"The Good Old Boys"

By David S. Haeg

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

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

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

APPELLANT'S COMBINED APPELLEE/REPLY BRIEF

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

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

By: _____
David S. Haeg

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Deputy Clerk

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

reasonable people would question the judge's ability to be fair, the proper standard of review is *de novo* – 'because reasonable appearance of bias' is assessed under an objective standard. Thus, an appellate court independently assesses whether the circumstances created a reasonable appearance of bias, & the appellate court does not defer to the decision made by the lower court…because this is an issue of law an appellate court decides the issue *de novo* – that is, without deference to a ruling issued by the lower court." 4, 5

Pollard v. Fennell, 400 F.2d 421 (4th Cir. 1968) "[A]s one who, in the eyes of the jury, occupies a position of preeminence & special persuasiveness, the district judge must be assiduous in performing his function as governor of the trial dispassionately, fairly & impartially." 26

Rickman v. Bell, 131 F.3d 1150 (6th Cir. 1997) *"Prejudice presumed because counsel did not serve as advocate – such that he was a 'second prosecutor' & defendant would have been 'better off to have been merely denied counsel.'"* 46

Risher v State, 523 P.2d 421 (Alaska Supreme Court 1974)..... 45

Smith v. State, 717 P.2d 402 (Ak 1986) *"We believe it self-evident that an indispensable component of the guarantee of effective assistance of counsel is the accused's right to be advised of basic procedural rights, particularly when the accused seeks such advice by specific inquiry.* Without knowing what rights are provided under law, the accused may well be unable to understand available legal options & may consequently be incapable of making informed decisions..... 18, 27, 34, 39

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

Alaska Statutes

Court Rules

Other

AUTHORITIES PRINCIPALLY RELIED UPON

Haeg primarily relies on the United States constitution, including, but not limited to: (a) the rights to due process; (b) that no State shall deprive any person of life, liberty, or property without due process of law; (c) that no State shall deny to any person within its jurisdiction the equal protection of the laws; (d) to assistance of counsel free from conflicts of interest; (e) against self-incrimination; (f) against unreasonable searches & seizures; (g) that no warrants shall issue but upon probable cause, supported by Oath or affirmation; (h) against a State threatening to harm private defense attorneys if they defend their clients; & (i) against corrupt judges, troopers, prosecutors, attorneys, investigators, & those who oversee them.

INTRODUCTION

This case concerns evidence of a widespread conspiracy in Alaska to use the color of law to intentionally deprive U.S. citizens of rights guaranteed by U.S. constitution. Involving judges, judicial conduct investigators, state troopers, state attorneys/prosecutors, & numerous private defense attorneys, this sophisticated racket defrauds &/or outright frames the unaware entering Alaska's judicial system - corruption foreshadowed by that already proven in Alaska's legislature.

Without doubt this will equal scandals such as Watergate & Operation Greylord (Illinois judicial system "held hostage" by corruption – ending in prison for 15 judges, 48 attorneys, 10 sheriffs, 8 police, 8 court staff, & 1 state legislator).

WHAT STATE FAILED TO ADDRESS IN HAEG'S OPENING BRIEF

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

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

3. Bauman falsified Haeg's claims.

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

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

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

7. Bauman was blackmailed, extorted, and/or corruptly influenced to deny evidentiary hearings.

8. Bauman is corrupt.

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

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

RESPONSE TO WHAT STATE DID ADDRESS

1. Page 1, "Haeg claimed that there was either judicial bias, or the appearance of judicial bias, during his *sentencing* proceedings."

Haeg didn't claim this – he claimed Murphy, while she presided over Haeg's *trial,* was chauffeured by main *trial* witness against Haeg; while presiding over Haeg's *trial* ate with main *trial* witness against Haeg; gave false testimony during investigation into her *trial* contacts; conspired with main witness against Haeg & judicial conduct investigator Greenstein to cover up her *trial* contacts; falsified sworn affidavits to cover up her *trial* contacts; Greenstein falsified investigation to cover up Murphy's *trial* contacts; & Greenstein committed perjury to cover up. [R. 00032-33; 02531-2563; & 03063-3105]

> *"A trial judge's involvement with witnesses establishes a personal, disqualifying bias."* Bracy v. Gramley, 520 U.S. 899 (U.S. Supreme Court)

2. Page 1, "Did Judge Bauman err when he vacated Haeg's sentence & granted him summary disposition on his claim, ruling that two acknowledged contacts between Judge Murphy & Trooper Gibbens - Trooper Gibbens retrieving a Diet Coke for Judge Murphy from an office building, & giving her a ride from court after the *sentencing* was completed –were sufficient to establish an appearance of judicial bias?"

