unaware public), & the public woke up - such as Dolifka – who gave his word he will lead the charge to obtain justice when Haeg goes down - & others who gave their word Haeg's family will be cared for no matter what. Government threatening attorneys so true evidence may be replaced with false is such a direct & unacceptable attack on our constitution that it must be stopped at all cost. Make

no mistake; *anyone can be convicted of anything if true evidence is allowed to be replaced with false.* It's indescribably evil for investigator Greenstein continuing, apparently unopposed after her Trooper SWAT team quashed testimony that would have exposed her, to falsify investigations to cover up for corrupt judges.

Relief Requested

1. Explain exactly what else Haeg must do to "exhaust" all State remedies concerning his prosecution – so DOJ may prosecute those involved.

2. Overturn Haeg's conviction.

3. Order independent investigation into every aspect of Haeg's case.

4. Any other relief justice may require.

Will This Court of Appeals Grant Relief?

"The reason why you have still not resolved your legal problems is corruption….*if they [Appeals Court] do right by you & reveal, you know, you have the attorneys going down, you have the magistrates going down, you have the troopers going down."* [Tr. 59, 60] (Dolifka)

After this Court first unjustly denied Haeg relief, more people/entities have been implicated. If this Court didn't "do right" the first time it sure can't now. A growing number have pledged to hold accountable those responsible – no matter what. They claim they aren't doing this for Haeg – they claim that until this evil is ended they may be next & until this is ended our constitution, for which so may have died & sworn to protect, isn't worth the paper it's written upon.

"Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together." (Dolifka)

All concerned agree the following action be taken at all cost:

1. Exhaust all State remedies, as DOJ requires before prosecution.

2. Document all delays, as it is certain DOJ's requirement is being used in conjunction with court delays to starve into submission those aggrieved.

3. Ask everyone possible attend the as-yet-to-be-scheduled oral argument in front of this Court of Appeals – as DOJ will be attending.

4. Document how this Court will twist facts & law to suit an increasingly tortured cover up now embroiling itself and numerous others.

5. Burn onto CD items proving corruption/cover up: (a) Haeg's PCR & this brief; (b) Judge Joannides evidence that Murphy/Gibbens/Greenstein are corrupt; (c) ACJC/Greenstein's letter refusing investigation of Judge Joannides certified evidence because they didn't think it "genuine"; (d) minutes of ACJC meeting in which witnesses (whose testimony ACJC falsified) wished to testify, were refused, & were then confronted by SWAT team; (e) Greenstein's verified Bar response; (f) testimony of Haeg's attorneys (proving Greenstein committed perjury without Bar sanction, & proving Haeg's attorneys were threatened/harmed so they would not help Haeg); (g) recordings of Haeg' attorneys while Haeg was paying them to represent him (proving they committed numerous counts of perjury during their depositions); (h) Leaders verified Bar response; (i) Leaders' charging informations (proving Leaders committed perjury without Bar sanction); (j) map used against Haeg at trial; (k) transcript of Haeg's trial; (l) Haeg & Zellers police interviews (proving State & Haeg's own attorneys knowingly used false evidence & testimony to convict Haeg); & (m) this Courts soon-to-come denial of relief.

6. “Wake sleeping giant” by distributing CD door to door, email, internet, website, etc - with authorization permitting unlimited duplication/distribution – asking everyone who has pledged allegiance to our flag, sworn an oath to protect our constitution, or believes in freedom from government oppression, to read & act against Alaska’s judicial system being held hostage by “absolute unadulterated self-bred corruption.” Fly all witnesses & concerned to DC to demand independent judicial, criminal, & media investigation/prosecution. Boeing 747-400 charter for ability to return enough federal marshals to do the job. *Tell those indicted: “Unless you wish to bear the burden yourself, please state what you were told and by who. If authority/threats were used, you will be exonerated & blame properly placed.”*

7. File a class-action lawsuit in federal court naming all individuals/agencies – claiming deprivation of rights under color of law & RICO violations.

8. Publish a book (outline above) to educate/warn public on how these incredibly evil domestic enemies of our constitution can grow/hide in plain sight.

9. Pass legislation preventing this – replace ACJC, Bar, & internal affairs with public grand jury investigation of judges, attorneys, & Troopers; public, not attorney, selection of judges; prohibition of attorneys becoming judges/judges becoming attorneys (as in Europe to eliminate corruption); requirement Troopers be elected by towns in which they serve (eliminating practice of transferring corrupt officers to other unsuspecting communities); & term limits for judges.

10. Vote every year against retaining judges – Judge Joannides has now retired.

11. If nothing is done about lives being destroyed with fraudulent judgments to line pockets of corrupt attorneys, judges, & Troopers - for Haeg to attempt repossessing the plane he used 9 years ago to provide for his wife & daughters.

"In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . . If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself. To declare that, in the administration of the criminal law, the end justifies the means -- to declare that the government may commit crimes in order to secure the conviction of a private criminal -- would bring terrible retribution" Louis Brandeis - U.S. Supreme Court Justice

Haeg asks for no help, just documentation, when he shows up at the Anchorage International Airport impound yard with his bow (so Troopers won't come close enough to taser him) & cuts it free, forcing Troopers to kill him (likely from their new bullet proof tank that would only look more appropriate with swastikas).

"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 could write a doctor's brief on it. And I -- I can't -- and I'm just wore out trying to figure it out because I can't." Dolifka

12. After Haeg goes down he asks this brief/proof be read by all; above laws be enacted; book "The Good Old Boys" be published to prevent this horror in the future; an independent investigation be conducted - with guilty jailed - or at least tarred, feathered, & ran out of the country on a pole (other than Robinson - who told Haeg he already used Haeg's life, business, retirement, savings, & kids college funds for a "villa" in Costa Rica); when others next confront government violations of our Constitution they do so en-mass, using the most powerful weapons they have (Troopers boast their new tank can withstand .50 caliber fire);

& Haeg be remembered for unwaveringly defending the Constitution in the face of overwhelming strength against him – strength which attorney Dolifka testified has "crushed all others, & will continue to crush all others for god knows how many more years, until the "sleeping giant" (you the public) wakes up & kicks ass.

