

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

DAVID HAEG)

Plaintiff,)

v.)

STATE OF ALASKA)

Defendant.)

Case No. 3KN-10-01295 CI

(Previously identified as PCR Case No. 3HO-10-00064 CI
and Trial Case No. 4MC-04-00024 CR)

ORDER

*(Notifying Parties of Court Error in Serving Orders on Commission,
Confirming August 27, 2010 Order, and
Referring Materials to Judicial Conduct Commission for Review)*

Mr. Haeg contacted my law clerk, both by phone and by letter,¹ and requested formal confirmation that my chambers sent the Executive Director of the Alaska Commission on Judicial Conduct, Marla N. Greenstein, a copy of my August 27, 2010 order wherein I referred certain documents to the Alaska Commission on Judicial Conduct for their consideration. The original order and fax transmittal sheet in question were located in the file which is now in Kenai. Therefore, the court obtained a faxed copy of the original order and a copy of the transmittal sheet which are attached to this order as Exhibit 2.² Based upon my review of the documents it appears that the Alaska Judicial Conduct Commission was not properly served. The fax transmittal sheet shows their telephone number as their fax number. Therefore, unless they were provided the order from Mr. Haeg, or another

¹ See Exhibit 1, faxed letter of March 22, 2011 and attachments (11 pages).

² The fax transmittal sheet reflects that 43 pages were faxed to the interested parties. A review of the document and attachments received from the Kenai court reveals that 54 pages are in the file. It appears that Attachment of I of Exhibit 2 consists of two versions of the transcript. Only one of them must have been sent. Since the other version is easier to read we have attached both versions to this order. Because of this error, and in an abundance of caution, the entire document with its attachments is being provided with this order. See Exhibit 2 with attachments A through I. (54 pages)

interested party requesting that they take action on the order, they would not have known the court referred the matter back to the Commission for review.

Over the last couple of months, Mr. Haeg has sent me courtesy copies of the materials he is filing in his case. Because there are no pending issues before me, I have not taken any action on them. Because of this recent request, I reviewed the submitted documents, including Ms. Greenstein's letter to Assistant Bar Counsel Louise Driscoll. Ms. Greenstein notes that Courtview does not include a reference to the court's August 27, 2010 order. Ms. Greenstein is correct, it does not. This error is being corrected and the docket shall now reflect the August 27, 2010 order.

Because of the discovery of the errors in the service of the August 27, 2010 order and in the failure to enter the order in Courtview, I requested copies of the two August 25, 2010 orders. The orders faxed to me from the Kenai court reveal that these documents were served on the Alaska Judicial Council rather than the Alaska Commission on Judicial Conduct.³ This error is being corrected by the service of the documents as attachments in this case.

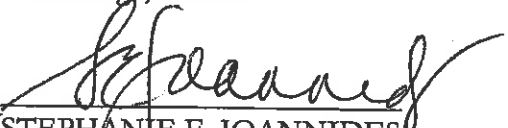
In summary, it is unacceptable that this series of errors occurred and I must apologize to the parties for the errors in service and in Courtview.⁴ These errors have further frustrated a long and fairly complicated case that required careful review. As the August 27, 2010 order states, my task was limited in scope. At the conclusion of my review, I granted Mr. Haeg's request to disqualify Judge Murphy from the Post Conviction Relief case because I found that, at a minimum, there was an appearance of impropriety. Because I was not privy to the parameters of the Commission's investigation of Mr. Haeg's complaint

³ See Exhibits 3 (5 pages) and 4 (2 pages).

⁴ In an abundance of caution, this order with the attachments is being served on all the individuals who should have been previously served. In addition, this order is being served on Assistant Bar Counsel Driscoll and Assistant Ombudsman Higgins since the issue of the receipt of the documents is being reviewed by them.

and because I was unable to evaluate any alleged factual discrepancies⁵ between the affidavits submitted by Mr. Haeg's witnesses and (1) the information in the taped conversations between Mr. Haeg and Ms. Greenstein and (2) the statements made by Judge Murphy and Trooper Gibbens, I referred the matter back to the Commission so they could evaluate the consistency of the statements. Therefore, I provided pages of information, along with the August 27, 2010 order, to the Commission for their consideration.⁶

DONE this 25th day of March 2011 in Anchorage, Alaska.


STEPHANIE E. JOANNIDES
Superior Court Judge pro tem

I certify that on 3/29/11
a copy of the above was mailed and/or faxed to
each of the following at their
addresses of record:

David Haeg, by fax and mail
Judge Bauman, assigned judge, by mail
Members of the Alaska Commission on Judicial Conduct, by mail
Assistant Bar Counsel Louise Driscoll, by mail
Assistant Ombudsman Kate Higgins, by mail
Marla Greenstein, by fax and mail
Peter Maasen, counsel for Judge Murphy, by mail
A. Andrew Peterson, Office of Special Prosecutions, by mail
Original order sent to Kenai Court to be placed in the file


Judicial Assistant

⁵ Some of the factual conflicts that Mr. Haeg raised are addressed in the court's August 27, 2010 order.

⁶ In addition to the courtesy copies of the pleadings and the letter discussed above, Mr. Haeg provided the court with a CD of what appears to be a February 2011 conversation between Mr. Robinson, Mr. Haeg's attorney, and Mr. Haeg. During the conversation, Mr. Robinson states he spoke to Ms. Greenstein about this matter. Mr. Haeg supplied this CD because he believes that it directly contradicts Ms. Greenstein's verified January 21, 2011 letter to the Alaska Bar Association Bar Counsel that she spoke to Mr. Robinson. Because these issues are not ones assigned to me, I do not intend to address the substantive issue. I only note it for the record because it is unclear to me if I was provided a courtesy copy of the CD or if this is an original that should be made part of the record in Mr. Haeg's PCR case or his other complaints. Mr. Haeg should file notice with the court no later than April 15, 2011 if he wishes the CD provided to me to be made part of the record in his PCR case or any other case. If he has already provided it to the Kenai court or other agencies, it need not be made part of the record a second time.

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

DAVID HAEG,)	
)	
	)	Plaintiff,
)	
v.)	
)	
STATE OF ALASKA,)	
)	
	)	Defendant.
<hr style="width:40%; margin-left:0"/>		
	)	Case No. 3KN-10-01295CI

ERRATA TO ORDER ISSUED ON MARCH 25, 2011¹


Footnote 6 on page 3 of the order requires correction. The footnote states that during a recorded conversation, Mr. Robinson told Mr. Haeg that he had spoken to Ms. Greenstein. This is incorrect. Mr. Robinson told Mr. Haeg that he had not spoken to Ms. Greenstein. Therefore, footnote 6 should state:

In addition to the courtesy copies of the pleadings and letter discussed above, Mr. Haeg provided the court with a CD of what appears to be a February 2011 conversation between Mr. Robinson, Mr. Haeg's attorney, and Mr. Haeg. During the conversation, Mr. Robinson states *he did not speak* to Ms. Greenstein about this matter. Mr. Haeg supplied this CD because he believes that it directly contradicts Ms. Greenstein's verified January 21, 2011 letter to the Alaska Bar Association Bar Counsel that she spoke to Mr. Robinson. Because these issues are not ones assigned to me, I do not intend to address that substantive issue. I

¹ Notifying Parties of Court Error in Serving Orders on Commission, Confirming August 27, 2010 Order; and Referring Materials to Judicial Conduct Commission for Review
3KN-10-01295CI
Haeg vs. SOA
Order: Errata

only note it for the record because it is unclear to me if I was provided a courtesy copy of the CD or if this is an original that should be made part of the record in Mr. Haeg's PCR case or his other complaints. Mr. Haeg should file notice with the court no later than April 15, 2011 if he wishes the CD provided to me to be made part of the record in his PCR case or any other case. If he has already provided it to the Kenai court or other agencies, it need not be made part of the record a second time.

DONE this 8th day of April 2011 at Anchorage, Alaska.


STEPHANIE E. JOANNIDES
Superior Court Judge pro tem

I certify that on 11 April 2011
a copy of the above was mailed to
each of the following at their
addresses of record:

- David Haeg, by fax and mail
- Judge Bauman, assigned judge, by mail
- Members of the Alaska Commission on Judicial Conduct, by mail
- Assistant Bar Counsel Louise Driscoll, by mail
- Assistant Ombudsman Kate Higgins, by mail
- Marla Greenstein, by fax and mail
- Peter Maassen, counsel for Judge Murphy, by mail
- A. Andrew Peterson, OSPA, by mail
- Original order sent to Kenai Court to be placed in the file


Judicial Assistant, Ellen Bozzini

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE
CHAMBERS OF JUDGE STEPHANIE E. JOANNIDES

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TO: D. Haeg
FAX #: 907-262-8867

TO: Marla Greenstein
907-272-9309

FROM: Superior Court Judge Stephanie Joannides
(Patrick Sherry)
FAX#: (907) 264-0518

SUBJECT: *David Haeg*
Numerous Orders

DATE: March 25, 2011

NUMBER OF PAGES INCLUDING THIS ONE: 77

MESSAGE:

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

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

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

ORDER GRANTING REQUEST FOR DISQUALIFICATION

This court was assigned the task of reviewing Judge Murphy's order denying Applicant David Haeg's request that she be disqualified from presiding over Haeg's post-conviction relief application.¹ On July 28, 2010, this court issued an order narrowing the issue of whether Judge Murphy should recuse herself to the question of whether her contacts with prosecution witness Trooper Gibbens during the trial and sentencing proceedings warranted recusal based on the appearance of impropriety.² After further consideration, David Haeg's request for the disqualification of Judge Murphy is GRANTED for the following reasons.³

¹ See Order (April 30, 2010).

² See Order Narrowing Scope of Review of Judge Murphy's Order Denying Motion to Disqualify Judge Murphy for Cause (July 28, 2010) (denying Applicant's request to disqualify Judge Murphy on all other grounds but the appearance of impropriety).

³ See also the confidential order supplementing this decision not yet issued by the court.

Haeg alleges that during his trial in the remote community of McGrath, Judge Murphy openly accepted rides from Trooper Gibbens. In support of this argument, Haeg (1) submitted numerous affidavits⁴ over the course of this court's consideration of the issues related to disqualification and (2) referenced materials from the trial and sentencing transcript.

A review of the transcript and log notes of the hearing Haeg references reveals the cited conversation took place in court at 6:48 p.m. September 29, 2005, just prior to a 21-minute break, at Haeg's sentencing hearing.⁵ As the transcript reflects, Judge

⁴ Cf. 7-25-10 Mot. to Supplement (July 28, 2010) Ex. 6 (affidavits of Jackie Haeg, Tony Zellers, Tom Stepnosky, and Drew Hilterbrand); Affidavit of Wendell Jones (former Alaska State Trooper) (August 2, 2010). For example, Tony Zellers, a retired Air Force Captain, asserts that on July 28, 2005, a day during which he was a state's witness during the trial, and on September 29, 2005, the day of the sentencing hearing, "I personally observed Judge Margaret Murphy being shuttled in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner; and leave with Trooper Gibbens when court was finished for the day." Jackie Haeg, Haeg's wife, asserted the same as to the trial days and other days in her own affidavit. Jackie Haeg Aff. Four affiants state that on September 29, 2005, the day of the sentencing hearing, the affiant "personally observed" Judge Margaret Murphy taking rides from Trooper Gibbens throughout the day. 7-25-10 Mot. to Supplement Ex. 6 (affidavits of Zellers, Stepnosky, Hilterbrand); Jones Aff.

⁵ The conversation was as follows:

MR. ROBINSON [Haeg's counsel. Substitution of Counsel (Dec. 15, 2004) (case no. 4MC-04-024CR).]: Before we get going again I think we're going to need about a 10 minute break

THE COURT: At least. I have to get to the store because I need to get some . . .

MR. ROBINSON: So why don't we take long enough to go to the store and . . .

THE COURT: Get some diet Coke. And I'm going to commandeer Trooper Gibbens and his vehicle to take me because I don't have any transportation.

Murphy informed the parties that she was going to “commandeer” Trooper Gibbens to take her to the store. It appears that Prosecutor Leaders, sensing some possible appearance issue, began to address this concern. Haeg’s trial counsel then stated he did not object to Judge Murphy obtaining a ride from the trooper.

Canon 2(A) of the Code of Judicial Conduct provides that a judge “shall” avoid both impropriety and also “the appearance of impropriety.” In addition, Canon 3 requires a judge to weigh the possibility that an appearance of impartiality is likely to flow from his or her participation in any case, in light of the circumstances, even if the judge finds him or herself fully capable of subjective fairness in the

MR. ROBINSON: All right.

THE COURT: All right, Trooper Gibbens?

TROOPER GIBBENS: Well, yeah.

MR. ROBINSON: You’ve been commandeered.

MR. LEADERS [State Prosecution]: As long as there’s no issue of . . .

MR. ROBINSON: Oh, no, no, I don’t have any problem . . .

THE COURT: Yeah, I’m just telling you that I – I can tell you I’m not going to talk about the case.

MR. ROBINSON: You’ve been commandeered.

THE COURT: He’s just going to drive me over there to get some diet Coke and we’ll be back.

MR. ROBINSON: All right.

THE COURT: Why don’t we start back up at like 10 after

MR. ROBINSON: Okay.

THE COURT: Okay?

(Whispered conversation)

THE COURT: Off record

(Off record)

THE COURT: Okay. We’re back on record. Who did you want to call, Mr. Leaders? Or Mr. Robinson, I’m sorry. . . .

matter.⁶ The purpose of this rule is to further the important goal of “promoting public confidence in the integrity and impartiality of the judiciary.”⁷

At this juncture, this court does not seek to resolve whether (1) Judge Murphy’s contacts with Trooper Gibbens were inappropriate and/or occurred during the trial as well as the sentencing and (2) any of Haeg’s concerns about what occurred at the Judicial Conduct Commission.⁸ These issues are best left for review within the PCR proceedings when claimed legal errors and alleged improprieties before the trial court are addressed.

This court has not conducted an evidentiary hearing to conclude that there was any wrong-doing on Judge Murphy’s part with regard to Haeg’s alleged submission of his explanatory letter.⁹ In addition, Judge Murphy’s request for a ride from Trooper Gibbens toward the end of the sentencing hearing, which was coupled with an explanation that she would not discuss the case with him and was acknowledged as appropriate by Haeg’s counsel,¹⁰ does not in and of itself raise an appearance issue. Nevertheless, the affidavits raising questions over the extent of her contact with prosecution witness Gibbens during the trial raise a sufficient appearance of impropriety that will negatively affect the confidence of the public, and Haeg himself, in the impartiality of the judiciary.

⁶ *Perotti v. State*, 806 P.2d 325, 327-28 (Alaska 1991).