Bauman's ruling states contacts occurred *during trial,* never says there were just two contacts, & never mentions Gibbens retrieving Diet Coke:

> "Early in this PCR case Judge Joannides reviewed & reversed Judge Murphy's denial of Haeg's motion that she be disqualified from handling his PCR. Judge Joannides wrote on March 25, 2011,*'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.'*

> Judge Joannides had previously ruled on August 25, 2010, as follows: *'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, & Haeg himself, in the impartiality of the judiciary.'*
>
> The contact between Trooper Gibbens & Judge Murphy over time **during the trial** & the sentencing, the Trooper's focus on the Haeg Batcub plane **during the trial,** the Judge's personal safety concerns the night of the sentencing & reliance upon Trooper Gibbens for protection, & the lack of findings noted above contribute to a possible lack of public confidence in the sentence arising from the appearance of possible partiality or influence.
>
> Conducting an evidentiary hearing or trial on the issue of appearance of impropriety would serve no purpose. Having one or more members of the public testify they observed contact would be cumulative to the acknowledged contact & the concerns expressed by Judge Joannides.
>
> No reason had been advanced sufficient to reject Judge Joannides determination that there was an appearance of impropriety under the circumstances."
>
> State falsifies nature & number of contacts to deny they happened at trial.

Bauman ruling, "Conducting an evidentiary hearing or trial on the issue of appearance of impropriety would serve no purpose." is alarming. Judge Joannides found, "*at a minimum"*, there was appearance of impropriety, *referred evidence to authorities for prosecution* of Murphy, Gibbens, & Greenstein, & ruled Haeg's claims of *trial* corruption *required an evidentiary hearing.* [R. 03063-3105]

> *"[I]t is premature to rule conclusively that earlier rides & meals did not take 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."*

Why Bauman refused an evidentiary hearing to prove what happened:

> "The reason why you have still not resolved your legal problems is corruption….*if they do right by you & reveal, you know, you have the*

attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. It's absolute unadulterated self-bred corruption" Long-time attorney Dale Dolifka's sworn testimony [Tr. 24-65]

3. Page 2, "This Court independently reviews whether AS 12.72.020(a)(2) bars Haeg's claims that there was either bias on the part of Judge Murphy, or an appearance of judicial bias, at his sentencing & trial, or any of his other claims that he could have raised on appeal."

State is barred from claiming AS 12.72.020(a)(2) bars Haeg's claims – as state failed to raise this to Bauman:

> "[T]here was a failure to comply with AS 22.20.020 (c), since Judge Van Hoomissen acted on appellant's motion without benefit of an order from the chief justice appointing him… Appellants, however, failed to make a specific & timely objection to the motion being heard by Judge Van Hoomissen. *Failure to object to an error during the proceedings is deemed to be a waiver of the error.*" Amidon v. State 604 P.2d 575 (Ak 1979)

Even if parties do not object, Alaska law requires a judge to recuse him or herself whenever their impartiality might reasonably be questioned:

> "Code of Judicial Conduct Canon 3(E)(1) provide that if 'the judges impartiality might reasonable be questioned' the judge shall disqualify himself or herself." Greenway

> "Alaska law mandates disqualification of a judge when the circumstances give rise to a reasonable appearance of bias, even when there is no proof that the judge is actually biased." Phillips

Since this wasn't litigated at trial Haeg could not bring it up on direct appeal – & Greenway court ruled on this same issue without any trial protest.

4. Page 2, "Alaska Supreme court has indicated that the appellate court should resolve the issue under the abuse of discretion standard."

These issues are resolved *de novo* [without deference to trial court decision]:

> "[W]hether, given the circumstances, reasonable people would question the judge's ability to be fair, the proper standard of review is *de novo* –

> 'because reasonable appearance of bias' is assessed under an objective standard. Thus, an appellate court independently assesses whether the circumstances created a reasonable appearance of bias, & the appellate court does not defer to the decision made by the lower court…because this is an issue of law an appellate court decides the issue *de novo* – that is, without deference to a ruling issued by the lower court." Phillips

5. Page 3, "Judge Bauman's denial of Haeg's disqualification motion…& Judge Moran's determination… Bauman could be fair…, are accorded great deference; & appellate court will not reverse… unless it is plain a fair –minded person could not rationally come to that conclusion..."

This is decided *de novo* - without deference to trial courts decision. Phillips

Reasonable people would agree it unfair that Bauman falsified pay affidavits to be paid while delaying decisions (AS 22.10.190)– "starving" Haeg into submission. Moran's determination Haeg "miscalculated", when Haeg didn't, increased appearance of bias.