"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." Albert Einstein (1879-1955)

"Our people may tolerate many mistakes of both intent & performance, but, with unerring instinct, they know that, when any person is intentionally deprived of his constitutional rights, those responsible have committed no ordinary offense. A crime of this nature, if subtly encouraged by failure to condemn & punish, certainly leads down road to totalitarianism" Elkins (U.S. Supreme Court 1960)

I declare under penalty of perjury the forgoing is true & correct. Executed on July 8, 2013. A notary public or other official empowered to administer oaths is unavailable & 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 & recordings proving the corruption in Haeg's case are located at: www.alaskastateofcorruption.com

David S. Haeg
PO Box 123
Soldotna, Alaska 99669
(907) 262-9249
hae@,alaska.net

Certificate of Service: I certify that on July 8 2013 a copy of the forgoing was served by mail to the following parties: Gilson, Judge Gleason, Judge Joannides, U.S. Department of Justice, FBI, & media.
By:

Attachment A [Tr. 25-65]

Mr. Dolifka: And the case that you had is very different than the normal criminal case because I knew, as did Mr. Obendorf [Haeg's tax accountant] when you lost your airplane, that your livelihood was impacted. Your life, because your livelihood had changed, is really what concerned me as your business attorney.

Again, I'm not a criminal lawyer, but when things crashed with Mr. Robinson, I became more proactive in actually reading documents, and that's when I became very confused about your case. Again, not being a criminal lawyer, I still am an attorney and I was very confused, even to the point of contacting Judge Hanson, my old friend from Kenai, a 20-year superior court judge, and I called him more than once about your case because I -- I couldn't get my arms around it. It made no sense what had happened.

And I don't know how you possibly had due process with regard to the seizure of your airplane. I have read it and read it and read it. I could write a doctor's brief on it. And I -- I can't -- and I'm just wore out trying to figure it out because I can't.

Mr. Haeg: Is Mark – from what you know of the pleadings and stuff Mark Osterman, my third attorney, is what happened with him what you feared may happen if I hired an attorney inside the state for a third time?

Mr. Dolifka: Well, yeah. If you read the tape-recordings he made of what he said to you, I mean, that just – that part of when I said the hackles come up on my neck. How could a lawyer, especially who believes in ethics, read those tapes of things he said to you, assuming they were transcribed correctly, and -- and not be appalled by what happened?

Mr. Haeg: Okay. And do the -- the recordings basically say, you know, before I hire him – my God, it's the biggest sellout of a client I've ever seen by not only one, but two attorneys, and we're going to get this thing reversed and we're going to sue them" And then I hired Mr. Osterman and then he flops around 180 degrees and says not only have I spent all that money, which was supposed to be all the money for the appeal, but here's another bill for a another $36,000 and, by the way, I can't do anything with what I agreed was the sellout, quote, because I can't affect the livelihoods of your first two attorneys. Is that what appalled you in the transcript?

Mr. Dolifka: Not only is that what appalled me, that is primarily what I sought counsel from Judge Hanson. That – those were the things that disturbed me, was we were – Judge Hanson and I were talking about – as was Mr. Ingaldson – about other cases that were just disturbing. But the main thing with yours that I would talk with Judge Hanson was – and I would actually call him and say Judge,

am I losing my mind, am I reading this correctly? And he took an interest in your case and I think he was shocked by those tapes as well, of what you just read. I just – I did – your case became more and more troubling to me because it was endemic of our whole community. It might have been cutting edge, *but it wasn't the only one.* And for what – what Mr. Osterman said to you on tape should disturb any lawyer who believes in ethics of any kind.

Mr. Haeg: Okay. And I guess you answered this, but *in essence, the – the fear or reason why you had advised me to go outside the state was proven correct? It wasn't just a theory that this was going on, it was proven correct because of Mark Osterman, because the tape recordings, if you looked at them – I taped everything from the day I called him to hire him to the day I fired him. And so would it be fair to say that you and I, knowing that this may happen, prepared – or I prepared for it and Mr. Osterman proved this is going on, that attorneys are – intentionally not representing their clients?*

AAG Peterson: Your Honor, I just – I want to object…*the testimony regarding collusion and corruption, I think is better saved for the PCR hearing because that's going to go, at least with respect to his first two lawyers, it's going to go directly to the issue of his PCR claim. [Then AAG Peterson successfully opposed Haeg's request to present ANY testimony in a PCR hearing.]*

Judge Joannides: And do you have a tape of Mr. Osterman's comments to you that he did – he won't take the case because it would affect….

Mr. Haeg: He wouldn't – he wouldn't use the arguments. He took the case…..

Judge Joannides: No, but that he wouldn't use the arguments because he didn't want to impact….

Mr. Haeg: Correct.

Judge Joannides: …their livelihood. *You have that on tape?*

Mr. Haeg: Yeah.

Mr. Dolifka: What I never understood and still don't, nor do other lawyers, on your plea agreement is how you were – you believed you were going to plead to these lesser charges. That was in place, in theory. And the next thing we know, you go sing like a bird, tell everything you known, and all of a sudden the charges against you are just exponentially increased. What lawyer would have let you lay all of that out and get your -- get your charges increased exponentially?

Mr. Haeg: Do you remember saying that never has – never has there been a case in history that cries out more for outside intervention because you have been to all the major players?

Mr. Dolifka: Oh, I'm sure I said that and I… believe that.

Mr. Haeg: Ok -um- do you remember saying something 'sold your soul for a deal and then the State and Cole sold you down the river'?

Mr. Dolifka: I – I could have very well said that…

Mr. Haeg: Ok.

Mr. Dolifka: Cause your – your whole plea thing just boggles my mind to this day.

Mr. Haeg: Ok 'other than just an outright payoff of a judge or jury it is hard to imagine anyone being sold down the river more'?

Mr. Dolifka: I don't remember saying that but I – I might of.