⁷ *Amidon v. State*, 604 P.2d 575, 578 (Alaska 1979) (quoting Canon 2(A)).

⁸ For a more detailed discussion of Haeg’s concerns, see this court’s confidential order supplementing this order, to be issued hereafter.

⁹ See July 28, 2010 Order Narrowing Scope of Review.

CONCLUSION

The sentencing hearing transcript indicates that Judge Murphy discussed the propriety of her ride with Trooper Gibbens with counsel for both sides and that Haeg's counsel "[d]idn't have any problem" with her requesting the ride. Nevertheless, it is premature to rule conclusively that earlier rides and meals did not occur, since such a ruling would require an evidentiary hearing that is best held in the post-conviction relief proceeding itself. Haeg's motion to disqualify Judge Murphy is GRANTED due to concerns over the appearance of impropriety.

DONE this 25th day of August 2010 at Anchorage, Alaska.

What about Judge Murphy lying during the repeal investigation into this?

STEPHANIE E. JOANNIDES
Superior Court Judge

I certify that on 8.25.10 a copy of the above was ~~mailed~~ handed to each of the following at their address of record
S. Moss
Judicial Assistant

Haeg
Mussen
Peterson
AK Judicial Council

¹⁰ Cf. transcript of proceedings, quoted *supra* at n. 5.

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

FAX TRANSMITTAL

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TO: David Haeg
FAX #: (907) 262.8867

TO: Peter Massen
FAX #: (907) 258.8751

TO: Andrew Peterson
FAX: (907) 269.6270

TO: Marla Greenstein
FAX: (907) 272.1033

FROM: Stephanie Joannides, Superior Court Judge
(907) 264-0430
Fax #: (907) 264-0518

SUBJECT: 3AHO-10-64 CI

DATE: August 27, 2010

NUMBER OF PAGES INCLUDING THIS ONE: 43

MESSAGE: Please call if you experience problems with this transmission.

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

DAVID HAEG,

Applicant,

v.

STATE OF ALASKA,

Respondent.

POST-CONVICTION RELIEF
Case No. 3HO-10-00064CI

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

CONFIDENTIAL ORDER:

- (1) SUPPLEMENTING ORDER GRANTING REQUEST FOR DISQUALIFICATION;
- (2) WITHDRAWING JULY 28, 2010 ORDER FOR INFORMATION FROM JUDICIAL CONDUCT COMMISSION; AND
- (3) REFERRING AFFIDAVITS TO COMMISSION FOR ITS CONSIDERATION

Commission referred to provide investigation report for Judge Joannid to review "in camera"

This confidential order supplements the August 25, 2010 Order Granting Request for Disqualification on appearance grounds. It is confidential because it addresses the proceedings of the Alaska Commission on Judicial Conduct.¹

This court was only tasked with resolving David Haeg's disqualification request. It is not privy to the Commission investigation and the statements made by the witnesses, Judge Murphy, or Trooper Gibbens. Therefore, it takes no position on the materials submitted herein. In addition, this order does not resolve any allegations

¹ AS 22.30.060 (providing for confidentiality of all commission "proceedings, records, files, and reports"). Notwithstanding the confidentiality of the proceedings before

of impropriety. Therefore, the attached materials are being submitted to the Judicial Conduct Commission for its consideration.

Mr. Haeg alleges that during his trial in the remote community of McGrath, Judge Murphy accepted rides from Trooper Gibbens. Mr. Haeg filed a complaint with the Alaska Commission on Judicial Conduct alleging impropriety based upon Judge Murphy's use of Trooper Gibbens for transportation during the trial. The Commission sent Mr. Haeg a letter stating that the rural setting "led to more contact with the community members than usual" but concluded "there were no improper contacts."²

In support of his concerns that (1) Judge Murphy and Trooper Gibbens did not provide the Commission accurate information about this issue and (2) the Commission did not adequately investigate their failure to provide full disclosure, Mr. Haeg submitted various witness affidavits³ and a recording of two phone

the Judicial Conduct Commission, both Judge Murphy and Mr. Haeg reference in their pleadings the referral and result of the investigation.

² Confidential letter from the Alaska Commission on Judicial Conduct to Mr. Haeg dated January 12, 2007 and confidential letter from the Alaska Commission on Judicial Conduct to Mr. Haeg dated January 25, 2007.

³ The supplied affidavits are attached, as Attachments C-H.

Attach. C: Affidavit of former Alaska State Trooper Wendell Jones

Attach. D: Affidavit of retired Air Force Captain Tony Zellers

Attach. E: Affidavit of Tom Stepnosky

Attach. F: Affidavit of Drew Hilterbrand

Attach. G: Affidavit of Greg Pearson

Attach. H: Affidavit of Jackie Haeg

conversations between himself and Commission Executive Director Marla Greenstein.⁴

The basis of Mr. Haeg's concerns is best addressed in four parts. First, in a phone conversation on or about January 12, 2007, Mr. Haeg claims that Ms. Greenstein stated that Judge Murphy and Trooper Gibbens "didn't share any meals together and the rides were provided by somebody else . . . that's what everyone I interviewed said."⁵ In contrast, a July 21, 2010 notarized affidavit from trial witness Tony Zellers asserts that on July 28, 2005 (day three of Haeg's four-day trial), "I personally observed Judge Margaret Murphy being shuttled in a white Trooper pickup truck driven by Trooper Brett Gibbens, leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner, and leave with Trooper Gibbens when court was finished for the day."⁶ Jackie Haeg, Mr. Haeg's wife, asserted the same in her own affidavit.⁷

Second, Mr. Haeg claims that in that same telephone conversation with Ms. Greenstein, he was told that "after the completion of the sentencing hearing—um—Trooper Gibbens did give—uh—Magistrate Murphy a ride to the hotel. But that was

⁴ Mr. Haeg provided both a digital recording of and a substantially accurate transcript of the phone conversations. The transcripts are attached, as Attachments A and B, with chambers' law clerk's notations regarding minor discrepancies between the audio file and the transcript. Copies of the audio file shall be provided upon request.

⁵ Attach. A at 1; *see also id.* at 7 ("[speaking to Haeg's wife] I talked to the people that your husband gave me the list of. . . they did see—um—a trooper giving her rides and—but they—they couldn't identify which—who the trooper was"). Ms. Greenstein asserted, "It was VPSO Parker who provided the rides." *Id.* at 3, 7.

⁶ Attach. D.

Lie - All
witnesses swore affidavits
they were never contacted and
had they been contacted would
has testified under oath they
never saw Trooper Gibbens
see Murphy

after the sentencing hearing.” A transcript of the sentencing hearing was provided by the Aniak District Court.⁸ The transcript reflects that Judge Murphy raised the issue of obtaining a ride from Trooper Gibbens during the sentencing hearing.⁹ A review of the log notes reveals that this statement was approximately five hours before the end of the hearing. In addition, Mr. Haeg provides four affidavits stating that on the date of the sentencing hearing, September 29, 2005, the affiant “personally observed” Judge Margaret Murphy taking rides from Trooper Gibbens throughout the day of the sentencing hearing.¹⁰

Third, Mr. Haeg claims that the Ms. Greenstein stated that she talked to the people that Mr. Haeg identified in a list he provided to the Commission.¹¹ Mr. Haeg claims that he provided a list of four people and that the affidavits of these four individuals state that they were not contacted regarding this matter.¹²

See my witness list

Finally, in addition to his concerns regarding the alleged impropriety of Judge Murphy receiving rides from Trooper Gibbens, Mr. Haeg also explains that based upon his understanding of Judge Murphy's and Trooper Gibbens' representations to the Commission, he feels that they were not truthful about their contacts during the trial. Therefore, Mr. Haeg is concerned over Ms. Greenstein's assertion that “even if

⁷ Attach. H.

⁸ Attach. I.

⁹ *Id.* at 1262.


¹⁰ Attach. C, D, E, F.

¹¹ Attach. A at 1, 7.

everything you say is true it wouldn't be that significant --um-- a thing. It would be the kind of thing where we would just caution the judge to --um-- to try to make other arrangements in small communities in the future. That's all we would do."¹³

In light of this court's ruling granting the disqualification request, the July 28, 2010 Order for Information from Judicial Conduct Commission is hereby
WITHDRAWN.

DONE this 27th day of August 2010 at Anchorage, Alaska.


STEPHANIE E. JOANNIDES
Superior Court Judge

¹² Attach. C, D, E, F. One affiant, Tom Stepnosky, stated that "[o]n or about 2006 I contacted . . . Marla Greenstein by phone and told her I had personally seen Trooper Gibbens give Judge Murphy rides before David Haeg was sentenced." Attach. E.

¹³ Attach. A. at 9.

Transcribed Phone Call between
Alaska Commission on Judicial Council (Marla Greenstein) and
David Haeg on or about January 12, 2007

- 1 HAEG: Hey I was wondering whatever became of the investigation into Judge Murphy?
- 2 GREENSTEIN: Yeah we're sending you a letter today. We have a meeting coming up
3 on January 22nd. Where -um- they'll consider my report and the judge's response
4 But - but it sounds like everything was -um- was ok. It sounds like -um- there was no
5 communication about the case and they didn't share any meals together and the rides
6 were provided by somebody else - not Trooper Gibbens.
- 7 HAEG: They said the rides were provided by somebody other...
- 8 GREENSTEIN: Yes...
- 9 HAEG: ... than Trooper Gibbens?
- 10 GREENSTEIN: Yes...
- 11 HAEG: Well that's the biggest pile of shit I've ever heard in my life.
- 12 GREENSTEIN: -Um- that's what - that's what everyone I interviewed said.
- 13 HAEG: And who did you interview - may I ask?
- 14 GREENSTEIN: Well in addition to the names you gave me I talked to Trooper Gibbens,
15 and the Judge, and there was one other law enforcement person there.
- 16 HAEG: Ok well I'm goanna fly out to McGrath -uh- Marla and I'm goanna get tape
17 recordings of everybody - every juror that was there, all the people in McGrath -
18 cause there was 300 of them - and I'm goanna walk into your office and I'm goanna
19 hand you the tape. Ok?
- 20 GREENSTEIN: I'm just - it's - we don't...
- 21 HAEG: Will that be clear enough for you Maria?

*Interviewed the names
I gave her **

22 **GREENSTEIN:** No. And it's not that serious a thing anyway - even if it did happen.
23 Which we don't have any evidence that it did. They...

24 **HAEG:** Wasn't that serious?

25 **GREENSTEIN:** No...

26 **HAEG:** Do you know - you guys wouldn't accept the other stuff that happened in my
27 case? Because 'oh...

28 **GREENSTEIN:** Yeah...

29 **HAEG:** ...we can't do whatever'. She was changing her decisions 180 degrees to
30 accommodate Trooper Gibbens. OK?

31 **GREENSTEIN:** Well I understand that's your perception but the...

32 **HAEG:** Well...

33 **GREENSTEIN:** I mean the other people...

34 **HAEG:** Yeah my perception Marla...

35 **GREENSTEIN:** Mmm hmm...

36 **HAEG:** -Um- if I were you I would look at the Anchorage Daily News back whenever
37 they arrested -uh- Anderson and start looking at what's going on in this state. I'd start
38 opening my - my - my views should start expanding a little bit. You - and - I need a
39 copy - can I have a copy of Trooper Gibbens saying he never gave Judge Murphy a
40 ride - ever?

41 **GREENSTEIN:** He didn't say never ever. It was during that week when you were
42 down there.

43 **HAEG:** During the week, when we were down there, he never gave her a ride?

44 GREENSTEIN: No.

45 HAEG: Ok and the Judge said that also?

46 GREENSTEIN: Umm hmm...

47 HAEG: -Um- I have to have copies of that. You tell me how - what I need to do to get
48 copies of that? (talking over GREENSTEIN) And I will be there - in your office as fast
49 as you could say...

50 GREENSTEIN: Yeah I understand you want.

51 HAEG: ...get here.

52 GREENSTEIN: ...the copies. But they're confidential documents so we can't give them
53 to you. But it wasn't like they... Let me pull it up. Let me see if I could see the exact...
54 I can tell you what - what's there - hold on... (1 minute passes)

55 HAEG: You believe this shit Jackie?

56 JACKIE HAEG: (Background) No I sure can't.

57 HAEG: Can you believe this?

58 JACKIE HAEG: (Background) She interviewed 2 people and that's just as far as she
59 got?

60 GREENSTEIN: -Um- it was VPSO Parker who provided the rides...

61 JACKIE HAEG: (Background) She interviewed Tom?

62 HAEG: Ok. VPSO Parker...

63 GREENSTEIN: Yeah..

64 HAEG: ...ok ...

65 GREENSTEIN: ...and -um- and after...

66 HAEG: And did you interview – did you interview Mr. Parker?
67 GREENSTEIN: -Um- I don't remember. And then after...
68 HAEG. Don't remember... Just hang on.. Don't remember...
69 GREENSTEIN: And then after the completion of the sentencing hearing -um- Trooper
70 Gibbens did give -uh- Magistrate Murphy a ride to the hotel. But that was after the
71 sentencing hearing,
72 HAEG: Ok just – after sentencing – was it. Ok mmm hmm. Do you read the papers
73 Marla?
74 GREENSTEIN: Yeah of course – yes.
75 HAEG: Do you watch TV?
76 GREENSTEIN: No.
77 HAEG: Ok. -Um- how long have you been in your post?
78 GREENSTEIN. -Um- since 1989.
79 HAEG: Nineteen eighty-nine. So a good long time. Ok. Do you get many people like
80 me calling you and issuing complaints like this?
81 GREENSTEIN. -Um- we – we average about 3 complaints – 2 - 2 to 3 complaints a
82 month that we investigate.
83 HAEG: Ok. Investigate – ok. And when it was determined that there should be further
84 investigation were you the only one that investigated?
85 GREENSTEIN: I'm the staff Investigator – yes.
86 HAEG: Ok are there any other investigators?
87 GREENSTEIN. No.

26 years

88 HAEG: Ok so it's just you. Comes in you decide what's going on and that's it?

89 GREENSTEIN: No the Commission reviews everything.

90 HAEG: Ok and do I get a chance to appeal that decision?

91 GREENSTEIN: No.

92 HAEG: Ok - no appeal.

93 GREENSTEIN: You can - I mean there might be some - there might be a way to have

94 the Supreme Court...

95 HAEG: Oh - that's good...

96 GREENSTEIN: Do.

97 HAEG: Cause I already got - I already got two things heading their way already.

98 GREENSTEIN: Ok.

99 HAEG: Ok - Supreme Court may review - and that would be a - probably a Petition for

100 Review?

101 GREENSTEIN: No it's called an Original Application.

102 HAEG: Ok an Original Application.

103 GREENSTEIN: ^{Totally (S)} ~~That~~ discretionary on the part of the court

104 HAEG: Ok - Original Application. Not the Petition for Review. (Writing notes)

105 GREENSTEIN: ... (indecipherable) out of court...

106 HAEG: Ok. -Um- (laughs) and what level of liability do Trooper Gibbens and Judge

107 Murphy have when they were talking to you? Did you have them under oath? Or was

108 it just . .