6. Page 4, "[Bauman] should have summarily ruled in the state's favor not Haeg's [because] the additional alleged contacts were insufficient to establish a prima facie case of an appearance of judicial bias."

Haeg alleged/provided independent witness affidavits that, (a) while Murphy presided over Haeg's trial she was chauffeured full time by, & had meals with, the main trial witness against Haeg (Gibbens); (b) Murphy, at Gibbens request, eliminated Haeg's evidence out of trial record; (c) Murphy refused to do anything about Gibbens trial perjury; (d) knowing it was false, accepted & used Gibbens perjury against Haeg; (e) Murphy made conflicting orders to harm Haeg; (f) Murphy refused to do anything about violations of Haeg's rights after they were pointed out to her; (g) Murphy/Gibbens falsified testimony to cover up their trial contacts; (h) that if Murphy/Gibbens falsified testimony to cover up their trial contacts they must have conspired to harm Haeg; (i) Murphy/Gibbens conspired with investigator Greenstein to cover up their trial contacts; (j) Murphy/Gibbens falsified affidavits to cover up their trial contacts; (k) Greenstein

falsified her investigation of contacts; & (l) Greenstein committed perjury to cover up her corrupt investigation. (Haeg provided tape recordings, certified by Judge Joannides as true, which prove forgoing) No reasonable person can claim Haeg didn't already prove appearance of impropriety or that Haeg didn't make a prima facie [requiring an evidentiary hearing] case. *Judge Joannides already ruled Haeg has done both.* [R. 00032-46, 01335-1421, 01434-1439, 01475-1514, 02518-2523, 02531-2563, 03063-3105]

> *"A trial judge's involvement with witnesses establishes a personal, disqualifying bias."* Bracy (U.S. Supreme Court 1997):
>
> "[A] trial court must be ever mindful of the sensitive role it plays in a jury trial & avoid even the appearance of advocacy or partiality." United States v. Harris, 501 F.2d 1 (9th Cir. 1974)
>
> Alaska Code of Judicial Conduct: Canon 2. A Judge Shall Avoid Impropriety & the Appearance of Impropriety. *" The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, & competence is impaired."*

Main witness against Haeg chauffeuring /dining with Murphy while she presided over Haeg's trial violated all of the above – then Murphy & Gibbens made it a thousand times worse by lying to cover it up.

7. Page 6, "Gibbens obtained a search warrant for Haeg's airplane & for his lodge…Haeg's residence…troopers seized Haeg's airplane"

State never notified Haeg of right to prompt postseizure hearing to protest seizure, with Gibbens' false warrants, of plane Haeg used to provide a livelihood:

> "*[G]iven the conceded requirement of a prompt postseizure hearing on the same issues, in the same forum, 'within days, if not hours' the only burden that the State avoids by proceeding ex parte is the burden of having to show its justification for a seizure a few days or hours earlier... [D]ue process mandates heightened solicitude when someone is deprived of her or his primary source of income...* As the Good Court noted, moreover, *the protection of an adversary hearing 'is of particular importance [in*

> *forfeiture cases], where the Government has a direct pecuniary interest in the outcome.'"* Waiste v. State, 10 P.3d 1141 (AK Supreme Court 2000).
>
> AS 28.05.131 Opportunity For Hearing Required. (a) Department of Public Safety …shall give notice of the opportunity for an administrative hearing before… *a vehicle is impounded by that department. If action is required under this section & prior opportunity for a hearing cannot be afforded, the appropriate department shall promptly give notice of the opportunity for a hearing as soon after the action as possible to the parties concerned.*
>
> "I don't know how you possibly had due process with regard to the seizure of your airplane. I have read it & read it & read it. I could write a doctor's brief on it. And I -- I can't -- & I'm just wore out trying to figure it out because I can't…when I read your case & the lay people here read your case it appears that the whole foundational things built on a lie. So all the good folks that are here today that we would talk about – I think almost everyone goes back to that original seminal issue that how the hell did this case go on when it appears to lay people & to me a lot of it was built on a lie in a sworn affidavit?" Long-time attorney Dolifka's sworn testimony

This Court ruled Haeg was given notice because Haeg hired Cole weeks after plane seizure - yet Cole testified he never told Haeg about hearing to protest false seizure warrants because he [Cole] thought Haeg would commit suicide because state took plane. Cole was lying to Haeg to try to get Haeg to commit suicide – & this court falsified the law to cover this up. [R. 03191-3370]