Mr. Haeg: Ok -um- -uh-…

Mr. Dolifka: That could have been in the context of – of all of the – the little travels… I mean your stuff even with the proprieties that went on I'm so glad you got a new judge on this because one of the things that smelled so bad to – to lay people was all the stuff that you filed for new judge about. The judge riding around with the Trooper and commandeering vehicles. I mean that smelled to high heaven. Especially to non-lawyers. That was one of the things the community was most outraged was just…

Mr. Haeg: Well and not only that – that when I went to the single investigator of judicial conduct and I can prove she lied. I mean that and when she told me – well I guess I'm testifying but… Is the fact that she investigated and because she's been the only judicial investigator for 21 years and – and you reading the stuff should know she lied. Was that a concern?

Mr. Dolifka: Of course. I mean it was and it was… Look at the people that are here today. It was those things that became so troubling. Not only in your case but other cases down there. You would see this stuff and you would just go 'my god that cannot be…

Mr. Haeg: Ok.

Mr. Dolifka:…true'…

Mr. Haeg: Ok. Well let me – I'll just 'your end of the bargain was not met. It was heads I win tails you loose. You didn't even have to be a lawyer or you don't even have to be a lawyer to know inherently there's something wrong with that'.

Mr. Dolifka: I – I'm sure I said that and I still feel that way. That how you – when you went and told everything that you did thinking you had an agreement. Turns out you didn't have agreement and your charges got exponentially increased. That statement I made right there. I absolutely said it. I'm sure and I agree with it today.

Mr. Haeg: Ok if I told – 'if you told a thousand ordinary citizens that for a deal you went in an spilled your guts and then never got the deal they would find that appalling. That's what smelled so bad to me'?

Mr. Dolifka: I'm sure I said that.

Mr. Haeg: -Um- 'the fruit of the poisonous tree started with the warrants which claimed all the evidence was found where you guide. The dominos should have all went down right there. That's what I thought Chuck [Robinson] would latch onto'?

Mr. Dolifka: Well yeah when – when I read your case and the lay people here read your case it appears that the whole foundational things built on a lie. Unless we're all misreading it it looks like it - it the whole deal about section this and all the affidavits. Everything had it. And then the hearing while it wasn't that at all it – when I used it… And that was kind of odd thing to use as fruit of the poisonous tree. We all had that. For us old coots that was a common theory in law school. And once you poison something it's like a house without a foundation. So all the good folks that are here today that we would talk about – 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 and to me a lot of it was built on a lie in a sworn affidavit?

Judge Joannides: And Mr. Haeg just want to tell you that this kind of information particularly is the kind of information that generally goes to PCR judge about the legal defects in the case.

Mr. Haeg: -Um- *'Everyone in your case has had a political price to pay if they did right by you. If they did right by you the DA would take it out on them and other cases.* Then you got the case of your lawyer and the other lawyer got hurt. *You had a series of situations which everyone was doing things to protect everyone rather than you because there was a price to pay'?*

Mr. Dolifka: I agree with that.

Mr. Haeg: Ok. -Um- *'Your case has shades of Selma in the 60's. Where judges, sheriffs, and even assigned lawyers were all in cahoots together'?*

Mr. Dolifka: Well I don't remember that but as a southerner I probably said that.

Mr. Haeg: Okay. 'Everyone's scared to death. The media is scared and afraid.'

Mr. Dolifka: Well, it wasn't this case, but my friend, Mr. Ingaldson, and I more than once tried to get our local newspaper to help us deal with our imploding community and they wouldn't, largely because of – I -- -- don't know that there's a more political area than Kenai/Soldotna. We have fish politics on the river, we're an oil patch place, and so we just sit in this cauldron of – of political things. And those I can live with. When it went into the judicial system is when it became unnerving because fish politics and oil politics is just politics. But when it gets into the court system which keeps this whole thing together, that was the poison that was disturbing.

Mr. Haeg: 'Dirty troopers are all inter-connected.'

Mr. Dolifka: We had some trooper problems.

Mr. Haeg: Okay. 'Troopers at least didn't try to kill you like they did one of my other clients.'

Mr. Dolifka: I don't remember saying that, but it doesn't mean I didn't.

Mr. Haeg: 'If it comes out I'm helping you, there will be a price to pay.'

Mr. Dolifka: I've already paid a huge price for helping you, a tremendous price, because I thought what you and I were doing was confidential.

Mr. Haeg: Can you tell me what the price….

Mr. Dolifka: No, I'm not going to tell you.

Mr. Haeg: Okay.

Mr. Dolifka: I'm not telling you anything more because it'll just get worse.

Mr. Haeg: But anyway let me just see if you remember this. *'The reason why you have still not resolved your legal problems is corruption.* I can tell you exactly what happened. In the early stages you were one of the first that I realized it was corruption. At first I thought it was ineptness. Over time in this journey with you here's a corrupt case here's a corrupt case and here's a corrupt case. Now here's what happens when they come up on appeal. You have a Supreme Court sitting there looking at a pile of dung and *if they do right by you and reveal you know you have the attorneys going down, you have the magistrates going down, you have the troopers going down. You are one small part of the pocket. A lot of lawyers would agree with me. The reason is all gummed up at the top. You're just one of many. It's absolute unadulterated self-bred corruption'?*

Mr. Dolifka: If that was in that era down there I – I probably did say that. I – I was – I had got to such a point of cynicism that I – I was ready to throw in the towel.

Mr. Haeg: Ok and then you…

Mr. Dolifka: But I…

Mr. Haeg: …you gone on 'I talked to Judge Hanson about this. I talked to Judge Hanson for 3 hours about your case. I lean on him all the time. *He now sees it. The system crushes them. I don't have any question now because I couldn't figure out why your appeal could be over and done with. I walked over here and lawyer A says my God they're violating every appeal rule ever. How can it be like this?'*

Mr. Dolifka: Well I probably…

Mr. Haeg: Ok. I mean this is you know then you said 'I absolutely have no faith left in the system'?

Mr. Dolifka: During that time that I probably would have said that. There needs to be some new blood in this case and that's why I'm so happy for you that a new judge has been assigned to this case. What this case need more than anything is an infusion of new blood where there's not old turf wounds. I – I

actually think a new judge assigned to it is the best thing that could have happened because *there won't be an agenda that's already been formulated.*

Haeg called his wife Jackie who testified under oath as follows:

Mr. Haeg: At some point, did I tell you and kind of tried to show you proof that our own attorneys had not been doing a – a good job for us?