109 GREENSTEIN: No it was an informal interview.

110 HAEG: Ok – informal. -Um- if you found out that they lied to you -uh- is there any
111 liability?
112 GREENSTEIN: -Um- if he -um- well not for – not for just a witness but if a – if a judge
113 wasn't telling us the truth we – we could review that as a complaint. But the – you
114 know there's – it would have to be a – a deliberate kind of thing.
115 HAEG: Deliberate? -Um- let me just put my wife on for just one second. Jackie come
116 here. Ok I want you to tell this lady that under the penalty of perjury you are goanna
117 tell her how many times Trooper Gibbens drove Judge Murphy back and forth to the
118 courthouse...
119 GREENSTEIN: I - I have...
120 HAEG: During my trial and sentencing..
121 GREENSTEIN: I have your wife's statement in writing – I have your wife's statement in
122 writing. She doesn't need to tell me.
123 JACKIE HAEG: Hello.
124 GREENSTEIN: Hi. I have your statement in writing. That's fine.
125 JACKIE HAEG: Ok.
126 GREENSTEIN: You know I don't need you to tell me again cause I have your letter
127 that you faxed us.
128 JACKIE HAEG: Ok well we did see her every single time that you know she was out of
129 court and riding around to go to the store to get her pop or whatever and he was the
130 one driving her everywhere. Back and forth from the hotel,
131 GREENSTEIN: Well he...

*"I have your wife's statement
in writing" yet ACTC
no longer has any
record of Jackie's letter*

132 JACKIE HAEG: ...to eat...

133 GREENSTEIN: Well both he and the judge say that they weren't the people doing it...

134 JACKIE HAEG: Wow...

135 GREENSTEIN: ...It was VPSO Parker who provided the rides

136 HAEG: (in background) tell her...

137 JACKIE HAEG: Well they're... well he's - Dave's pretty upset cause they are both lying

138 - I - you know there were - everybody else that was there with us saw it too and they

139 were all - you know and all the jurors So - well I don't know what to tell...

140 GREENSTEIN: Ok.

141 JACKIE HAEG: ... you probably need to ask some more people besides those two.

142 GREENSTEIN: No I talked to the people that your husband gave me the list of I've

143 spoke to them as well.

144 JACKIE HAEG: And what did they tell you?

145 GREENSTEIN: -Um- they said they - that they did see -um- a trooper giving her rides

146 and - but they - they couldn't identify which - who the trooper was.

147 JACKIE HAEG: Hmm... Well I'll let you talk to David again

148 GREENSTEIN: Ok - thank you.

149 HAEG: Hi. (8M39S).

150 GREENSTEIN: Ok - well I think I gave you all the information that I can - so -um-

151 you'll get a letter after our Commission meeting on the 22nd to let you know exactly

152 what the Commission did.

153 HAEG: Ok and when does the Commission meet the next time – where I can talk to
154 them?

155 GREENSTEIN: You already had an opportunity to talk to them.

156 HAEG: I want another opportunity.

157 GREENSTEIN: We only give the public one – one opportunity to talk to...

158 HAEG: Ok – my wife wants an opportunity.

159 GREENSTEIN: No we give each complainant one opportunity.

160 HAEG: She's a different complainant – she's pretty pissed

161 GREENSTEIN: No it's the same complaint. She could've appeared when you did as
162 well.

163 HAEG: Oh really...

164 GREENSTEIN: Yeah.

165 HAEG: Oh.

166 GREENSTEIN: No.

167 HAEG: It's too bad you didn't...

168 GREENSTEIN: ...it's the same...

169 HAEG: ...tell us that.

170 GREENSTEIN: ... complaint.

171 HAEG: Ok. -Um- (exhales)

172 GREENSTEIN: So...

173 HAEG: You understand what's going on here?

174 **GREENSTEIN:** Well I – I'm telling you even if everything you say is true it wouldn't be
175 that significant -um- a thing. It would be the kind of thing where we would just caution
176 the judge to -um- to try to make other arrangements in small communities in the
177 future. That's all we would do.

178 **HAEG:** Well if I just made a small little thing if you were in court and just you know -
179 um- see I've been reading about how important all this stuff is and why people do what
180 they do. And when she's hanging out with Trooper Gibbens the whole time – he's the
181 one – he actually perjured his search warrant affidavits to start my whole case and I
182 mean you - I know that you're just saying I'm convicted and I have sour grapes. And I
183 understand that and that's a good position to take because it's probably the logical
184 position. But when she was involved over the entire course of my case and every
185 decision that she was free to make sided with Trooper Gibbens and then she's riding
186 around with him all the time and my jury is watching that each and every day. She
187 leaves with Trooper Gibbens and she arrives with Trooper Gibbens. What they say is
188 that a jury when they see that they say 'that trooper is credible...

189 **GREENSTEIN:** Did you have a lawyer?

190 **HAEG:** ... because he has the trust of the judge'...

191 **GREENSTEIN:** You have a lawyer?

192 **HAEG:** Huh?

193 **GREENSTEIN:** Did you have a lawyer?

194 **HAEG:** Yeah and I can prove my lawyer was lying to me throughout the whole trial and
195 I know that's another fantastic idea.

196 GREENSTEIN: Right no I mean if you're telling me everybody is lying including your
197 lawyer you know I'm...

198 HAEG: ... Then -- then I'm not credible. I understand that.

199 GREENSTEIN: Right.

200 HAEG: Ok look at Trooper or I mean not... Legislator Anderson and I know that I'm
201 kind of harping on this a little bit. But would you believe one of our legislators was
202 extorting money from somebody?

203 GREENSTEIN: Well you would be the first to say that somebody ~~excused~~ ^{accused} should not
204 be assumed guilty? Right?

205 HAEG: No what I'm saying and I - I understand entirely what you're saying - that you
206 can't judge people before they're found guilty.

207 GREENSTEIN: Right.

208 HAEG: And that's what you're saying I'm doing. But what everybody's saying to me is
209 since I've already been found guilty that my word is no longer any good.

210 GREENSTEIN: That's kind of how the system works.

211 HAEG: ^{well} My wife just told you what happened and she hasn't been found guilty of
212 anything. And I will go get every jurors -um- affidavit.

213 GREENSTEIN: Well I'm just saying even if what you tell me is true it's a very minor
214 thing from our perspective on what we address

215 HAEG: Ok if it was so minor a thing in your perspective...

216 GREENSTEIN: Right.

217 HAEG: ...why do you even do it?

218 **GREENSTEIN:** Because then we could give a cautionary letter to judge -um- warning
219 them that -um- they should make other arrangements if they're in a small community
220 without public transportation.

221 **HAEG:** Ok now this is the real question. Why do you think Trooper Gibbens and
222 Judge Murphy lied?

223 **GREENSTEIN:** I - I don't believe they lied. I understand you do. But I don't believe
224 they did: If - if your memories differ on those things...

225 **HAEG:** If my memories different...

226 **GREENSTEIN:** Mm hmm...

227 **HAEG:** You know how many times I've been told that? -um- and you know I'll have you
228 know that I'm taping this conversation as I tape all my conversations, And you know
229 these allegations that I made about my - my -uh- lawyers they were all on tape.

230 **GREENSTEIN:** Mm hmm...

231 **HAEG:** And my first lawyer cause the one that went through trial was the second one.
232 My first one I had before the Alaska Bar Association and as he lied I think it was
233 somewhere over 20 times. Actually he was under oath so it was perjury. We played
234 the - actually didn't play the tape he agreed that the transcriptions my wife made of
235 the secretly recorded conversations were true and correct and as he read them he
236 started shaking like a leaf. And you know there aint - there probably isn't goanna be
237 much done to him because of people like yourself that when they're faced with the
238 obvious they don't want to do anything. But I mean I have this - I have - I mean.

239 **GREENSTEIN:** Well let me...

240 HAEG: ...my...

241 GREENSTEIN: Let me just reflect back to you.

242 HAEG: Ok.

243 GREENSTEIN: I think what you really want to - is a new trial or a retrial or to have

244 everything done over again.

245 HAEG: Exactly.

246 GREENSTEIN: I don't have the power - our agency doesn't have the power to do that.

247 So I'm saying even if you know we found everything that you want us to find all we

248 would do is a cautionary letter to the judge. It won't help you.

249 HAEG: And did she get a cautionary letter?

250 GREENSTEIN: No. She hasn't yet...

251 HAEG: So she didn't even get that?

252 GREENSTEIN: Well until you...

253 HAEG: Didn't even...

254 GREENSTEIN: ... our Commission...

255 HAEG: ...freaking get that?

256 GREENSTEIN: ...I told you our Commission...

257 HAEG: I cannot believe that Maria.

258 GREENSTEIN: I told you our Commission hasn't finished with it yet. Didn't I just tell

259 you that we are goanna address it at our January 22nd meeting?

260 HAEG: I thought you said it's over and that...

261 GREENSTEIN: I said...

262 HAEG: ...you said -um- ...

263 GREENSTEIN: ...January 22nd meeting...

264 HAEG: ...everything - I wrote down -um- everything I wrote down everything was ok...

265 GREENSTEIN: Yeah from my investigation but I told you that we're meeting on

266 January 22nd.

267 HAEG: Ok January 22nd. Do you have a call in number for that date?

268 GREENSTEIN: I told you you already had your opportunity to address the

269 Commission.

270 HAEG: No there's other people that want their opportunity.

271 GREENSTEIN: You're the only - we only allow the complainant to talk about their

272 complaint. And we'll give the opportunity one time.

273 HAEG: Hmm...How convenient. -Um- And who's your boss in the big scheme of

274 things here?

275 GREENSTEIN: I work for the Commission.

276 HAEG: Ok Commission. And whose the - is there a president or...

277 GREENSTEIN: There's a Chair

278 HAEG: Ok who's the Chair?

279 GREENSTEIN: Judge Ben Esch.

280 HAEG: Judge - what's the last name again?

281 GREENSTEIN: Esch. E-S-C-H.

282 HAEG: S-C-H?

283 GREENSTEIN: E-S-C-H.

284 HAEG: Ok and how do you pronounce that?

285 GREENSTEIN: Esch.

286 HAEG: Esch? Ok -um- ok well I guess and I probably am not allowed to talk to her or

287 him or... Is it a him or a her?

288 GREENSTEIN: Him.

289 HAEG: Him.

290 GREENSTEIN: Yes Mr. Ben Esch..

291 HAEG: -Um- is there any way I can communicate with him?

292 GREENSTEIN: -Um- you can send a letter.

293 HAEG: Ok do you have an address?

294 GREENSTEIN: -Um- He's at the Nome court. Do you have access to the Internet?

295 HAEG: Yep. Nome court?

296 GREENSTEIN: Uh- huh.

297 HAEG: Ok we can probably manage that one. -Um- -uh- well actually this is kind of

298 good. And if I wanted those records. Cause this is goanna be good. Cause I'm going

299 to have Trooper Gibbens and Judge Murphy under oath again ^{during} ~~at~~ my Post Conviction

300 Relief. And this will be a joy a true joy.

301 GREENSTEIN: Our - our records are confidential...

302 HAEG: I can - I can subpoena those records, correct?

303 GREENSTEIN: No. Our - our records are confidential by State statute.

304 HAEG: Ok and there's no - absolutely no court record - no way of getting those?

305 GREENSTEIN: No.

306 HAEG: Not even through the Supreme Court?

307 GREENSTEIN: -Um- if the...

308 HAEG: Supreme Court? I - I...

309 GREENSTEIN: If the Supreme Court...

310 HAEG: ... I walk into your office with an SCO and I can't have it?

311 GREENSTEIN: I mean if the Supreme Court ordered it they would get it under seal but

312 you probably wouldn't have access to it.

313 HAEG: Ok. Well I'll guarantee you those records are goanna be -um- looked at by

314 somebody -um- cause I'm actually starting to enjoy this. This is kind of like - I used to

315 be a trapper and a hunter but this is far more fun. -Um- because it's the most

316 ridiculous thing that's ever happened. This state is so crooked you couldn't get a fair

317 trial here if you tried your hardest - like I did. It's unbelievable. -Um- but anyway you

318 probably heard that before. -Um- and as I said I'm guilty so you don't have to listen to

319 me. -Um- and oh I guess I've taken up enough of your time Marla.

320 GREENSTEIN: Ok.

321 HAEG: Thank you very much

322 GREENSTEIN: You're welcome.

323 HAEG: Bye.

324 GREENSTEIN: Bye.

**Transcribed Phone Call between
Alaska Commission on Judicial Council (Marla Greenstein) and
David Haeg on or about September 23, 2009**

- 1 HAEG: Yep.
- 2 GREENSTEIN: Marla Greenstein.
- 3 HAEG: Hey how yah doing?
- 4 GREENSTEIN: I'm doing fine.
- 5 HAEG: -Um- hey I have a couple questions for you. I don't know if you remember me
6 but I had a...
- 7 GREENSTEIN: I do.
- 8 HAEG: -Uh-
- 9 GREENSTEIN: I do it was a hunting thing.
- 10 HAEG: Yep and I'd - I'd filed a complaint I think it was against Judge Murphy...
- 11 GREENSTEIN: Right.
- 12 HAEG: -um- and -uh- what I was wondering is at the time you had said that -uh- -um-
13 you had interviewed I think Judge Murphy and some of the people that I had...
- 14 GREENSTEIN: Right the trooper and some of those other people.
- 15 HAEG: Yep And you had said that they -um- denied that the trooper had ever given
16 Judge Murphy rides until I think you said - I'd wrote down some notes until like after I
17 was sentenced. And I was wondering if you -um- I guess have any documentation on
18 what they said or if you could give me some on what they said?
- 19 GREENSTEIN: I can't share that with anybody. I do the documentation but that -
20 that's confidential within our office.
- 21 HAEG: Ok and is there anyway to make it non confidential?
- 22 GREENSTEIN: No there is not.

23 HAEG: Not even a – like a court proceeding or anything?

24 GREENSTEIN: No our files are confidential by statute.

25 HAEG: Ok and so when you like if I claim what you had told me – I can't even do that

26 either then?

27 GREENSTEIN: What I said to you? If you – I mean you should have a letter from me

28 that probably set out the reasons we dismissed the complaint. That's the only thing. If

29 you don't have that letter we can you another copy of that letter.

30 HAEG: Ok.

31 GREENSTEIN: That's the only thing that you can refer to.

32 HAEG: Ok. Well what – what my problem is is you had said that they – you had

33 questioned them and they both denied that the trooper had given the judge rides. Ok?

