

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT MCGRATH

STATE OF ALASKA,)

Plaintiff,)

vs.)

DAVID S HAEG,)
DOB: 1/19/1966)
APSIN ID: 5743491)

Defendant.)

No. 4MC-S04-24 CR.

OPPOSITION TO MOTION AND REQUEST FOR EVIDENTIARY
HEARING AND ORAL ARGUMENT

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.

COMES NOW the State of Alaska, by and through Assistant Attorney General Roger B. Rom, and opposes defendant's Motion and Request for Evidentiary Hearing and Oral Argument. The trial court has limited jurisdiction over this case. The Court of Appeals remanded this case for the single issue of making findings and conclusions as to whether Haeg should be allowed to proceed in his appeal without the assistance of counsel. Unless he wishes to dismiss his appeal and make a request in the trial court, there is no jurisdiction for the court to rule on this matter. Furthermore, the underlying motion is without merit. Haeg waived his right to challenge the seizure of evidence. According to Alaska Criminal Rule 12(b) (3) a motion to suppress evidence on the ground that it was illegally obtained necessarily needed to be raised prior to trial. Failure to comply with this requirement constitutes a waiver of the right to challenge the seizure. Alaska Criminal Rule 12(e). It is irrelevant whether the defendant personally assented to the attorney's tactical decision not to seek suppression. *Beltz v State*, 895

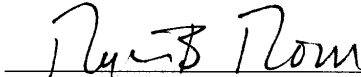
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P.2d 513 (Alaska App. 1995); *see also Cornwall v State*, 909 P.2d 360 (Alaska App. 1996). Haeg's motion should be denied.

DATED September 22, 2006 at Anchorage, Alaska.

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By:



Roger B. Rom
Assistant Attorney General
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