Jackie Haeg: Yeah, you did. In the beginning, you told me that.

Mr. Haeg: Okay. And did you, at that time, did you believe me?

Jackie Haeg: I was skeptical. I felt that attorneys were there to help us and I – I had a hard time believing it, yes.

Mr. Haeg: Okay. And did anything ever change your mind about that?

Jackie Haeg: We went in another proceeding where your attorney had me under oath and he was asking me if he had done certain things and -- or he basically told me that he did it and I knew that wasn't true, so that made me change my mind and made me realize that yes, you were telling – what you were telling me was true.

Mr. Haeg: Okay. And – and so it was – it wasn't my telling you as a husband and trying to show you proof, it was the attorney himself trying to get you to testify falsely that made you believe?

Jackie Haeg: Yes, that made me believe.

Mr. Haeg: And I guess you could just – can you explain what it was about bas – just come out and say what – what—what it was about?

Jackie Haeg: Well, he had said that when this had first happened that – and this – when he had me under oath was years after we had first hired him, and he was explaining to me about how he could file motions in the court and that we chose not to do that because it would cost us money. And at that time, we didn't even have an idea what a motion was, so I knew that he wasn't telling me the truth.

Mr. Haeg: And wasn't the motions that he was saying that he could have filed to enforce the plea agreement?

Jackie Haeg: Yes.

Mr. Haeg: Okay. And – what did – what did you remember him saying he could do about the plea agreement?

Jackie Haeg: He told us back when the plea agreement was broke that the only thing he could do was to notify Leaders' boss because she was the lady that he had worked with before when he was a prosecutor, and that was the only thing he could do.

Mr. Haeg: Now and so his – then when you were under oath, he was trying to get you to say that he offered to file motions to enforce the plea agreement and we didn't want to because it would cost money?

Jackie Haeg: Correct.

Mr. Haeg: And if you had said that, that would have been perjury?

Jackie Haeg: Correct.

Mr. Haeg: Okay. And can you explain briefly what this has cost us?

Jackie Haeg: Well, we lost our business, we lost savings, our girls' college funds. We had lot of mental issues. It was hard on our family, our marriage. There was just – it just was a lot. It was really, really hard.

Mr. Haeg: Okay. Did we have to mortgage our house and stuff like that?

Jackie Haeg: Oh, well, yeah, we did that too. We had to sell things and – to pay bills. We had a big – a lot of credit issues because of the bills that we had and the attorney fees.

Mr. Haeg: Okay. Do you think if most families ran into what we did, that they would have enough resources and be able to figure it out or do you think that they would just be ground up and – and would never be able to do anything about it?

Jackie Haeg: I don't think that most families could have gone through this.

Mr. Haeg: Okay. *Do you think that this -- it's important that this be addressed so it doesn't happen to anyone else?*

Jackie Haeg: Yes, I do.

Judge Joannides: You've explained to me – well, could you tell me what is your educational background?

Mr. Haeg: I went to third grade and then was home schooled in Chinitna Bay, which is one of the most remote places in Alaska. There were times when my parents and I would go four months without seeing another person. And everything I learned I learned from books….I personally think because I learned to read so well is why I picked up on being, you know, Mr. Jailhouse Lawyer so well.

Judge Joannides: Well, it appears that whoever home schooled you gave you a wonderful education in terms of developing your language skills and your writing ability. And it appears to me from looking at your pleadings that you understand the legal issues, I mean, as best as any non-lawyer could understand them and possibly even better than some inexperienced lawyers must understand them.

Mr. Haeg: But one of the main reasons why I think I do well is, we have a – a tremendous grassroots ability to run it by people. In fact, most everybody here gets everything I send out and they have a chance to comment on it before it actually gets sent out.

Judge Joannides: Well, it does seem like you have an amazing support network for the information sent to the court as part of this proceeding and the number – the sheer number of people who are here today.

Attachment B [R.00240-263]

Haeg, “what did Cole do that would been different than what he would’ve done if he was a prosecutor in disguise?”

Osterman, “I’m not goanna go there.”

Haeg, “The first thing I would do is I’d say ‘man you are screwed’, ok? ‘All that evidence of the falsification of the search warrants that don’t matter, you’re screwed. Hey the prosecutor’s goanna be nice to you man. Come on in and give the prosecutor a 5-hour interview because gee wiz Dave, I mean I’m advocating for you, pulling hard for you, come on in buddy. Ok. Next I guess it’s time for you to give up your livelihood cause the prosecutor wants it. He’s got to have it. Cancel all your income for a whole year and your wife’s income for a whole year, because I’m advocating for you buddy. I’m behind you. Me, I’m fighting Scot Leaders. He’s got broken legs – it’s goanna be months before he comes out of the hospital because I hit him so hard with you giving up your livelihood for a whole year. Enhancing your sentence makes it better for you Dave. Enhancement of your sentence, that’s good. You like that, yeah bring that in. Ok Dave, we got the deal of the century now Dave. For that fly everybody in from Illinois and from the bush and bring them on in so that your sentence can be enhanced. Yeah come on up we got a pre-sentence meeting here 5 business hours before your supposed to do it. Oh the deals changed. Old Scot needs some more stuff Dave. Throw in your plane. Scot wants to learn how to fly before your sentencing so he know that – that plane is one of the best in the world for bush flying but man that’s goanna break another one of Scot’s arms by signing it over to him Dave. Yeah I’m advocating for you Dave. Oh, you don’t want to give him the plane? Well you got to. That’s the way the game’s played Dave. I didn’t mention that I knew this 5 days before he was goanna break the deal Dave but all that money that you spent I’m advocating for you Dave, man I’m in your corner. Now what would he have done differently if he would’ve been a prosecutor in disguise? Answer me that one question, please.”