34 And I – I you know I wrote down -um- all the stuff that you had said because you had –

35 you actually called me. I don't know if you remember that or not?

36 GREENSTEIN: Let me see. I think have the note - an advisory opinion that wrote as a

37 result of that I can read. Let me just look it up. I think we wrote a summary of the

38 opinion that public...

39 HAEG: And what – so this actually went further than what...

40 GREENSTEIN: No – no.

41 HAEG: ...just your investigation?

42 GREENSTEIN: No we did a formal opinion. They just - we write opinions to give

43 judges guidance at times. -Um-

44 HAEG: Well why would there be any guidance if there were never any rides given?

45 **GREENSTEIN:** No there was... (time passes while looking through her stuff) ...just
46 trying to help you. Just want to see if there's more information I can give you.

47 **HAEG:** Ok.

48 **GREENSTEIN:** No he did give them rides. It was a question of when the rides were
49 given. So I can give you this opinion. Their opinion 'the judicial officer accepted rides
50 from law enforcement while on duty in small village without any form of public
51 transportation did not violate the Code of Judicial Conduct where no ex parte
52 communication concerning the pending criminal matter occurred. The circumstances
53 in rural Alaska often create a need for accommodations that would not be suitable if
54 there were other alternatives. Where these accommodations include assistance by
55 law enforcement officers, great care should be given to avoid any discussion of official
56 matters while outside the courtroom. The best practice would be to disclose the
57 special needs and accommodations on the record at the beginning of the court
58 proceeding to avoid appearance of impropriety questions.'

59 **HAEG:** Well if...

60 **GREENSTEIN:** So that - that was our findings. I can mail that to you if you'd like?

61 **HAEG:** Ok well that would be great but what my question is - is you had said that you
62 investigated...

63 **GREENSTEIN:** Mm.hmm.

64 **HAEG:** And you had called me and said that the trooper and the judge denied that any
65 rides ever took place. Is that correct?

66 **GREENSTEIN:** No - until after sentencing.

67 HAEG: Ok until after sentencing?

68 GREENSTEIN: Right.

69 HAEG: Ok. Ok the problem I have Marla is I was there with I believe like 7 witnesses
70 and an attorney and - and...

71 GREENSTEIN: I talked to everybody.

72 HAEG: Ok.

73 GREENSTEIN: I talked to the attorneys. I talked to everybody. I talked to people in the
74 courtroom. I talked to a bunch of people. And they view things differently than you.

75 HAEG: Wow...

76 GREENSTEIN: Mm hmm.

77 HAEG: That's unbelievable isn't it? Because...

78 GREENSTEIN: I talked even to the people in Texas - or whoever they were. I made a
79 lot of phone calls.

80 HAEG: Ok.

81 GREENSTEIN: That's why I remember it so well.

82 HAEG: And you got no indication from anybody that they ever got - ever - the judge
83 ever took a ride with the trooper during my trial or sentencing, correct?

84 GREENSTEIN: Correct.

85 HAEG: Ok but I have a note here that says you talked VPSO Parker. He doesn't
86 remember. That you never talked to any of the witnesses...

87 GREENSTEIN: Listen are - are you goanna argue with me? I just told you I
88 interviewed a lot of the people. I talked to them...

89 HAEG: Well the problem – ok I'm not argu... I'm not try – I don't mean to argue with
90 you. Ok? The problem is – is over this case...

91 GREENSTEIN: Mm hmm...

92 HAEG: ... I lost everything I had built for my family from...

93 GREENSTEIN: I understand that..

94 HAEG: ... when I was age 18.

95 GREENSTEIN: Nothing we do is going to change that.

96 HAEG: Ok. Correct absolutely. But what I'm saying is when the judge rode in every
97 morning, every noon to lunch, and it's even on the record. This is what really pisses
98 me off. Is that they - the State transcribed the record of the case and it has Judge
99 Murphy 'I'm going to commandeer you again Trooper Gibbens and we're goanna into
100 to town and get some stuff and blah blah blah'. And then when you tell me that – and
101 ever day this happened. And it was like I think a 5-day trial and 2 day sentencing.
102 And when that trooper was the main witness against me and it was proven he'd
103 committed perjury and the judge overlooked it and they're riding around together the
104 appearance – how that you are saying that the appearance of bias isn't right - we seen
105 actual bias because we proved the trooper was lying about where the evidence was
106 found. They claimed it was found where I guide and so I should be charged as a big
107 game guide. And so it has to do with real things in life rather than protecting a couple
108 people that did something they shouldn't be doing and are now denying it. And -um-
109 you know and I don't mean to jump down your throat Marla but it's now five and a half
110 years of my life as I know it ending. And I know that – that probably doesn't mean

111 anything to you. You get a paycheck and you go home at night and your jobs secure
112 but me and my family have a hard time putting – having enough money to put food in
113 our children's mouths anymore - over this. And Maria do you understand the
114 determination when you make a claim like I did – and I didn't even know it was that big
115 of deal but when they claimed it never happened. The judge lied to you and the
116 trooper lied to you and if I were you I would take that very seriously. And apparently
117 from what you're saying everybody agrees in fact you said no witnesses said it ever
118 happened. Didn't I tell you it happened?

119 **GREENSTEIN:** You - you did but nobody else.

120 **HAEG:** Nobody else told you it happened?

121 **GREENSTEIN:** Right.

122 **HAEG:** Did you ever talk to my jurors?

123 **GREENSTEIN:** No.

124 **HAEG:** Did I ask that you do?

125 **GREENSTEIN:** Listen you're arguing with me again so I'm goanna hang up. This has
126 been over for several years and I was trying to give you additional information. I'm
127 sorry but there's nothing more I can do... (click)

April 20, 2006

RECEIVED

Alaska Commission on Judicial Conduct
Attn.: Marla Greenstein, Executive Director
1029 W. 3rd Ave., Suite 550
Anchorage, AK 99501-1944

APR 24 2006

ALASKA COMMISSION
ON JUDICIAL CONDUCT

RE: Judge M. Murphy Complaint

Dear Ms. Greenstein:

I received your letter dated 3/31/06 stating that the Commission feels Judge M. Murphy did not commit any ethical misconduct during my status hearings, trial, & sentencing. You stated that I should send you a list of people that observed Judge Murphy and Trooper Gibbens (main witness for the State during trial & sentencing) improperly spending personal time out of court. Listed below are people that I know who saw this happening:

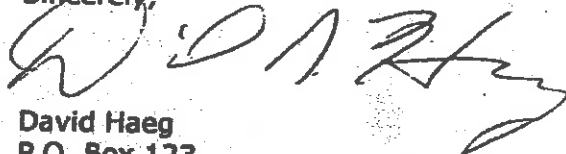
<u>Tony Zellers</u>	907-696-2319	Trial 7/28/05 Sentencing 9/30/05
<u>Tom Stepnosky</u>	570-727-3130	Sentencing 9/30/05
<u>Drew Hilterbrand</u>	907-252-4090	Sentencing 9/30/05
<u>Wendell Jones</u>	907-253-7606	Sentencing 9/30/05

If you want to contact people that are totally objective you could call the staff at the Hotel McGrath Bed & Breakfast (907) 524-3951 where she stayed during sentencing and the Takusko House (907) 524-3198 where we believe she stayed during trial. The Hotel McGrath B&B had a vehicle to rent (we know because we used one) yet every time we ever saw Judge Murphy away from Court she was always with Trooper Gibbens being driven to (the store, hotel, airport). She even had meals with Trooper Gibbens at the Hotel McGrath B&B.

Everyone present thought it was very unusual that this type of activity was happening with the Judge and Trooper Gibbens considering Trooper Gibbens was the States main witness.

Let me know if you need any more information. Thank you.

Sincerely,



David Haeg
P.O. Box 123
Soldotna, AK 99669
907-262-9249

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

DAVID HAEG)
Applicant,)
vs.)
STATE OF ALASKA,) Case No.: 3HO-10-00064CI
Respondent.)
_____)
_____)

AFFIDAVIT

1. My name is Wendell Jones and I am a former Alaska State Trooper.
2. I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued straight through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks and dinner, and leave with Trooper Gibbens when court was finished on 9-30-05. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.

4. Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.

5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.

6. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, WENDELL JONES, swear under penalty of perjury that the statements above and information included are true to the best of my knowledge.

Wendell Jones

Wendell Jones

SUBSCRIBED AND SWORN to before me this 20th day of July, 2010.

Carol Winkler

Notary Public in and for Alaska

My Commission Expires: 2-6-14

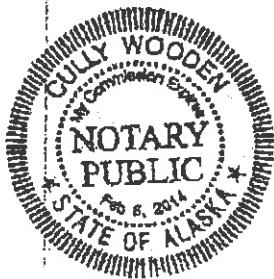


Exhibit #6

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

DAVID HAEG)	
Applicant,)	
vs.)	
)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent.)	
)	
)	

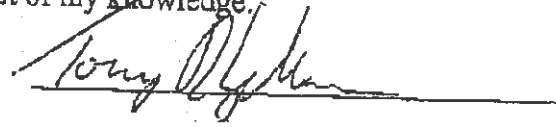
AFFIDAVIT

1. My name is Tony Zellers and I am a retired Air Force Captain.
2. I was a state witness at David Haeg's trial in McGrath on 7-28-05. I also attended the sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse while David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 7-28-05 and 9-29-05 I personally observed Judge Margaret Murphy being shuffled in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner; and leave with Trooper Gibbens when court was finished for the day. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.

4. Trooper Gibbens was the primary witness against David Haeg at trial and sentencing.
5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.
6. Since 1994 to present my phone number has been 907-696-2319.
7. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

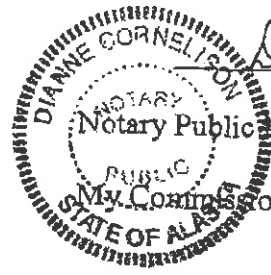
AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, TONY ZELLERS, swear under penalty of perjury that the statements above and information included are true to the best of my knowledge.



Tony Zellers
9420 Swan Circle
Eagle River, AK 99577
907-696-2319

SUBSCRIBED AND SWORN to before me this 21 day of July, 2010.



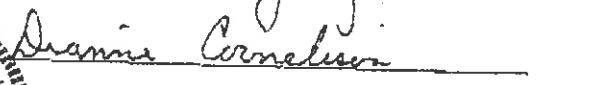

Notary Public and for Mat Su Bus Stop Alaska
My Commission Expires: April 5, 2014

Exhibit #6

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

DAVID HAEG)	
Applicant,)	
vs.)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent.)	
)	
)	

AFFIDAVIT

1. My name is Tom Stepnosky and I am retired Vietnam Veteran.
2. I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks and dinner; and then leave with Trooper Gibbens when sentencing was finished on 9-30-05. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.
4. Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.

5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.

6. Since 2005 to present my phone number has been 570-727-3130.

7. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

8. On or about 2006 I contacted Alaska Commission on Judicial Conduct investigator Marla Greenstein by phone and told her I had personally seen Trooper Gibbens give Judge Murphy rides before David Haeg was sentenced.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, TOM STEP NOSKY, SR., swear under penalty of perjury that the statements above and information included are true to the best of my knowledge.

Thomas J. Stepnosky, Sr.

Tom Stepnosky, Sr.
PO Box 205
Thompson, PA 18465
570-727-3130

SUBSCRIBED AND SWORN to before me this 16th day of July, 2010.

Nina A. Bills

Notary Public in and for _____

My Commission Expires: COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Nina A. Bills, Notary Public
Susquehanna Depot Boro, Susquehanna County
My Commission Expires Jan. 10, 2011

Exhibit #6

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

DAVID HAEG)	
Applicant,)	
vs.)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent.)	
)	
)	

AFFIDAVIT

My name is Drew Hilterbrand.

I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.

On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks and dinner; and leave with Trooper Gibbens when court was finished on 9-30-05. Nearly all the rides I

witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.

Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.

During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.

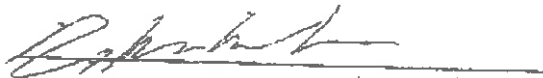
From about 2004 to present my phone number has been 907-252-4090.

Other than David Haeg himself I have never been contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I declare under penalty of perjury the forgoing is true and correct. Executed on

July 19th 2010. A notary public or other official empowered to administer oaths is unavailable and thus I am certifying this document in accordance with AS 09.63.020.



Drew Hilterbrand
PO Box 1038
Soldotna, AK 99669
907-252-4090

Exhibit # 6

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

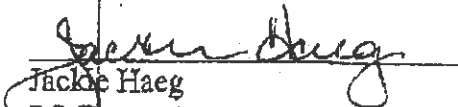
DAVID HAEG)	
Applicant,)	
vs.)	
)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent.)	
)	
)	

AFFIDAVIT

1. My name is Jackie Haeg, I work for the Kenai Peninsula Borough School District, am married, and mother of two.
2. I attended David Haeg's trial in McGrath on 5-17-05, 5-18-05, 7-25-05, 7-26-05, 7-27-05, 7-28-05, and 7-29-05. Trial went till 11:29 PM some days and I was present at the courthouse every hour of trial.
3. Every day of David Haeg's trial I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner; and leave with Trooper Gibbens when court was done for the day. All the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.
4. Trooper Gibbens was the primary witness against David Haeg at trial.

5. During David Haeg's trial I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.
6. Since about 1990 to present my phone number has been 907-262-9249.
7. Other than David Haeg himself I have never been contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.
8. I was the one who found David Haeg's 17-page letter (evidencing that the State had told and induced David Haeg to do what the State later charged him with doing) had been removed out of the official court record while proof it had been admitted remained in the official court record.
9. I attended all of David Haeg's 12-hour self-representation hearing that was conducted in McGrath on 8-15-06 before Magistrate David Woodmancy
10. During David Haeg's self-representation hearing I heard Magistrate Woodmancy ask Trooper Brett Gibbens for a ride and Trooper Gibbens responded that he could not give Magistrate Woodmancy a ride because of all the trouble he (Gibbens) got into by doing this the last time.

I declare under penalty of perjury the forgoing is true and correct. Executed on July 23, 2010. A notary public or other official empowered to administer oaths is unavailable and thus I am certifying this document in accordance with AS 09.63.020.


Jackie Haeg
PO Box 123
Soldona, Alaska 99669
(907) 262-9249



Alaska Commission on Judicial Conduct

1029 W. 3rd Ave., Suite 550, Anchorage, Alaska 99501-1944
(907) 272-1033 In Alaska 800-478-1033 FAX (907) 272-9309

Marla N. Greenstein
Executive Director
E-Mail: mgreenstein@acjc.state.ak.us

Confidential

December 21, 2010

David Haeg
P.O. Box 123
Soldotna, AK 99669

Dear Mr. Haeg,

As requested by your phone call, I am writing this letter to inform you that I have not been successful in finding a letter from your wife in the commission's files. Because I have not been able to recover a letter, I am unable to confirm that the commission received this letter at any time. I apologize for any inconvenience this may cause you.