8. Page 8 state claims, "Haeg… testified in his own defense. He corroborated the testimony of Trooper Gibbens & Zellers"

Neither Haeg nor Zellers corroborated Gibbens – who testified the wolves were taken in Haeg's guide area. Robinson testified he told Haeg he must testify because state was using his prior statement (which couldn't be used for anything - Evidence Rule 410) against him. Zellers/Zellers attorney, Kevin Fitzgerald, testified Zellers testified because of Haeg's prior statement. In other words either Haeg's or Zellers trial testimony require Haeg's conviction to be overturned:

> *"The Government must do more than negate the taint; it must affirmatively prove that its evidence is derived from a legitimate source wholly independent of the compelled testimony'"* Kastigar (U.S. Supreme Court)
>
> "*If government has in fact introduced trial evidence that fails the Kastigar analysis, then defendant is entitled to a new trial.* If the same is true as to grand jury evidence, then the indictment must be dismissed." U.S. v. North
>
> "One of the more notorious recent immunity cases, United States v. North, illustrates another proof problem posed by use & derivative use immunity. *Once persons come into contact with the compelled testimony they are incurably tainted... This incurable inability to adequately prevent or detect nonevidentiary use, standing alone, presents a fatal constitutional flaw in use & derivative use immunity.*" State v. Gonzalez, (Ak Supreme Court)

Once Haeg's pre-trial statement was used he was entitled to a new trial – period – no matter what other evidence there was.

9. Page 8, "Haeg admitted [taking] wolves outside of…area authorized... He admitted he was guilty of same-day airborne shooting of wolves. He also admitted he had provided false GS coordinates… but his conduct was consistent with the intent of predator control."

Haeg's testimony, compelled with his prior statement, requires his conviction be overturned & state fails to address: (a) state gave Haeg permit to shoot wolves same day airborne – so Haeg cannot be guilty of a crime for shooting wolves same day airborne; (b) state told Haeg it was for public's greater good for Haeg to shoot wolves anywhere but claim they were taken in program so it would seem effective & continued; (c) Haeg required this evidence be presented for his trial defense over his criminal attorneys claims it wasn't a "legal" defense (after Dolifka, a former criminal attorney, stated it was his only defense); (d) that after conviction Haeg found the evidence had been removed so no one seen or considered it when deciding his guilt (while cover letter proving it had been admitted remained in trial record); (e) state has never refuted this evidence was placed in trial record & then corruptly taken out; & (f) *state has never refuted they told Haeg it was*

for public's greater good for Haeg to take wolves anywhere but claim they were taken inside control area.

It's understandable why Haeg doesn't think he's guilty – state told him what to do for public's greater good & then charged him with a crime for doing so.

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

Haeg had no criminal history of anything, state told what he must do, & this evidence presented for his defense was removed without his jury seeing it. Haeg, not knowing this evidence would never be seen by his jury, was told he must testify at trial - but not about the evidence he thought had already been given for his jury. Because of this Haeg's jury only heard part of the story:

> "*A man on trial testifies to his jury that he & some buddies talked for weeks about how to kill a guy they disliked. The man on trial testifies that he & his buddies finally break into the guy's locked house in the middle of the night & shoot him dead. The man on trial is convicted & sentenced to die. While waiting for the electric chair the man wonders why his jury convicted him – because he remembered that before trial he gave the jury evidence he & his buddies were members of Seal Team 6, the man they killed was named Osama bin Laden, & the government told them to do it for the public's greater good. Then he finds that the evidence he thought had been presented to his jury never was - explaining why he is now a death row inmate instead of a great hero."*

Haeg feels just like this Seal Team Six member – betrayed & very angry.

> *"Context is everything. It was a truth I had learned through years of experience as an attorney, where the setting, the situation, & the circumstances surrounding a crime can often make all the difference in the final perception of innocence or guilt."* US Attorney Iglesias.

In Haeg's case the evidence never seen by his jury was replaced with false evidence Haeg was taking wolves in his guide area – supporting case Haeg took the wolves to benefit his guide business – doubling the deception to Haeg's jury.

10. Page 9, "This Court affirmed Haeg's convictions..."

To affirm this court refused to address Haeg's claim state knowingly used false trial testimony against Haeg, ruled predator control was "hunting" when Alaska law says it's not, & ruled Haeg's other claims must be brought up in this PCR.