Osterman, “I can’t tell you. I don’t know.” [R.00240-263]

Attachment C [R.00117-121]

Anchorage Daily News, November 12, 2004:

Wolf Hunters Must Stay in Bounds: No Cowboys

"The two men, David Haeg & Tony Zellers, have pleaded not guilty. They are due their day in court. But the story is already discouraging. Aerial wolf hunting is controversial enough without even the suspicion of teams far exceeding their state permits. Game biologists disagree on the effectiveness & need for the program, but this much they & all Alaskans can agree on: Alaska's wolf-control program is not a declaration of open season wherever airborne shooters care to open fire.

What's encouraging is the state's apparent determination to press charges & not turn a blind eye to suspected violations of permit terms & Alaska law.

And what's particularly satisfying in this case is the skookum work of wildlife enforcement trooper Brett Gibbens, a trapper who knows both the areas' wolves & the work of aerial hunting. That kind of expertise & dedication is what the state needs to keep the wolf-control program under control.

Aerial wolf hunting is about fish & game management & providing more moose for hunters. It's about cutting competition at the top of the food chain. It's not about fair chase. But that doesn't mean it's management without rules. Those entrusted with this job must be law-abiding Alaskan's who know what they're doing & why – & know when to stop.

Violators should pay a stiff price [R.00117-121]

Fairbanks Daily News-Miner, November 23, 2004

Alaska's Wolf-Control Program Deserves to be Killed Itself

The unlawful wolf-killings that prompted the criminal charges imposed on one of three hunter-pilot teams permitted by the state to shoot wolves near McGrath is utterly predictable. Permit-holders may well view the shooting opportunity as open-ended, & go anywhere to kill wolves. It's lucky that David Haeg & Tony Zellers were caught.

Originally, the McGrath area included 1,700 sq. miles. Wolf killers couldn't find any wolves in the area despite Alaska's Department of Fish & Game's (ADF&G's) assurances that the area contained too many wolves, so ADF&G expanded the control area to provide wolves to kill.

The latest control program ...may illustrate better than any others the state's dishonesty. [R.00117-121]

Anchorage Daily News, November 9, 2005

Groups Taking Aim at Aerial Wolf Hunt

"Jans said he believed such abuse [of the wolf control program] is widespread but it's just too hard to catch the culprits. State officials called Haeg a 'bad apple,' & pointed to his harsh sentence…jail, losing his airplane, & giving up his guide license for five years." [R.00117-121]

Anchorage Daily News, January 14, 2006:

Wolf Control Permittee Pleads No Contest to Illegal Kills

"Even though Zellers & pilot David Haeg, 38, of Soldotna were permitted under the state's predator control program, they were acting on their own, said Matt Robus, director of the Division of Wildlife Conservation. 'We do not consider this a part of the McGrath wolf control program,' Robus said. Patricia Feral, president of Darien, Conn.-based Friend of Animals, said the behavior by the program participants illustrates how 'abominable the entire program is & how little enforcement there can be to make sure it goes the way the state wants it to.'" [R.00117-121]

Peninsula Clarion, March 2, 2007

Rogers Judge Chastises Prosecution, Investigation 'This is not Iraq."

"'The defense has a constitutional right. This is not Iraq,' said retired Anchorage Superior Court Judges Larry Card, who is serving as judge pro-tem in the trial. A debate rose to a crescendo pitch *as Card told assistant district attorney Scot Leaders, in the nearly 14 years Card had been a judge, he has never seen as many discovery violations in a most-serious case - murder."* [R.00117-121]

This was Leaders' very next prosecution after Haeg's – & once again

Robinson was the defense attorney "opposing" Leaders.

Cole, "The governor put immense pressure on the judge & prosecutor to make an example of you [Haeg]." "I thought he [Haeg] was going to receive a significant punishment because it made the governor look bad, it made the executive branch look bad, it put at risk the whole airborne wolf hunting policy." [R.00064] "When Governor Murkowski came back in he reinstated it. He took a tremendous amount of grief for that. The governor did, the governor's office, the

State of Alaska, tourist and – and I just saw this as just terrible publicity toward the governor if someone who was a guide intentionally took a privilege that the State gave him to kill wolves out of an airplane – which is about as unfair chase as you can get…" [R.00073] "the troopers know it, it's the license. That's what's valuable, that's what hits home…they know you know being out of business means you know & for 5 years it is almost impossible to come back." [R.00074] "Did we discuss motion to suppress – no I really didn't think we did because I never felt that was a good option. It's like Judge Roland once told me on a preemption of a judge. 'If you're goanna shoot at the king you'd better kill him – cause if you don't hour heads goanna get lopped off' and that's the way I felt with this." [R.00075] "the troopers looked at you as a bandit and didn't think that you should be a guide anymore & wanted you out of the business & thought that anybody who shot wolves under permission of the State when they were a guide didn't have the qualities of being a guide, shouldn't be a guide." [R.00076]

Fitzgerald, "the State was goanna in my view bend over backwards to make sure that for political reasons if nothing else that the matter was goanna be addressed very sternly." [R.00068]

Robinson's sentencing argument (after he defended Haeg with a defense he knew at the time was invalid & then conspired with Cole so Haeg would not get credit for the guide year already given up), "It smacks of vindictiveness to hear this trooper [Gibbens - Judge Murphy's chauffeur] get on the stand & say, well, I want you to do more to Mr. Haeg that what the law allows you to do. I mean, for what? Mr. Haeg doesn't have any prior convictions, 21 years of being in the business, never been in any trouble before. And they want to make an example out of him. They're not looking for justice; they're not looking for what's right & what's wrong. They just want to string this man up & make an example of him. Take his livelihood away from him, so his wife & kids starve. So the state is really asking you to destroy this man's life. It's not asking you to be fair & just, but it's really asking you to take his life & destroy it."