Respectfully,

A handwritten signature in cursive script that reads "Traci Moran".

Traci Moran
Administrative Assistant

Exhibit #6

David S. Haeg
P.O. Box 123
Soldotna, AK 99669
(907) 262-9249

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

DAVID HAEG)	
Applicant,)	
vs.)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent.)	
)	
)	

AFFIDAVIT

1. My name is Greg Pearson; I am a husband and father of two.
2. I attended all of David Haeg's 12-hour self-representation hearing that was conducted in McGrath on 8-15-06. The hearing lasted until about 11 PM.
3. During David Haeg's self-representation hearing I heard Magistrate David Woodmancy ask Trooper Brett Gibbens for a ride and Trooper Gibbens responded that he could not give Magistrate Woodmancy a ride because of all the trouble he (Gibbens) got into by doing this the last time.

I declare under penalty of perjury the forgoing is true and correct. Executed on

7-25-2010

A notary public or other official empowered to

administer oaths is unavailable and thus I am certifying this document in accordance with

AS 09.63.020.

Greg Pearson
 Greg Pearson
 PO Box 1456
 Soldotna, Alaska 99669 (907) 262-3935

Excerpts of Pretrial Recordings; Trial Recordings; and Affidavits

6/11/04 Pretrial Interview of David Haeg by Prosecutor Leaders and Trooper Gibbens

Gibbens: *Killing wolves in 19D wouldn't specifically had necessarily directly benefited your business?*

Haeg: *Yeah I don't hunt in – I don't guide in 19D*

Gibbens: *David could use that map and could we – could we mark them on a... Okay. Maybe David could mark them and then kind of chronologically take me through the plan. Why don't we mark them out with a digit, chronologically or a 1 where it was with a pen and it will show up just a little better.*

Haeg: *Yeah*

6/23/04 Pretrial Interview of Tony Zellers by Prosecutor Leaders and Trooper Gibbens

Zellers: *Did Dave tell you that's where he was killed?*

Gibbens: *Dave put that mark there, yes. Well real quick while I've got the map out I'll have you look it here and I'll show you the marks that David made.*

Zellers: *OK. 19D doesn't that come to where the Babel flows in?*

Gibbens: *Actually...*

Zellers: *Where the Babel hits the Swift. Isn't that the point?*

Gibbens: *-Uh- boy I'd have to read it. I don't know if this pencil mark was made by me as part of this or not. This is the sectional I got out of my office. All the pen and all the highlighted for sure would be.*

Zellers: *Well I just remember when you know we got the affidavit through the search warrants at David's read through that and it said 19C and we both questioned it and looked that up and its like no there's 19D where like we thought.*

Gibbens: *Yeah*

Zellers: *Because it's the point that David – well we read at David's that where the Babel flows into the Swift River that intersection is the deciding line between 19C and 19D.*

Gibbens: Yeah and I'd have to look at that again to – to remember what that definition is but so you think that *David's lodge is in* —

Zellers: *It's in C*

Gibbens: *It's in C, right.*

Zellers: But I'm saying these wolves---

Gibbens: *Your saying these wolves are in D*

Zellers: *Yeah.*

Gibbens: Okay. The definition of which way all these drainages flow it was all the drainages flowing this direction for D.

Zellers: Upstream of where the Babel dumps into the Swift.

Gibbens: I don't remember.

Zellers: Or *downstream from where the Babel dumps into the Swift.*

Gibbens: And I don't remember if it's – if it's the Babel or not – I don't – without having it in front of me.

Transcript of Haeg's Trial

Leaders: This is a *map* Trooper Gibbens has said – you were the one that, right, that did this?

Gibbens: Yes.

Leaders: And he kind of did a – trying to fairly—and fairly depict the boundaries to the permit area, and *then it was used in an interview, one with Mr. Haeg, which is not admissible* because it was based on plea negotiations *and also with Mr. Zellers regarding the – where the wolves were taken.*

Judge Murphy: Uh- --huh.

Leaders: Okay. I can mark it as an exhibit, that way then we'll have a stipulation as to— I think on that *Exhibit 25* now....

Judge Murphy: Okay.

Leaders: Okay. Officer, first of all I'm going to show you what's marked as *Exhibit 25*, and I want to see if you recognize that?

Gibbens: Yes, sir, I do.

Leaders: And what is that:

Gibbens: That's an *aircraft sectional for the McGrath area*, marked with marks and a legend placed on it by myself.

Leaders: Can you explain *to the jury* what you're depicting here in this exhibit?

Gibbens: Yes, sir. This –this area, and we've already agreed that the...

Leaders: Well, just what is that area?

Gibbens: This – this area is the 19D east predator control area.

Leaders: *These wolf kills that you investigated there, they were where?*

Gibbens: 19C and B.

Leaders: 19C and B?

Gibbens: Yes.

Leaders: Okay. *So some of it's in 19C?*

Gibbens: Yes.

Only after Gibbens knows his false trial testimony is found out does he admit the wolves were NOT killed in 19C – perjury according to AS 11.56.200/235

Robinson: *Now it's your testimony that all four of those kill sites part of which were in 19C and part of which was in 19B?*

Gibbens: No, sir. Actually I'll – I'll correct that if you like.

Robinson: Sure:

Gibbens: *Those –those four kill sites are in the corner of 19D.*

[No one ever told Haeg's jury this meant the State's trial case was false or pointed out that Gibbens trial map still had the false 19C/19D boundaries in "pencil" – corruption that Zellers pointed out and proved to Gibbens and Leaders prior to trial.]

Prosecutor Leaders Argument at Haeg's Trial

Leaders: Mr. Haeg's intent through the taking of wolves was an intent *to eliminate wolves from his guiding area*, and attempt to eliminate wolves that directly competed with the – or directly preyed upon the game populations that he hunted in order *to better enhance his prospects as a guide and those of his clients*.

Judge Margaret Murphy's on-record justification for sentencing Haeg to almost 2 years in jail, forfeiture of business property including airplane, \$20,000 in fines, and 5-year guide license suspension – which destroyed the business into which Haeg and wife had placed everything they had.

Judge Murphy: ...since the majority, if not all the wolves were taken *in 19C -- the area where you were hunting*.

[No one told Judge Murphy this was admitted false trial testimony by Gibbens – who had been chauffeuring Judge Murphy around McGrath during Haeg's entire trial and sentencing – which is also when the court record, which was in Judge Murphy's possession, was tampered with to eliminate evidence that would have exonerated Haeg.]

Excerpts of Prosecutor Scot Leaders 10/4/07 Post Trial Affidavit

“Haeg is also mistaken in his belief that I wrongly used information obtained during plea negotiations to prosecute him in his criminal case.

Because the information obtained from [Haeg and Zellers] was essentially identical, it is understandable that Haeg believes that his statement given as part of plea negotiations was wrongly used against him. However, this was not the case, the State relied on the information obtained from Zellers in prosecuting Haeg.

Again, the fact that Haeg nor his attorneys have raised this issue in pre or post trial motions or appeals is indicative of the fact there was no violations.”

[See Haeg's 5/6/05 pretrial affidavit protesting Leaders use of Haeg's statement to prosecute Haeg – prepared by Haeg's trial attorney Robinson, sent to Judge Murphy by mail with a certificate of service to Leaders by fax and courier on 5-6-05 and on 5/11/05 even faxed to the district attorney conference Leaders was attending.]

Excerpts of Prosecutor Scot Leaders 4/19/12 Post Trial Affidavit

“State relied upon the *full sized aeronautical sectional chart map belonging to Trooper Gibbens with markings created during his investigation.*”

This map was admitted into evidence and marked as Trial Exh. 25.

Information provided by Haeg during his interview was not used or admitted at trial.”

[Yet the pretrial recordings above, when combined with Leaders statements during trial and the trial map itself, prove Haeg, during his interview, placed the wolf kill locations on the map used against Haeg at trial. The recordings also prove that Leaders and Gibbens knew, before trial, that their trial map had been falsified with incorrect 19C/19D boundaries to corruptly make the trial case that Haeg was killing wolves to benefit his guide business – yet they not only presented the falsified map against Haeg at trial, they committed/suborned perjury by testifying the wolves were killed in 19C – in exact support of their false map.]

Excerpts of Alaska Commission on Judicial Conduct Investigator Marla Greenstein’s 1/21/11 Post Trial Affidavit

“Mr. Haeg filed a complaint against a state court judge with our office in 2006.

As Executive Director for the Commission, I am the investigator for all complaints.

In Mr. Haeg’s matter, I interviewed: Mr. Haeg’s attorney, Arthur Robinson; Tony Zellers; Tom Stepnosky; Trooper Gibbens; and the subject judge.

To the extent that Mr. Haeg states that I claimed that I contacted all witnesses, that is not correct.

I did contact the witnesses above, and believe that I communicated that to Mr. Haeg in various phone conversations with him.”

[Yet Tony Zellers, and Tom Stepnosky have sworn out affidavits that Greenstein, nor anyone else, ever contacted them about Trooper Gibbens chauffeuring Judge Murphy during Haeg’s prosecution. Recordings, transcripts of which are certified by Judge Joannides, capture Greenstein, when told by Jackie Haeg that “you probably need to talk ask some more people beside those two (Murphy and Gibbens)” stating, “No, I talked to the people your husband gave me the list of. I’ve spoke to them as well.” When Haeg presses the same issue Greenstein is recorded stating, “I talked to everybody. I talked to the attorneys. I talked to everybody. I talked to people in the courtroom. I talked to a bunch of people.” A letter from Haeg listing Tony Zellers, Tom Stepnosky, Wendell Jones (former Alaska State Trooper), and Drew Hilterbrand is in Greenstein’s own paperwork, date-stamped as received by the AK Commission on Judicial Conduct on April 24, 2006. Both Jones and Hilterbrand have also sworn out affidavits they were never contacted by anyone investigating Judge Murphy and that they personally witnessed Gibbens chauffeuring Judge Murphy during Hag’s prosecution. Greenstein claims to have “interviewed” trial attorney Robinson even though he was never listed as a witness by Haeg. When deposed attorney Robinson testified under oath that Greenstein

never contacted him. In other words every single witness Greenstein claims to have contacted, even those not listed as a witness by Haeg, have sworn under oath Greenstein never contacted them.

More shocking than anything above, however, is the following certified transcription:

Greenstein: “It sounds like --um- - there was no communication about the case and they didn’t share any meals together and the rides were provided by somebody else – not Trooper Gibbens. ”

Haeg: “They said the rides were provided by somebody other...”

Greenstein: “Yes.”

Haeg: “...than Trooper Gibbens.”

Greenstein: “Yes.”


Haeg: “Well that’s the biggest pile of shit I’ve ever heard in my life.”

Greenstein: “--Um- -that’s what – that’s what everyone I interviewed said.”

Yet every witness Greenstein claims to have interviewed, including Robinson, has sworn under penalty of perjury that they personally witnessed “Trooper Gibbens” chauffeuring Judge Murphy during Haeg’s prosecution, meaning Greenstein falsified their testimony in addition to falsely claiming she interviewed them – provable felony perjury to cover up the corruption of Haeg’s judge and the witness against Haeg during Haeg’s prosecution.]

Declaration Under Penalty of Perjury

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



Executed at Brown's Lake, Alaska on November 29, 2016.

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

THIS FACSIMILE TRANSMISSION IS CONFIDENTIAL AND MAY BE PRIVILEGED AND IS INTENDED FOR THE USE OF THE ADDRESSEE ONLY. IF YOU ARE NOT THE ADDRESSEE (OR A PERSON RESPONSIBLE FOR DELIVERING THIS TRANSMISSION TO THE ADDRESSEE), DO NOT USE THIS TRANSMISSION IN ANY WAY, BUT PROMPTLY CONTACT THE SENDER BY TELEPHONE.

ROBINSON & ASSOCIATES

35401 Kenai Spur Highway
Soldotna, AK 99669
Telephone (907) 262-9164
Fax (907) 262-7034

TELECOPY COVER SHEET

PLEASE DELIVER THE FOLLOWING PAGES TO:

Name: District Attorney Scott Leaders

Telecopier Number: 907-754-2200 Date: 5-11-2005

Total Number Of Pages: 3 Including Cover Sheet

In Re Subject/File No.: D. Haeg

If you do not receive all the pages or if you have problems, please contact Laura or Chuck at above phone number.

Hard Copy To Follow By U.S. Mail: Yes No

Remarks: Please deliver to Scott Leader, attending the District Attorney Conference & guest at your hotel ASAP

1 IN THE DISTRICT COURT FOR THE STATE OF ALASKA

2 FOURTH JUDICIAL DISTRICT AT McGRATH

3 STATE OF ALASKA)

4 Plaintiff,)

5 vs.)

Case No.: 4MC-S04-024 Cr.

6 DAVID HAEG,)

7 Defendant.)

9 VRA CERTIFICATION

10 I certify that this document and its attachments do not contain (1) the name of a
11 victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business
12 address or telephone number of a victim of or witness to any offense unless it is an
13 address used to identify the place of the crime or it is an address or telephone
14 number in a transcript of a court proceeding and disclosure of the information was
15 ordered by the court.

13 AFFIDAVIT OF DAVID HAEG

14 STATE OF ALASKA)

) ss.

15 THIRD JUDICIAL DISTRICT)

16 DAVID HAEG, being first duly sworn, states:

17 1. I am defendant in the above caption case. I have
18 personal knowledge of the matters stated in this affidavit.

19 2. From June 2004 to November 2004 I was engaged in
20 plea negotiations with the State's prosecutor Mr. Leaders
21 concerning the filing of state game charges against me.

22 3. The plea negotiations came to an end on November
23 8, 2004. The prosecutor, at the last minute, backed out of
24 an agreement I thought was reached. The negotiations ended
25 without a plea agreement between myself and the state. The
26 prosecutor thereafter filed an amended information.
27

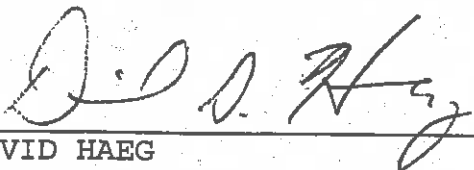
Robinson & Associates
35401 Kenai Spur Hwy
Soldotna, Alaska 99669
(907) 262-9164 Telefax (907) 262-7034

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Soldotna, Alaska 99669
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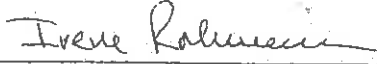
1 4. I appeared in court on November 9, 2004, for
2 arraignment on the amended information that charges me with
3 numerous violations of state game laws. I pleaded not
4 guilty to all of the charges. The court scheduled a jury
5 trial for me to stand trial on the charges.

