

IN THE COURT OF APPEALS FOR THE STATE OF ALASKA

DAVID HAEG,)

Appellant,)

vs.)

STATE OF ALASKA,)

Appellee,)

Court Appeals Case No. A-09455

No. 4MC-S04-24 CR.

**MEMORANDUM OF LAW IN SUPPORT OF APPELLEE'S
MOTION TO STRIKE APPELLANT'S MOTION TO DESIGNATE RECORD
FILED SEPTEMBER 10, 2007**

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

This Court issued an order on June 8, 2007, ordering the Appellant to designate the precise portion of the electronic record that supported his claims of prosecutorial misconduct (pages 13-15 of Haeg's brief) and errors by the trial court (pages 15-17 of Haeg's brief). On June 18, 2007, Appellant filed a motion titled "Response to Order of 6/8/07." Appellant's motion ignored the order of this Court and Appellate Rules 210(b)(1)(B) and 217(c) by designating portions of the electronic record, motions and orders, many of which are already part of the record on appeal. The State opposed Appellant's designation and asked that this Court strike the entire designation.

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On September 10, 2007, Appellant filed a second designation of record titled "Motion to Designate Record." This Court should reject the Appellant's motion for the reasons set forth below.

Appellant's Motion to Designate Record is untimely. This Court issued an order on June 8, 2007, instructing the Appellant to designate the precise portion of the electronic record that supported his claims by June 18, 2007. Appellant filed an improper designation of record on June 18, 2007. The Appellant has cited to no authority which would support him now coming before this Court almost two months late to file a second designation of record. This Court should strike Appellant's entire motion as untimely.

Appellant's Motion to Designate Record attempts to designate improper court proceedings. Appellant's motion designates numerous hearings that took place following his sentencing hearing on September 29, 2007. Specifically, Appellant attempts to improperly designate the August 15, 2006 representation hearing, the March 13, 2007 status hearing, the April 25, 2007 status hearing, the May 31, 2007 status hearing and the June 7, 2007 status hearing.

Appellant's designation is improper because he failed to identify in which courts the proceedings took place. Moreover, the proceedings Appellant is attempting to designate took place following his sentencing and are therefore not part of his trial record. As an alternative to striking Appellant's entire motion for late filing, this Court should strike the above identified portions of Appellant's Motion which would have been improperly designated even if filed in a timely manner.

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Appellant's Motion to Designate Record is unnecessarily duplicative. The State has already designated the entire electronic transcript for the Appellant's jury trial and sentencing. As a result, Appellant's designation is duplicative and unnecessary. This Court should therefore strike Appellant's entire motion.

Based upon the above reasons, the State opposes Appellant's Motion to Designate Record and asks that this Court strike the entire designation. Striking Appellant's designation in its entirety is justified given the Appellant's failure to comply with the Rules of Appellate Procedure and to file a timely designation as instructed by this Court. Appellant's pro-se status does not justify this Court accepting a late designation of record that fails to comply with the Appellate Rules.

DATED September 19, 2007 at Anchorage, Alaska.

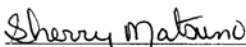
TALIS COLBERG
ATTORNEY GENERAL

By: 

Andrew Peterson
Assistant Attorney General
Alaska Bar No. 0601002

I hereby certify that a true and
correct copy of the foregoing was
mailed faxed hand-delivered to:

David Haeg

 9-19-07
Sherry Matsuno Date