Robinson sworn testimony during his deposition: *"[State] was "in some political pressure" to make an example of Haeg.* [Rob. Dep. 210-213]

Leaders, "in the State's view & it's as Mr. Spraker testified, Mr. Hag's actions & *the impact it will have on these [wolf control] programs is really to be determined, based on, you know, how this all comes out*…the state's theory in this case, Judge, is that this is done & primarily done for Mr. Haeg's own economic benefit, to assist in aiding his guiding activities by eliminating the wolves in those areas." [Trial rec. 1394-1397] "I believe that loss of guide license is what impacts guides the most." [R.02358-2359]

Judge Murphy's justification for destroying Haeg's guide career & sentencing him to nearly 2 years in prison, "you felt it was your entitlement, for lack of a better word, to kill the wolves in the area where you were hunting (apparently forgetting her chauffeur Gibbens admitted this was false sworn testimony by him)…things that you may not think of, *such as the politics involved. Such as the affects to the wolf kill program."* [Trial rec. 1441]

Northern Mariana Islands v. Bowie, 243 F3d 1109 (9th Cir 2001) "The prosecution saw fit without prophylaxis to call to the stand witnesses whom it had clear reason to believe might have conspired to lie under oath. In this connection, the principles which compel our decision here are not designed to punish society for the misdeeds of a prosecutor, see United States v. Agurs, 427 U.S. 97 (U.S.Supreme Court 1976), but to vindicate the accused's constitutional right to a fair trial, a fundamental right for which the prosecution shares responsibility with the courts.

The ultimate mission of the system upon which we rely to protect the liberty of the accused as well as the welfare of society is to ascertain the factual truth, and to do so in a manner that comports with due process of law as defined by our Constitution. *This important mission is utterly derailed by unchecked lying witnesses, and by any law enforcement officer or prosecutor who finds it tactically advantageous to turn a blind eye to the manifest potential for malevolent disinformation.* United States v. Wallach, 935 F.2d 445 (2nd Cir. 1991) ("Indeed, if it is established that the government knowingly permitted the introduction of false testimony `reversal is virtually automatic.' ") Franks v. Delaware, 438 U.S. 154 (U.S.Supreme Court 1978) ("[I]t would be an unthinkable imposition upon [the judge] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment.").

Due process cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured.

In Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959), Chief Justice Warren reinforced this constitutional imperative. He quoted from a New York Court of Appeals case involving false testimony: "A lie is a lie, no matter what its subject, and, if it is in any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth."

What emerges from this record is an intent to secure a conviction of murder even at the cost of condoning perjury. This record emits clear overtones of the Machiavellian maxim: "the end justifies the means," an idea that is plainly

incompatible with our constitutional concept of ordered liberty. See Rochin v. California, 342 U.S. 165 (U.S. Supreme Court 1952).

He had certain constitutional rights that he could waive or forfeit, but he couldn't waive the freestanding ethical and constitutional obligation of the prosecutor as a representative of the government to protect the integrity of the court and the criminal justice system, as established in Mooney and Berger. To quote again from Mendiola, "It is the sworn duty of the prosecutor to assure that the defendant has a fair and impartial trial." Here, the government shirked this duty. In this respect, the error on which we reverse Bowie's conviction was not simply a trial error, but a fatal due process error... The error fatally contaminated everything that followed.

The authentic majesty in our Constitution derives in large measure from the rule of law -principle and process instead of person. Conceived in the shadow of an abusive and unanswerable tyrant who rejected all authority save his own, our ancestors wisely birthed a government not of leaders, but of servants of the law. *Nowhere in the Constitution or in the Declaration of Independence, nor for that matter in the Federalist or in any other writing of the Founding Fathers, can one find a single utterance that could justify a decision by any oath-beholden servant of the law to look the other way when confronted by the real possibility of being complicit in the wrongful use of false evidence to secure a conviction in court.* When the Preamble of the Constitution consecrates the mission of our Republic in part to the pursuit of Justice, it does not contemplate that the power of the state thereby created could be used improperly to abuse its citizens, whether or not they appear factually guilty of offenses against the public welfare. It is for these reasons that Justice George Sutherland correctly said in Berger that the prosecution is not the representative of an ordinary party to a lawsuit, but of a sovereign with a responsibility not just to win, but to see that justice be done. *Hard blows, yes, foul blows no.* The wise observation of Justice Louis Brandeis bears repeating in this context: *"In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . . If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself."*

"In Justice", by former United States Attorney David Iglesias, who, along with six other U.S. Attorneys, were fired by the Bush administration after they refused to indict high-level Democrats on non-existent charges just before elections.

Although U.S. Attorneys serve at the pleasure of the president, and may be replaced at any time, it looked suspicious that those fired had refused to use their power to corruptly sway elections. When the attorneys asked why they had been

fired and started pursuing who was involved the ensuing cover up was nearly unbelievable in the scope and number of people eventually implicated.

In the end numerous people involved had to resign, including:

Karl Rove, White House Deputy Chief of Staff;
Alberto Gonzales, United States Attorney General;
Kyle Sampson, Chief of Staff to the Attorney General;
Michael Battle, Director of the Executive Office for U.S. Attorneys;
Michael Elston, Chief of Staff to the Deputy Attorney General;
Monica Goodling, Justice Department's liaison to the White House;
William Mercer, Acting Associate Attorney General;
Sara Taylor, Deputy Assistant to the President and Director of Political Affairs;
Paul McNulty, Deputy Attorney General;
Harriet Miers, White House Counsel;
Bradley Schlozman, Director, Executive Office for U.S. Attorneys.

Actual quotes from the book and then what happened in Haeg's case (Haeg's attorneys testified the State threatened them - explaining why the State falsified evidence unchallenged, broke agreements unchallenged, and gave, then broke, immunity unchallenged - after they got a statement from Haeg):

(1) "Context is everything. It was a truth I had learned through years of experience as an attorney, where the setting, the situation, and the circumstances surrounding a crime can often make all the difference in the final perception of innocence or guilt."

The context in Haeg's case was that just days before he participated in the Wolf Control Program the state told him that he had to take wolves anywhere they could be found so the Wolf Control Program would be seen as effective and not shut down permanently. (before Haeg participated the 6 month "experimental" program had been going for 4 months and had only taken 4 of the 60 wolves, leaving 56 more to be taken in just 2 months - leading animal rights activists to claim the program was ineffective and must be shut down permanently.)

The State telling Haeg this would have kept him from ever being charged. Haeg's own attorneys are captured on tape telling him this was not a legal defense (when it was found out later it absolutely was) and then, when Haeg's business attorney told him he must submit the evidence of what the State said, it was removed out of the official court record while the cover page proving it had been admitted remained.