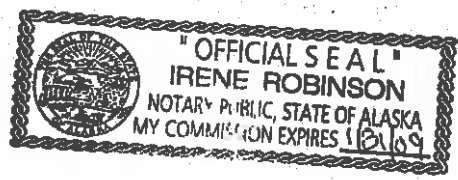
6 5. During the plea negotiations, I gave statements to
7 the police regarding accusations of game violations that are
8 in the statements in support of three informations filed by
9 the prosecutor in my case. These statements from the
10 prosecutor are used to establish probable cause that I
11 committed the crimes alleged in the informations. Without a
12 plea agreement between me and the State these statements
13 should not be used to establish cause to believe I committed
14 any of the crimes charged.
15

16 FURTHER AFFIANT SAYETH NAUGHT.

17 
18 DAVID HAEG

19 SUBSCRIBED AND SWORN to before me this 6th day of
20 May, 2005.

21 
22 Notary Public in and for Alaska
23 My Commission Expires: _____



24
25
26
27
28

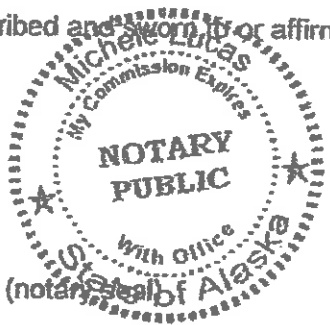
**ALASKA COURT SYSTEM
JUDICIAL PAY AFFIDAVIT**

For the pay period ending on the last day of January, 2015.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature: David Mannheimer Date: Feb. 23, 2015
Title: Chief Judge, Court of Appeals Address: 303 K Street, Suite 432
Print Name: David Mannheimer Anchorage, AK 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on Feb. 23, 2015.



Michele L. Lucas
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: with office

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at Anchorage, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

An affidavit must be completed at the end of each pay period. Pay periods end on the 15th day and the last day of each month. The completed affidavit must be sent to the Division of Finance in Juneau at the end of each pay period:

Mail:
P. O. Box 110204
Juneau, Alaska 99811-0204

Fax:
(907) 465-5639

Scan and Email:
doa.dof.pr.affidavit.mailbox@alaska.gov

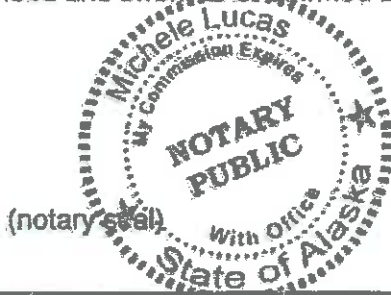
**ALASKA COURT SYSTEM
JUDICIAL PAY AFFIDAVIT**

For the pay period ending on the 31st day of July 2016.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature: David Mannheimer Date: November 16, 2016
Title: Judge, Court of Appeals Address: 303 K Street, Suite 435
Print Name: David Mannheimer Anchorage, AK 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on Nov. 16, 2016



Michele L. Lucas
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.
My commission expires: with office

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at Anchorage, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

An affidavit must be completed at the end of each pay period. Pay periods end on the 15th day and the last day of each month. The completed affidavit must be sent to the Division of Finance in Juneau at the end of each pay period:

Mail: P. O. Box 110204
Juneau, Alaska 99811-0204
Fax: (907) 465-5639
Scan and Email: DOA.DOF.PR.Affidavits@alaska.gov



ALASKA COURT SYSTEM

AFFIDAVIT

For the pay period ending on the 15th of February, 2015

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature [Handwritten Signature] Date 02/13/2015
Title Judge, Court of Appeals Address 303 K Street, Room 425
Print Name Marjorie K. Allard Anchorage, Alaska 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 02/13/15



[Handwritten Signature: Paula K. Arnison]
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: w/office

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

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ALASKA COURT SYSTEM

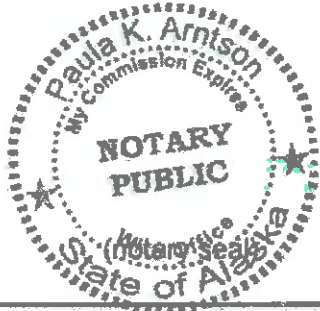
AFFIDAVIT

For the pay period ending on the last day of October, 2016.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature [Handwritten Signature] Date 10/31/16
Title Judge, Court of Appeals Address 303 K Street, Room 425
Print Name Marjorie K. Allard Anchorage, Alaska 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 10/31/16



[Handwritten Signature]
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: w/office

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63 020).

An affidavit must be completed at the end of each pay period. Pay periods end on the 15th day and the last day of each month. The completed affidavit must be sent to the Division of Finance in Juneau at the end of each pay period:

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Fax: (907) 465-5639
Scan and Email: doa.dof.pr.affidavit.mailbox@alaska.gov



ALASKA COURT SYSTEM

AFFIDAVIT

For the pay period ending on the last day of January, 2015

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature	<u><i>J. Patrick Hanley</i></u>	Date	<u>02/03/15</u>
Title	<u>District Court Judge</u>	Address	<u>303 K Street</u>
Print Name	<u>J. Patrick Hanley</u>		<u>Anchorage, Alaska 99501</u>

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 02/03/15



(notary seal)

Debbie Buckle
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: w/office

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

_____	_____
Date	Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

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Mail: P. O. Box 110204 Juneau, Alaska 99811-0204	Fax: (907) 465-5639	Scan and Email: doa.dof.pr.affidavit.mailbox@alaska.gov
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ALASKA COURT SYSTEM

AFFIDAVIT

For the pay period ending on the 15th of November, 2016.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature *J. Patrick Hanley* Date 11/15/16
 Title District Court Judge Address 303 K Street
 Print Name J. Patrick Hanley Anchorage, Alaska 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 11-15-16



Della Rued
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: in position

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at Anchorage, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

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Case Name:

David Haeg vs State of Alaska

Case Number	A11349	Case Status	Dr
Date Opened	8/21/2012	Sealed	
Case Manager	Ryan Montgomery	Telephone	26

[General Info](#)[Record/Transcript](#)[Opening Pleadings](#)[Oral Arguments](#)[Briefs](#)[Motions/Orders](#)[Jury Sponte Orders](#)[Publications](#)

Oral Argument

Status	Held
Date	5/20/2014
Status	
Changed	
Time	1:30:00 PM
Scheduled	
Minutes	30
per Side	

Robinson & Associates
Lawyers
35401 Kenai Spur Highway
Soldotna, Alaska 99669

Tele: (907) 262-9164

Fax: (907) 262-7034

1(800) 770-9164

December 13, 2004

Scot Leaders
District Attorney
120 Trading Bay, Suite 200
Kenai, AK 99611

Re: State v. Haeg
Case No. 4MC-04-024 Cr.

Dear Ms. Leaders:

I have been retained to represent the defendant in the above-referenced matter. Pursuant to Alaska Criminal Rule 16, please disclose the following information on this case within your possession or control to the defense and make available for inspection and copying:

A. Potential Witnesses

1. The names and addresses of persons known by the government to have knowledge of relevant facts, and their written or recorded statements or summaries of statements.

This request includes disclosure of the names and addresses and statements of any rebuttal witnesses known by the government to have knowledge of relevant facts. Howe v. State, 589 P.2d 421 (Alaska 1979).

2. Any written or recorded statements and summaries of statements, and the substance of any oral statements made by the defendant.

3. Any written or recorded statements and summaries of statements and the substance of any oral statements made by a co-defendant or co-conspirator.

Arthur S. Robinson

Eric Derleth, Associate

B. Tangible Objects

1. Objects intended to be used by government at a hearing or trial or which were obtained from or belong to defendant.

For the purposes of this request, tangible objects include the following:

- a. Books
- b. Papers, including:
 - 1. names and addresses of author or producer of the papers.
 - 2. name and address of author of papers.
 - 3. name and address of person, organization (public or private), or other entity from whom government obtained the papers.
 - 4. date when government received papers.
 - 5. identity of any copies provided that are copied from original papers.
- c. Documents, including:
 - 1. names and addresses of author or producer of documents.
 - 2. names and addresses of persons, organizations (public or private) and other entities from whom government received the documents.
 - 3. date when government obtained possession or control of the documents.
 - 4. identity of any copies of documents made from original documents.
- d. Photographs, including:
 - 1. name and address of the person(s) who took the photographs, date when photographs were taken and brief description of relationship to any element of the offense charged.
 - 2. identification of all photographs that are reproduced from originals.

3. location, if known, of negatives to photographs.

e. Other tangible objects:

1. Any audio or video recordings, reproduced in the same quality as the original recording.
2. All other tangible objects that are intended to be used by the government at a hearing or trial.
3. Objects not in your possession and control but intended for use at a hearing or trial.
4. Any and all objects known to be in the possession or control of someone else or others, but is intended to be used by government at a hearing or trial.

C. Prior Convictions of Defendant and Witnesses

1. Any record of prior convictions of the defendant.
2. Any record of prior convictions of persons whom the prosecuting attorney intends to call as witnesses at a hearing or trial.

D. Expert Witnesses

Information regarding expert witness in accordance with Alaska Criminal Rule 16(b)(1).

E. Information Provided by Informants/Electronic Surveillance

Any relevant material on information relating to the guilt or innocence of the defendant which has been provided by an informant and any electronic surveillance, including wiretapping of:

1. conversations to which the defendant or the defendant's attorney or agents of the attorney was a party.
2. premises of the defendant, defendant's attorney or agents of the attorney.

F. Information Tending to Negate Guilt or Reduce Punishment

1. Any material or information within the prosecution attorney's possession or control, or which is known to the government which tends to negate the guilt of the defendant as to the offense.

2. Any material or information within the prosecution attorney's possession or control, or which is known to the government which would tend to reduce the defendant's punishment therefor.

Information within possession or control of the Prosecuting Attorney extends to material and information in the possession or control of

a) members of the prosecuting attorney's staff; and

b) any others who have participated in the investigation or evaluation of the case and who either regularly report or with reference to the particular case have reported to the prosecuting attorney's office.

This request for discovery should be considered to be a continuing request for discovery. It extends to material and information in the possession or control of your office or your staff, and any others who have participated in the investigation or evaluation of the case and who either regularly reports, or with reference to the particular case, have reported to your office.

If there are any questions with regard to this request, please do not hesitate to contact me.

Sincerely,
Robinson & Associates

Arthur S. Robinson
Attorney at Law

Web posted Friday, March 2, 2007

Rogers judge chastises prosecution, investigation 'This is not Iraq'

By PHIL HERMANEK Peninsula Clarion

The judge in the Shawn Rogers murder trial in Kenai on Thursday called the state trooper investigation of the 2004 shooting "poor" and said the state prosecutor has been negligent in not providing information to the defense in advance of trial.

"The defense has a constitutional right. This is not Iraq," said retired Anchorage Superior Court Judge Larry Card, who is serving as judge pro-tem in the trial.

Rogers is the 33-year-old Kenai man charged with the shooting death of Brian Black, 43, of Beluga, in Fat Albert's Tavern and Bunkhouse July 26, 2004.

A debate rose to a crescendo pitch as Card told assistant district attorney Scot Leaders, in the nearly 14 years Card has been a judge, he has never seen as many discovery violations in a most-serious case — murder.

Discovery is a legal term used to mean the state is required to disclose all evidentiary information it finds in forming its case against a suspect.

"I find it shocking we have these numerous violations," Card said.

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

FILED in the Trial Courts
State of Alaska Third District
at Kenai, Alaska

MAY 11 2012

DAVID HAEG,

Applicant,

v.

STATE OF ALASKA,

Respondent.

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

)
)
)
)
) POST-CONVICTION RELIEF
) Case No. 3KN-10-01295CI
) (formerly 3HO-10-00064CI)

Clerk of the Trial Courts

sw copy Denit

**5-11-12 Motion for Immediate Evidentiary Hearing on Newly Discovered
Known False Evidence Presented During Haeg's Trial (and now to Judge
Bauman) and 5-11-12 Reply to State's Opposition to Haeg's 4-27-12 Motions**

COMES NOW Applicant, David Haeg, and hereby files this 5-11-12
motion for immediate evidentiary hearing on newly discovered false evidence that
was knowingly presented and never corrected by the state during Haeg's trial (and
now knowingly presented to Judge Bauman) and 5-11-12 reply to state's
opposition to Haeg's motions that AAG Peterson be found in contempt of court,
fined, and that an independent investigator be assigned to investigate Haeg's case.

Prior Proceedings

(1) On April 30, 2012 oral argument hearing was held on the state's first
motion to dismiss – even though this motion had already been decided. During this
hearing state AAG Peterson, after Judge Bauman's order he do so, presented the

map used against Haeg at trial. Judge Bauman ordered Haeg be given a copy -- which AAG Peterson promised to do within 3 or 4 days.

(2) On May 4, 2012 AAG Peterson opposed Haeg's motions that AAG Peterson be found in contempt of court, fined and that an independent investigator be assigned to investigate Haeg's case.

(3) On May 9, 2012, because he never received the ordered map copy, Haeg examined the original in the Kenai courthouse and found that it falsified the locations of Game Management Unit (GMU) boundaries to corruptly make it appear the evidence against Haeg was found in the GMU 19-C, the GMU in which Haeg guides and has a hunting lodge -- a falsification the state admitted to knowing and making at the beginning of Haeg's trial but never corrected.

(4) On May 10, 2012 AAG Peterson's office stated they had not sent Haeg a map copy, as Judge Bauman ordered, because of the "expense" to do so.

Evidentiary Hearing

Only because of Judge Bauman's order that the state produce the map used against Haeg at trial has it now been discovered the state knowingly presented false evidence against Haeg during Haeg's trial (and now during Haeg's PCR) and did nothing to correct the known falsification. Haeg requires an evidentiary hearing at which he is allowed to prove; (1) that the state's map is false; (2) that the state's false map was used against Haeg at trial; (3) that the state, knowing the map to be false, did nothing to correct the falsehood; and (4) that the state has now knowingly presented the same false map to Judge Bauman during Haeg's post

conviction relief proceeding – without informing Judge Bauman it was false. And the false map (corruptly indicating the wolves were taken in the same GMU that Haeg guides) irrefutably supported the state's case that Haeg was taking wolves to benefit his guide business (instead of for the Wolf Control Program that Haeg was licensed for) – and that this justified convicting Haeg of guide violations that would destroy his business. Additional proof of the materiality and effectiveness of the false evidence location on the map is Judge Murphy's use of the false evidence locations as her specific justification for the severe sentence she gave Haeg.