Then, dovetailing into the sabotage above, the State falsified all the evidence locations to Haeg's guide area, claimed this proved the wolves were taken to benefit Haeg's guide business, meant that his actions had nothing to do with the Wolf Control Program, and that he should be charged with guiding charges as a rogue guide out to feather his own nest.

News articles at the time prove this was intentional: On January 14, 2005 Associated Press writer Mary Pemberton's account was published everywhere, including the Anchorage Daily News:*Even though Zellers and pilot David Haeg, 38, of Soldotna were permitted under the state's predator control program, they were acting on their own, said Matt Robus, director of the Division of Wildlife Conservation. 'We do not consider this a part of the McGrath wolf control program,' Robus said.*

Patricia Feral, president of Darien, Conn.-based Friends of Animals, said the behavior by the program participants illustrates how "abominable the entire program is and how little enforcement there can be to make sure it goes the way the state wants it to."

Feral's group is engaged in a protracted fight with the state over the wolf control program, the first of it kind allowed in Alaska's in a decade. The animal rights group has hearing scheduled in Superior Court later this month in which they will seek to have the program stopped.

To have it be known that the state was telling participants to take wolves anywhere would have given the state a big black eye. No wonder Haeg's attorneys told him he couldn't say what the state had told him and why, after he put evidence of this in the official court record anyway, it was removed.

Haeg's attorney Cole testified that the state had "put immense pressure" on prosecutor Scot Leaders and Judge Murphy to make an example of Haeg to protect the Wolf Control Program.

The State, by destroying evidence that was already in the official court record and replacing it with false evidence, turned the context of Haeg's actions from he was a knight in shining armor told by the State to take wolves anywhere they could be found to make the wolf control program a success, thus saving the moose/caribou resource for all those that depended on it - to Haeg was a rogue guide that betrayed the State by using the wolf control program to benefit his guide business.

(2) "I was effectively a pariah, brought low by circumstances I didn't then understand."

Haeg was made a “pariah” and brought low by circumstances he is still discovering – like the recent discovery that the map used against him at trial had been falsified to corruptly make it appear all the wolves had been taken in Haeg’s guide area and that the state knew the map was false when they used it against Haeg at trial. (And then Judge Bauman didn’t address this even though overwhelming law holds any conviction obtained by the state knowingly using false evidence must be overturned). The recent depositions from Haeg’s own attorneys prove the state blackmailed and extorted them so they would not protect Haeg and that they knowingly used an invalid defense so Haeg could be convicted.

(3) "It was a way of doing business that Bud [another U.S. Attorney that had been fired] characterized to me as 'inexperienced, arrogant, and calibrated for disaster.'"

To have the State expect to get away with threatening Haeg’s attorneys, destroying the evidence Haeg had put into the official court record, and replacing it with false evidence without Haeg raising holy hell can only be described as "arrogant and calibrated for disaster." To have them grant "immunity" to force Haeg to tell them everything and then think they could use what Haeg told them so they could prosecute Haeg, is also "arrogant and calibrated for disaster.". ACJC investigator Marla Greenstein's actions are also beyond arrogance; falsifying certified documents to cover up the fact Haeg’s judge was chauffeured by the main witness against him is a felony. To have the State promise minor charges and that Haeg would only have to give up one year of guiding and then, after he had given up the year and it was past, to change the charges so the court would be forced to take Haeg’s guide license for many more years, is also beyond arrogance. Haeg doesn’t even know what to call the lying of his own attorneys, who he and his wife paid hundreds of thousands of dollars, so the State could do all of this unchallenged.

(4) "I needed to step forward, to tell what had happened, regardless of the consequences. At that point, I knew where my loyalties lay - with my conscience and my country. I did what I did because I would have felt too guilty not doing it."

Now that Haeg knows how easily and effectively they framed him one wonders how many they have done it to in the past and how many they will do it to in the future. Haeg too feels he must do something to stop it, regardless of the consequences - because if it is not stopped we no longer live in a free country or have constitutional rights that will protect us from the government.

(5) "I found Cyndy [U.S. Attorney David Iglesias' wife] curled up on the floor of our bedroom closet with the door shut. 'I didn't want the girls to see me in that condition,' she explained."

During the darkest days, when Haeg's attorneys told him the state could falsify anything and everything with complete immunity -so they could take away everything his family had - Haeg slept on the dog bed under his desk.

(6) "What's next, horses heads in our beds? The highest levels of the Justice Department were acting like organized crime figures."

State assistant attorney general Andrew Peterson has had people call and physically threaten Haeg if he didn't stop and now Haeg's own attorneys are testifying under oath the state threatened to harm them if they didn't sell Haeg out. In others words the state is not obtaining convictions with facts, evidence and law - they just threaten a defendant's attorney so the defendant (who is so ignorant of the law he doesn't know this is happening) can be framed.

(7) "The inexperienced and the arrogant had made the first move in a damage-control campaign that would, in time, prove more disastrous than the firings themselves. All this went to the old adage that the cover-up is always worse than the crime."

Look at just judicial conduct investigator Marla Greenstein's cover-up of the chauffeuring of Judge Murphy by Gibbens during Haeg's prosecution. If Greenstein would not have falsified her investigation into the chauffeuring the corruption would have been limited to a backwoods judge conspiring with the local trooper, resulting in a single person's conviction being overturned. But now that the only investigator of judges in an entire state for the last 26 years falsified her investigation to cover-up for the backwoods judge it will eventually result in every judicial investigation for the last 26 years being redone with hundreds if not thousands of convictions now suspect. In other words the cover-up by Greenstein was thousands of times worse then the chauffeuring of Judge Murphy by Gibbens.

(8) "Few of us could have guessed that there was no place for the growing scandal to go except straight up the chain of command."

Look at how Haeg's case started with the corruption of then backwoods Magistrate Murphy and has now implicated Alaska Commission on Judicial Conduct Executive Director Marla Greenstein, Superior Court Judge Bauman, and even the Alaska Court of Appeals.