Also disturbing is that Haeg and Zellers, during their "interviews", affirmatively told and proved to the state that the evidence locations on the search warrants affidavits had been falsified from GMU 19-D (where Haeg was not allowed to guide) to GMU 19-C (where Haeg could and did guide) – *and after being told this the state still falsified the GMU boundaries on the map so the wolves appeared to have been taken in GMU 19-C instead of 19-D.*

"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. *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 to correct what he knows to be false and elicit the truth.*" Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959)

"We have consistently held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair and must be set aside if there is any

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

DAVID HAEG,)	
)	
Applicant,)	
)	
v.	)	POST-CONVICTION RELIEF
	)	Case No. 3KN-10-01295CI
STATE OF ALASKA,	)	(formerly 3HO-10-00064CI)
)	
Respondent.)	
)	
<hr style="width: 40%; margin-left: 0;"/>		
(Trial Case No. 4MC-04-00024CR)		

The applicant's 5-11-12 motion, for an immediate evidentiary hearing on newly discovered false evidence that was knowingly presented and never corrected by the state during Haeg's trial, is hereby GRANTED / DENIED.

Done at Kenai, Alaska, this _____ day of _____, 2012.

MOOT

Superior Court Judge

MAY 11 2012

AFFIDAVIT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, William Ingaldson, being duly sworn on oath do hereby depose and state:

1. I am an attorney licensed to practice law in the State of Alaska. I have been asked to provide this affidavit in regards to the failure of the State of Alaska to produce relevant, exculpatory e-mails in a matter where I recently defended a client charged with fish and game violations.

2. The matter I was involved in was originally prosecuted in state court. I filed several pretrial motions to suppress evidence and dismiss the charges. Shortly before oral argument on those motions, the state dismissed the charges. The matter was then referred to the U.S. Attorney's Office where federal Lacey Act charges were filed.

3. Similar pretrial motions were filed in the federal matter. During the course of responding to those motions, the U.S. Attorney's Office produced additional discovery consisting of numerous documents from the State of Alaska, which the state had not produced. Included in this discovery were numerous, exculpatory e-mails.

4. In one of the e-mails, a state fish and wildlife lieutenant tells another fish and wildlife officer, "if Andrew¹ is ok with it, just tear them [e-mails] up and don't include them in the discovery." In fact, it appears that is what did happen because the e-

¹ Andrew Peterson was the state prosecutor handling this matter.

mails in question were not produced. A copy of that e-mail is attached as Exhibit A to this affidavit. In that same e-mail string, Fish and Wildlife Trooper Justin Rodgers indicated that he never voluntarily produces e-mails.

5. One of the issues in the above-referenced underlying matter concerned a tracking device and video camera that were surreptitiously installed on my client's airplane. The search warrant allowing installation of these devices specifically provided that the installation of the equipment not interfere with the normal operation of the aircraft. In fact, the devices, which were wired directly to the airplane's battery, were draining the battery, placing my client at a considerable safety risk. He not only had to hand prop his plane after the devices depleted his battery, he also ran the risk of a potential fatal crash should his engine stop while in flight, because he would not have been able to restart his engine.

6. In opposition to our motion to suppress, the state argued that my client's claims were not supported by any evidence; that "... the installation of the electronic equipment had no impact on the safe operation of [my client's] airplane..." [See Exhibit B]. This opposition was supported by an affidavit from Trooper Rodgers who claimed "to the best of my knowledge, the installation of the equipment had no adverse impact on the performance of [my client's] airplane." [See Exhibit B at ¶ 4]

7. E-mails produced in the federal case (which the state did not produce) clearly and unequivocally demonstrated that, in fact, Trooper Rodgers had actual knowledge that the equipment was draining the plane's battery. [See Exhibit C]

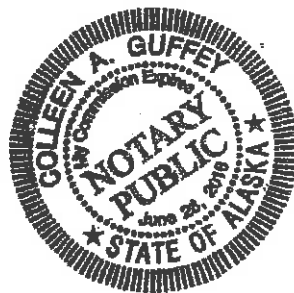
8. Another e-mail produced in the federal case discusses Trooper Rodgers' contemplation of keeping a significant, exculpatory fact out of the investigative report. I do believe that fact, ultimately, was included in the report. [See Exhibit D].


FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 17th day of May, 2013.


William H. Ingaldson

SUBSCRIBED AND SWORN TO before me this 17th day of May, 2013.




Notary Public in and for Alaska
My Commission Expires: 6/26/16

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT DILLINGHAM

STATE OF ALASKA)
)
 Plaintiff)
)
 v.)
)
 ██████████)
)
 Defendant)

Opposition is dated July 8, 2011

Case No. 3DI-10-██████████

OPPOSITION TO MOTION TO SUPPRESS BECAUSE TROOPERS EXCEEDED WARRANTS AND PLACED ██████████ IN DANGER

YRA CERTIFICATION

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

Comes now the State of Alaska, through Assistant Attorney General Andrew Peterson, and hereby opposes the defendant's motion to suppress. The state's opposition is supported by the affidavits of Agent Brian Webb, Lt. Bernard Chastain and Trooper Justin Rodgers. A proposed order is attached for the court's convenience.

FACTS

Trooper Justin Rodgers presented search warrants 3DI-09-017 and 3DI-09-018 to Magistrate Brice for the purpose of scrumptiously installing an electronic tracking device and closed circuit camera inside of ██████████ airplane. The warrants specifically provided that the installation of this equipment would not interfere with the normal operation of the aircraft, its navigation equipment or adversely [a]ffect the aircraft's center

Sims

STATE OF ALASKA
Department of Law
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-6250

of gravity. The warrants further provided that Troopers were authorized to "surreptitiously enter into the aircraft to install, maintain and monitor an electronic tracking device" See Sims' Exh. B, p 2. Trooper Rodgers subsequently applied for search warrant 3DI-09-023 for the limited purpose of downloading the electronic information from [REDACTED] GPS while maintaining the electronic equipment as authorized in search warrants 3DI-09-17 and 18.

ARGUMENT

[REDACTED] asks this court to suppress all information gathered through the electronic transponder and closed circuit camera based on allegations that Troopers violated the terms and conditions of the warrants, unlawfully entered [REDACTED] airplane on May 14, 2009 and jeopardized [REDACTED] safety prior to May 14, 2009. [REDACTED] claims are not supported by the evidence or facts of this case and should be dismissed. Specifically, the installation of the electronic equipment had no impact on the safe operation of [REDACTED] airplane, the original search warrants authorized the maintenance of the electronic equipment and the search conducted on May 14, 2009 was authorized as maintenance to the equipment.

Agent Brian Webb with the U.S. Department of Homeland Security, Customs and Border Protection (CBP) was asked by Troopers to install the electronic tracking device and closed circuit camera on [REDACTED] airplane. See Exh. 1 (Agent Webb Affidavit), p. 3. Agent Webb is currently assigned to the CBP Air and Marine Operations Branch in Bellingham, Washington and responsible for enforcing federal laws concerning narcotics, immigration and controlled substance violations. Agent Webb is specifically trained to install this type of electronic equipment in the furtherance of law enforcement

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Department of Law
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investigations. See id. at p. 1-2. On April 26, 2009, Agent Webb installed the electronic tracking device and video surveillance system on Sims' airplane pursuant to the terms of the warrant and in full compliance with the FAA's Federal Aviation Regulations. See id. The installation of this equipment did not adversely affect the aircraft's flight characteristics or weight and balance computations and the aircraft was returned to service. See id.

It later became clear that [REDACTED] airplane was experiencing electrical problems based on the loss of data and observations of troopers. See id. For example, Troopers observed [REDACTED] removing his battery from the airplane. Normally batteries are not removed from airplanes and would indicate that the airplane was experiencing problems with a weak battery or a problem with the electrical system, such as a bad alternator. See id. Troopers were aware that [REDACTED] previously was experiencing problems with the electrical system on his airplane, but assumed that this problem was resolved by Dan Bardwell. See Exh. 2. (Affidavit of Trooper Rodgers), p. 2. These problems were in no way caused by the equipment CBP installed. See Webb Aff. at p. 3.

It is not uncommon for an airplane of this type to be started by hand propping the plane when the battery is weak or the alternator not functioning. See id. at p. 4; see also Exh. 2, p. 2. It is quite possible and easy to start by hand and the engine will continue to run normally through power to the spark plugs produced from the magnetos. Considering that the electronic equipment installed was wired directly to aircraft's primary electrical system, operating the aircraft in this manner would explain why some flights were not recorded by CBP. See id. In addition, if the electrical system and/or battery were weak and

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Department of Law
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not operating at the proper voltage, it would explain why the electronic tracking device was having greater than normal losses in tracking data on certain flights. See id. There is no suggestion or support for the claim made by [REDACTED] that the installation of the electronic tracking device and/or video surveillance equipment in any way caused him to experience problems that put him at risk or otherwise resulted in the unsafe operation of his airplane. See Exh. 2, p. 2.

Search warrants 3DI-09-17 and 18 both authorized the maintenance of this equipment during the period authorized in the warrant and by the extension. The equipment could only be maintained by re-entering the airplane. On May 13, 2009, Trooper Rodgers applied for search warrant 3DI-09-023 for the purpose of downloading the information contained on the GPS while troopers were maintaining the electronic equipment. The purpose of applying for this warrant was based on the fact that the original warrants only authorized the downloading of GPS information while installing and removing the electronic tracking devices, but not during periods of maintenance. Trooper Rodgers applied for search warrant 3DI-09-023 out of abundance of caution and at the request of Lt. Chastain. See Exh. 3 (Affidavit of Lt. Chastain). At no time was Trooper Rodgers ordered to seek a new warrant for maintaining the electronic equipment and at no time did troopers believe such a warrant was necessary. See Exh. 2 & 3. In fact, Judge Torrisi appeared to agree with this fact when reviewing search warrant 3DI-09-023. See Exh. 4 (Audio of Search Warrant Application).

STATE OF ALASKA
Department of Law
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-0230

CONCLUSION

There is no evidence or factual support for the allegations raised by [redacted]. The state complied with the terms of search warrants 3DI-09-017 and 018, entered into [redacted] airplane to maintain the electronic equipment pursuant to these warrants on May 14, 2009 and never placed Sims' life or property in danger. Based on these reason, this court should deny [redacted] motion without need for an evidentiary hearing.


Sims'

DATED at Anchorage, Alaska, this 9th day of July, 2011.

JOHN J. BURNS
ATTORNEY GENERAL

By: 
Andrew Peterson
Assistant Attorney General
Alaska Bar No. 0601002

This is to certify that on this date, a correct copy of the forgoing was mailed to:

William Ingelsten
 7/8/11
Signature Date

STATE OF ALASKA
Department of Law
OFFICE OF SPECIAL PROSECUTIONS AND APPEALS
310 K STREET, SUITE 308
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-8250

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT DILLINGHAM

STATE OF ALASKA)
)
 Plaintiff)
)
 v.)
 [REDACTED])
)
 Defendant)

*Affidavit is dated
July 8, 2011*

Case No. 3DI-10-[REDACTED]

AFFIDAVIT

STATE OF ALASKA,)
) SS
THIRD JUDICIAL DISTRICT)

I, Trooper Justin Rodgers, being first duly sworn upon oath, state and
depose as follows:

1. I am an Alaska Wildlife Trooper currently stationed in Tok,
Alaska. I was previously stationed in Dillingham for approximately 10 years. In total, I
have been a trooper for over 13 years.

2. I am the current case officer in the [REDACTED] matter and have been
involved in the investigation since its inception in 2003.

3. I was aware that [REDACTED] airplane was experiencing electrical
problems prior to installing the electronic tracking device and video camera into [REDACTED]

airplane due to my conversations with Dan Bardwell. I believed that Bardwell fixed the problems [REDACTED] airplane was experiencing when he worked on the airplane in his shop.

4. It was my understanding from speaking with Brian Webb that the installation of the equipment installed in [REDACTED] airplane did nothing to impact the electrical system on his airplane. Rather, the problems being experienced by the electrical equipment were explained by the fact that [REDACTED] airplane was experiencing electrical problems thus causing the electronic equipment to experience problems. To the best of my knowledge, the installation of the equipment had no adverse impact on the performance of [REDACTED] airplane.

5. [REDACTED] could safely operate his airplane without a battery. It is not uncommon for pilots to have to hand prop an airplane and then fly the plane accordingly. This fact did not cause Troopers concern that [REDACTED] was being placed in any danger or that he could not safely operate his airplane.

6. I spoke with Brian Webb regarding installing independent battery packs for the electronic tracking device and video surveillance equipment. The decision was made to install the battery packs in order to give law enforcement better tracking information as the electronic problems being experienced by [REDACTED] airplane were causing a loss with respect to the transmission of all tracking information. The decision to install independent battery packs was in no way based on a concern that [REDACTED] was being placed in any danger.

7. I was never ordered to seek a new warrant for the maintenance of the electronic equipment, but rather believed that the original warrant covered this aspect of our operation. Prior to the surreptitious entry into [REDACTED] airplane on May 14, 2009, I did seek a new warrant to download the information from the GPS in [REDACTED] airplane. The existing warrants covered the download of this information at the time the electronic tracking device was installed and upon removal of the device, but the warrant was not clear with respect to periods of maintenance. I wanted to make sure that the download of this information was authorized while maintaining the equipment and thus I applied for a warrant allowing for the download of the electronic information contained on [REDACTED] GPS at the same time as the electronic equipment was being maintained pursuant to the authorization in the original warrants.

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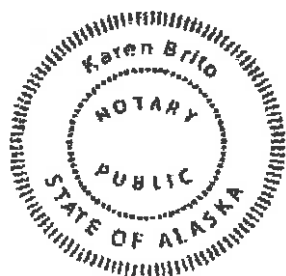
8. The facts set out in this affidavit are true to the best of my knowledge and belief.

FURTHER YOUR AFFIANT SAYETH NOT.

DATED: July 8th, 2011, at Dillingham, Alaska.

By: *Justin Rodgers*
Justin Rodgers
Alaska Wildlife Trooper

SUBSCRIBED AND SWORN to before me this 8th day of July, 2011.



Karen Brito
Notary Public in and for Alaska
My commission expires: w/office

E-mails are dated either 2009 or 2010

From: Rodgers, Justin C (DPS)
To: Peterson, Andrew (LAW)
Subject: FW: notes
Date: Wednesday, May 12, 2010 9:14:00 AM
Attachments: Chastain, Bernard A (DPS).vcf

So do you agree with this? I'm not a big one for opening the door on this particular topic...

jr

From: Chastain, Bernard A (DPS)
Sent: Wednesday, May 12, 2010 8:58 AM
To: Rodgers, Justin C (DPS)
Cc: Peterson, Andrew (LAW)
Subject: RE: notes

Justin-

You are correct with the emails. I included them because of the GPS point listed on them. If Andrew is ok with it, just tear them up and don't include them in the discovery. There is nothing on the emails that is not included in the report and in the notes.