(9) "The longer he [U.S. Attorney General Alberto Gonzales] delayed telling the whole truth and nothing but, the more damaging it would be for him and the president he was so intent on protecting at all costs. We all shared a suspicion that Main Justice was quickly backing itself into a corner."

Look at how the damage in Haeg's case increases exponentially as everyone continues to deny the state and his own attorneys framed him - with the recent depositions of his own attorneys they should now be convicted of many counts of felony perjury - and now Judge Bauman and AAG Peterson will go down with them.

(10) "Justice Department Gone Wild"

Alaska's judicial system has "gone wild" in Haeg's case - there is far too much evidence for it not to be a product of widespread systemic corruption.

(11) "Main Justice...serenely refusing to even acknowledge, much less admit, the logical lapses and transparent discrepancies in its version of realities."

Haeg's attorneys testifying he had transactional immunity (which prevents all prosecution) and then testifying Haeg could be prosecuted; the state filing a 14-page *opposition* to Haeg representing himself; the state modifying the judgment against Haeg over 5 years after the fact when state statute forbids this; Court of Appeals ruling the Wolf Control Program was "hunting" when state law specifically says it is not; state claiming trial perjury by Troopers is not unethical; Judge Bauman holding oral arguments on the state's first motion to dismiss after he already made his ruling; not holding an evidentiary hearing on Haeg's claims his attorneys have testified under oath that they were threatened and that he had been given immunity that prevented prosecution; etc; etc.

(12) "There was indeed a smell in the air - the stench of a cover-up."

The stench of Haeg's case is now overpowering.

(13) "...what we had come to do: bring into the bright light of public scrutiny an abuse of power that struck at the heart of our criminal justice system, exposing an arrogance that would barter objectivity and impartiality for naked power and political gain."

It is clear that Alaska's justice system, in Haeg's case, was willing to forgo truth, law, fairness, and constitutional rights to first protect the Wolf Control Program and now to protect all those who were ensnared in doing so.

(14) "The truth was twisted to suit an increasingly tortured cover-up."

See number 11 above.

(15) "[people involved in the scandal] took the proactive step...of hiring a top Washington criminal defense lawyer"

Judge Murphy and Magistrate Woodmancy hired Peter Maassen (Alaska Supreme Court Justice) in response to Haeg's PCR claims. Why would two judges need to hire an Alaska Supreme Court Justice in response to Haeg's claims when Haeg is not even an attorney? Marla Greenstein has now also obtained her own attorney is response to Haeg's claims.

(16) "The fact that the taint of scandal had reached so high, so fast, suggested there was a lack of a suitable scapegoat to take the fall."

Exactly - or they are tied so closely together if one goes down the rest will follow.

(17) "Sampson's departure was the first in a series of tumbling dominoes."

See 16 above.

(18) "The Bush administration, claiming executive privilege, repeatedly refused to make Rove's e-mail correspondence on the subject available."

Judicial investigator Greenstein, Leaders, AAG Peterson, Judge Murphy, and AAG Peterson have all claimed privilege to deny providing documents that will prove what happened in Haeg's case.

(19) "I think we should gum this to death...and otherwise run out the clock. All this should be done in 'good faith' of course."

This e-mail from one of the people who eventually had to resign shows the unbelievable delays in Haeg's case are no accident. Judge Bauman has now gone over his 6 month time limit for decisions on at least 12 different occasions. Haeg filed for PCR almost 3 years before Judge Bauman dismissed it - without an evidentiary hearing. And the Court of Appeals has been worse than this.

(20) "It was an awful sight to behold, as, one after another, important people in powerful positions struggled to save their reputations."

Scot Leaders (Kenai DA); Judge Murphy; Marla Greenstein (only investigator of Alaskan judges for last 26 years); Gibbens (Trooper for last 16 years); private

defense attorneys Cole, Robinson, and Osterman (all long time attorneys); AAG Peterson; Judge Bauman, and the Court of Appeals are now struggling to save their reputations and freedom by hiring private defense attorneys, falsifying sworn testimony and affidavits, and/or making unconstitutional rulings.

(21) "It was a day none of us wanted, one that exposed a shocking lapse of integrity and honesty at the highest levels of our government. Watching it unfold, I was reminded of the old fable of the emperors new clothes. The attorney general, supposedly garbed in all the gravitas of his office, had paraded naked for the world to see."

Being able to prove evidence was falsified and destroyed so Haeg could be convicted; being able to prove the state threatened Haeg's own attorneys to ensure their cooperation; being able to prove Greenstein falsified an entire judicial investigation to cover everything up (and later falsifying verified documents to cover up for herself); and now being able to prove Judge Bauman is falsifying sworn pay affidavits so he will be paid while delaying rulings beyond the required 6 month time frame (to "gum" Haeg's case to death with delays); have paraded their naked corruption for the world to see.

(22) "They are issues of illegality and unconstitutionality. I spoke out because I could never get over the insurmountable fact that what had happened to me was wrong and that it would be repeated to future U.S. Attorneys unless I spoke out."

If Iglesias thought this over being fired for an unjust reason what do you think he would think if his whole career and lifetime business were wiped out, he was sentenced to nearly 2 years in prison, hundreds of thousands of dollars was taken - all because a state blackmailed and extorted his own attorneys and then conspired with them to frame him for something he didn't do, and that this was being covered up by judges and judicial conduct investigators?

(23) "Judges and prosecutors are expected to stay out of politics, and the sanction for breaking that is impeachment for the judge and job terminations for the prosecutor. It is unconstitutional and un-American to act otherwise. America stands for many inspiring principles, the rule of law being one of the pillars in our noble experiment in democracy. Failed states don't recognize this principle - in some countries, prosecutors and judges are mere pawns of the corrupt elected officials. Justice cannot flow from such a polluted source. On the other hand, the American public has the absolute right to believe that when someone is charged with a crime, it is based on the evidence alone. Former U.S. attorney general and Supreme Court justice Robert Jackson recognized this vast power when he gave a speech to the U.S. Attorneys in 1940, saying, "[A]ssembled in this room is one of

the most powerful peacetime forces known to our country. The prosecutor has more power over life, liberty and reputation than any other person in America."

This says it all.