Bernard

Bernard Chastain
Lieutenant, Alaska Wildlife Troopers
Anchorage Headquarters
5700 East Tudor Road
Anchorage, Alaska 99507
[REDACTED]

From: Rodgers, Justin C (DPS)
Sent: Tuesday, May 11, 2010 4:55 PM
To: Chastain, Bernard A (DPS)
Cc: Peterson, Andrew (LAW)
Subject: notes

Bernard, per your request, wanted to let you know I got your notes. In glancing thru them, the only thing I see that I wouldn't personally discover are the two e-mails between you and Brian Webb and Eric Sprague. I think once I had to do e-mails, but never voluntarily. I'm guessing you did it because of the coordinates on it or something, let me know if you have strong thoughts on the topic.

Andrew, same for you I'd appreciate your opinion on discovering e-mails...

jr

From: Rodgers, Justin C (DPS)
To: Leath, Rex R (DPS); Chastain, Bernard A (DPS); Brian Webb
Subject: u/c camera
Date: Wednesday, February 24, 2010 3:38:17 PM

Gentleman,

As all of you were involved in the use of this equipment and may be again some day, I thought I'd take a minute to outline a few things I learned reviewing the footage.

We install the equipment late eve, early a.m. 4-26/4-27.

It first comes on 4-29 at 0855 in the shop with folks walking around it. I guess it's believable no one was in the shop from 4/27 a.m. til 4/29 a.m. It runs and takes footage well til 4/29 at 1304 hours, so about 4 hours. Then the image gets distorted and completely black after a couple of minutes. It continues to roll the date/time display until 1612 hours, or for a total of 8 hours. What this tells me is, even with a 12V battery, at one frame per second at whatever resolution it was set at, you get about 4 hours of useful footage til you run even a 12V battery dead. Admittedly it wasn't a brand new battery, but all indications are it was working when it left Lake Hood and came to Big Lake. All that day during the footage, the plane was in the hanger with the door open, but inside the building, so I don't think the tracker was adding to battery fatigue.

No footage on 4-30

Footage again on 5-1, see [REDACTED] arrive and the mechanic at plane, it apparently starts up like it should on motion, then it's off a while, I know this is because they went and got a new battery and installed, then it's on again and shows perfectly departure from Big Lake to Lake Hood with a fresh 12V battery installed. So I think it came on with the new battery at 1428 hours, arrives at Lake Hood at 1518 hours, and goes off tape at 1522 hours, all like it should. At 1624 it comes back on with an unknown person walking in view of the camera, like it should on motion sensor, then goes of tape 7 seconds later like it should when motion stops.

5-2 very brief footage, can't see anything on the screen, but something must have shook or moved enough to set it off for 7 seconds.

5-3 1206 it comes on when several unknown folks are in view of camera, again, like it should, it goes off again about 12 minutes later when folks leave. It comes on again at 1518 hours and the view is obstructed with lines through it, can't tell what set it off, after about 2 minutes it's a black screen again and the date/time runs again til 2024 when it shuts off, total of about 5 hours. Again, it shows me it can only run so long on ship power... Then I know he hand props it on the 8th because he has no shlp power... anyway, something to keep in mind for the future, likely auxillary power is the way to go...

jr

From: Rodgers, Justin C (DPS)
To: Quist, Scott D (DPS)
Subject: FW: revised report Sims
Date: Wednesday, February 03, 2010 4:41:16 PM
Attachments: 12-202-SupplementalReportUnlined.doc

In case his talking of the times he noted is helpful... jr

From: Groover, John P (DPS)
Sent: Wednesday, February 03, 2010 3:33 PM
To: Rodgers, Justin C (DPS)
Subject: RE: revised report [REDACTED]

JR,

I don't mind the changing of terms for the electronic devices.
I don't show any activity on the Sims case in my notebook or payroll for 5/8/09. He may have been there on 5/8/09 but I didn't see him there. The 8th was the first of my RDO's and I don't show any activity that day in my notebook or on submitted payroll. On the 9th I have documented that Gibbens called at 1005 hours about me possibly going to Nondalton to work on the [REDACTED] case. My next notebook entry at 1035 hours is "10-21 JL need eyeballs @Nondalton and that I borrowed a spotting scope." So after closer review it wasn't you that advised me to go to Nondalton it was Lindell that I talked to at 1035 hours. The first time I saw [REDACTED] aircraft on the 9th was at 1631 hours landing at Nondalton and it approached from the Koktuli drainage direction. On 5/16/09 my notebook reflects 2215 hours [REDACTED] lands w client, client leaves in black truck. 2223 hours [REDACTED] leaves Nondalton in Supercub towards the Chulitna. 2348 hours I note the tail number of [REDACTED] cub in my notebook.

I will attach my revised report which have these revisions.

John Groover
Alaska Wildlife Trooper
PO Box 36
McGrath AK 99627
[REDACTED]

Exhibit 6
Page 2 of 3 Pages

From: Rodgers, Justin C (DPS)
Sent: Friday, January 08, 2010 10:31 AM
To: Groover, John P (DPS); Chastain, Bernard A (DPS)
Cc: Gibbens, Brett S (DPS)
Subject: RE: revised report [REDACTED]

Hi John, you should be getting home about a week from now, hope you had a great trip. A couple of things I noticed recently.

The decision was made to refer to an "electronic tracking device" and "video surveillance system", so please make sure your report reflects them, or I can change it with your permission if you're 202 is not protected...

Brett, I cc'd to you in case you need to refer to either of those terms in your supplement...

Also John, Lt. Chastain refers to you confirming [REDACTED] plane was in Nondalton on 5-8. We know it went from Anc to Nondalton 5-8 afternoon. Your supplement reflects first seeing [REDACTED] plane in Nondalton on 5-9-09. I'd like to make sure that is correct, between you and Lt. Chastain you'll have to decide which it is.

From what I remember, I think we were surprised when it left Anchorage/arrived Nondalton. I'm remembering Lt. Chastain didn't get diddly from the tracker, we surmised or the mechanic later told us he propped his plane at LHD, we figured he had enough alternator power to run his radio, and the ship power was dead as the darn tracker and video had been working right along while it was on the ramp at LHD. I remember now that the mechanic had changed the battery when it was dead with Sims came to pick it up, this would have reset the settings on the equipment and both would have been full on and using up the power in the new battery, thus the battery problems and our lack of info.

I have a note that I called you on 5-9 at 1148 (very well could have called you first at 1035 hours as reflected in your

supplement, I made numerous calls that morning) with an update and I received a call from you on sat phone 5-9 at 1340.

Appreciate the help on this fellas, in something as big as this, there's bound to be a few hiccups to work through ☺

jr

From: Groover, John P (DPS)
Sent: Saturday, December 05, 2009 11:15 AM
To: Rodgers, Justin C (DPS)
Subject: revised report [REDACTED]

Justin,

I will not resend this by US Mail unless you can't get it to print there. The photos were sent with the earlier version. You can print it there off this file. If more is needed advise and I will make it happen.

John Groover
Alaska Wildlife Trooper
PO Box 36
McGrath AK 99627
[REDACTED]

From: Rodgers, Justin C (DPS)
To: Gibbens, Brett S (DPS)
Subject: RE: 2009 Simms 202
Date: Wednesday, April 14, 2010 5:08:17 PM
Attachments: 12-202 [REDACTED] 2009 rev4-14-10.doc

I changed a couple of little things, capitalization, Sgt. Lindell instead of Trp., removed a couple "that" where it was "that there" or "that the"... I had specifically removed my info paragraph on calling Atkins to ask him to move the hunters, I'd just said potter and Evarts saw the planes and based on their descriptions we knew them to be other commercial operators from the area... or something very similar to that... I guess I kind of decided he didn't need to know we called them up and asked them to move. If he figures that out, so be it, on the other hand, if it's exculpatory in that they found the kill too, then maybe it should be in there... anyway, I'd decided to take it out, I actually had it highlighted all yellow for a long time, you may have a version like that back in your e-mail, wondering whether to leave it in or out.

Jr

From: Gibbens, Brett S (DPS)
Sent: Wednesday, April 14, 2010 3:48 PM
To: Rodgers, Justin C (DPS)
Subject: 2009 [REDACTED] 202

Here is the update with Browns' info. Lake Hood already said approx, let me know if more mods are needed, I think it is about a goner. I will check now and see what I have for digital ev, and then knock out 05'

Trooper Gibbens also involved.

*AAG Peterson even had me and my family
threatened*

Haeg

From: "davebrummel" <davebrummel@yahoo.com>
To: "dave haeg" <haeg@alaska.net>
Sent: Saturday, June 29, 2013 5:35 AM
Subject: Fwd: Opinion of aircraft being compromised / forward to all people you know !!

Dave

Tim sent me this , he said your computer did not seem to be working.

If so I will give it to you next time I see you.

ttyl Dave

Sent from my iPod

Begin forwarded message:

From: "Tim Twohy" <tdot2e@mtaonline.net>
Date: June 28, 2013, 3:42:03 PM AKDT
To: <davebrummel@yahoo.com>
Subject: Fw: Opinion of aircraft being compromised / forward to all people you know !!

Dave,

Dave's computer acting-up? Can you get this to him?

----- Original Message -----

From: [Tim Twohy](#)
To: [Dave Haeg](#)
Sent: Friday, June 28, 2013 3:12 PM
Subject: Fw: Opinion of aircraft being compromised / forward to all people you know !!

let me know if you get this

----- Original Message -----

From: [kux@gci.net](#)
To: [Haeg](#) ; [Tim Twohy](#) ; [randi davies](#) ; [Wes Keller](#)
Sent: Friday, June 28, 2013 4:41 AM
Subject: Fwd: Opinion of aircraft being compromised / forward to all people you know !!

Begin forwarded message:

From: A Wikle <awikle@articsairacademy.com>
Date: June 27, 2013 4:52:45 PM CDT
To: [kux@gci.net](#)
Subject: Opinion

Hi Kurt.

I looked at some information that was given to me. I am simply appalled. But, before I get into this, I figure it would be prudent to give a little background on

myself in case this opinion is entered as record.

Name is Artic Wikle (907) 903-0757

ATP, CFI, Multiple Douglas and Boeing type ratings

14,000 plus commercial hours in Alaska Alone.

Senior Captain for Northern Air Cargo, Anchorage and Laredo.

Owner of Artic's Air Academy and owner of 6 small aircraft.

4 full time employees with two IA mechanics.

AAA is a member of FAA's FAST safety team and organizer of The Palmer Airfair and Rondevous.

I specialize in off airport, part 135 training and Super-cub training, FAA accident (709) training.

Northern Air Cargo Chief Union organizer and NAC's Shop Steward, (Teamsters local 959).

Professional Pilot mentor, safety advocate and career development counselor.

I feel that it is important to note that I went into this with an open mind. I understand that there were some outlying issue as to why equipment was installed in the aircraft. Although the Lacy Act was pulled into focus, I am sure that the "Act" does not cover the unintentional execution of pilots or passengers. My focus is from the Judges decision to install equipment in to the aircraft, to when it was found to be installed by the pilot.

First and foremost was anyone a certified Aircraft Mechanic with Inspection authorization whom installed the equipment. If the answer is no, then this really is a case for the FAA to get involved. I am sure they will take issue with that. Second, was this a 135 flight? If the answer is yes then simply, everyone involved in the installation of this needs to be removed from their position.

This is why.

First, (and even with mechanic licenses), if the pilot did not know about the equipment, he did not have a legal airplane and therefore unknowingly and by the force of the Troopers, flew illegally. He (I do not know gender or name), dispatched his aircraft probably at gross weight. If the installation of the equipment brought him over the gross weight of the aircraft, then he was overweight and probably out of C.G. limitations violating FAA regulations and the warrant, If the electrical system was compromised at all, he unknowingly and by the Troopers hands flew the aircraft with a severe fire, explosion and chemical hazard from the possible and likely overheating of wiring and battery shorting. Not to mention the fact that they system was installed and not put in the logbooks. If the aircraft was returned to service by the Troopers, who pulled it out of service and did they have the appropriately rated license to do so. If this was a 135 flight, my biggest question is weather the persons that installed the equipment were on an approved drug program for the operators certificate.

Since the judge ordered the installation by reason of any sort of writ, execution or warrant, he is responsible for the safety of that action. The first thing the Troopers did was give the warrant to someone else to install the equipment? I am guessing no one in this whole chain was neither a Mechanic or Piper

representative. Simply, we're not working on a Honda. This is an airplane. If the operator changed a battery even once it showed the operator was trying to fix the issue and therefore not culpable. When this was observed, there was no action taken to remove the equipment, endangering the lives of anyone on that aircraft and anyone or anything around and under it, making them culpable. I haven't even mentioned privacy issues for passengers, lithium batteries, decreased fuel performance or the interference of air commerce, the interference of radio communications and navigation, TSA violations, etc. I have questions as to ongoing airworthiness of the aircraft including a full inspection and replacement of wiring systems, permanently attached equipment to bulkheads or tubing and a full re-weighing of the aircraft. If this was my aircraft, it would be an Aviation Inspector of my choosing to inspect and replace the wiring and all other associated systems and the cost would be borne by the Troopers.

Last, if the pilot/operator was observed propping the aircraft, it was in response to the Troopers installation, period. They should have intervened at that time to not carry the emergency action into the air. If the aircraft was being operated under 135, it is definitely not normal to prop that aircraft. The pilot/operator obviously did not know the forces he was dealing with. Most accidents chains in aviation begin with the owner/operator. This particular chain started with the Troopers. This could have turned into an emergency where the natural response to system malfunctions may have not resulted in a positive outcome. Essentially, the operator is lucky the Trooper, Judge and anyone else involved in putting unauthorized/non certified equipment in an aircraft didn't kill him or his passengers or people and property around the aircraft.

In Summary, I feel it necessary to say that the FAA should continue enforcement action to everyone involved except the Pilot whose only operational fault is not being told of the ticking-time bomb that was riding along with him. It is not my place to suggest types of persecution but I would support a decision like I would if someone installed unauthorized equipment in a large passenger plane which jeopardized the lives of many.

There is no difference. Feel free to take this letter to whomever you wish. If you need more of my support feel free to let me know. I have plenty.

Sincerely,
Artic Wikle

More importantly, AAG
Andrew Peterson wrote what he knew was a false
opposition - al suborned Trooper Rogers perjured affidavit
to do so - all to cover up the fact that they all

Capt. Artic Wikle ATP, CFI, Mountain flying specialist wheels, floats, skis

Operations Manager, Artic's Air Academy

Knew the plane had been ruined. It was only because
the federal people gave up to emails that the state should have
seen this soon enough 2/7/2014

K&A Fuel and Lube specialists.

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