11. Page 10, "This Court held that the property seizure had not violated Haeg's due process rights"

This court held Haeg's notice to prompt post-seizure hearing was met when Haeg hired attorney Cole weeks later. Yet Cole has now testified he *never* told Haeg about the hearing to protest the false warrants/seizure *because he [Cole] thought Haeg was going to commit suicide because state seized plane.*

> *"I don't know how you possibly had due process with regard to the seizure of your airplane. I have read it & read it & read it. I could write a doctor's brief on it. And I -- I can't -- & I'm just wore out trying to figure it out because I can't…"* Long-time attorney Dale Dolifka

12. Page 10, [Haeg claimed attorneys used] "an unsuccessful defense."

Haeg claimed his attorneys used defenses they knew were invalid before they used them. Cole testified his tactic for Haeg was to have Haeg "fall on his sword" – then refused to answer if Haeg agreed to this defense. Robinson testified he knew his "subject – matter jurisdiction" defense was invalid before he used it to defend Haeg - while telling Haeg for it to work no other defense could be raised as this would "admit" court had subject-matter jurisdiction. [R. 03109-3167]

13. Page 11, "Bauman dismissed…claim…Osterman was ineffective".

Osterman is recorded stating Cole/Robinson's sellout of Haeg was the biggest sellout he had ever seen, Haeg's conviction would be overturned immediately, & he would sue Cole/Robinson for millions. Judge Joannides asked if Haeg actually had later recordings of Osterman stating he could do nothing to defend Haeg that would affect Cole/Robinson (Haeg does) – automatic ineffectiveness. [Tr. 36-48]

14. Page 11, "Bauman allowed Haeg to supplement…claim that his sentence was improper by virtue of improper contact…."

Haeg never claimed his *sentence* was improper because of Murphy/Gibbens contact – he claimed his *conviction* was invalid because of contact. [R. 00032-33]

15. Page 12, "there is no prima facie showing that Haeg's counsel was ineffective in failing to raise this issue [appearance of bias]."

> *Robinson*: "The thing that pisses me off more about her [Judge Murphy] than anything else is that she *is a law enforcement type of judge & she's not the independent, judicial type that you're supposed to have…in Alaska there is a Good Old Boys club of judges, prosecutors, & troopers who protect each other when they commit crimes. I could not protest Gibbens commandeering Judge Murphy.*"

Robinson knew Murphy was bias but was afraid to protest – which resulted in a defective judge presiding over Haeg's trial – ineffective assistance.

16. Page 12, "Haeg moved to disqualify Judge Murphy…alleging: (1) she had presided over his criminal trial, (2) during a break in his sentencing hearing, she had (without objection from Haeg's attorney) asked Trooper Gibbens to take her to the store, (3) a letter Haeg wrote having to do with his entrapment defense was missing from his court file, & (4) Haeg had filed a complaint against her with ACJC."

Haeg claimed Murphy: (1) *while presiding over Haeg's trial*, was being chauffeured full time by/having meals with state's main trial witness against Haeg (Trooper Gibbens); (2) destroyed Haeg's trial evidence; (3) after informed of it, did

nothing about the use of Haeg's statement against Haeg; (4) did nothing about Gibbens committing admitted perjury in front of her & jury to convict Haeg; (5) specifically used Gibbens trial perjury to justify severe sentence she gave Haeg; (6) lied about trial chauffeuring/meals during ACJC investigation; (7) conspired with Gibbens/ACJC investigator Greenstein to cover up trial chauffeuring/meals; & (8) Greenstein falsified ACJC investigation to corruptly cover up Murphy was chauffeured by/had meals with Gibbens during Haeg's trial. [R. 02531-2563]

17. Page 13, "Judge Joannides … explained that there was no impropriety in Judge Murphy having presided over Haeg's criminal trial."

> This is exactly opposite to Judge Joannides ruling: "I found that, *at a minimum*, there was an appearance of impropriety…*it is premature to rule conclusively that earlier rides & 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." [R. 02861-2865]

18. Page 13, "Haeg asserts… his letter was removed from the trial court record. But he fails to show Judge Joannides' findings [that the missing trial evidence did not harm Haeg because Haeg had already been tried & convicted when the evidence was sent to the trial court] were clearly erroneous & this court should disregard his assertions."

> Judge Joannides findings: *"In addition, I do not find prejudice from Haeg's letter not being submitted* ***on October 8, 2004. Haeg had already been tried & convicted.*** *The "entrapment" defense Haeg asserts was discussed in the letter was an issue that should have been raised at trial."* [R. 03058-3056]

Haeg's trial was in July 2005 – 9 months after October 8, 2004 – date the evidence was submitted for Haeg's defense. Thus Joannides' finding, that Haeg wasn't prejudiced because he was already tried/convicted before submitting the evidence, is false.

19. Page 14, "Haeg fails to provide any authority… the ACJC investigation or his complaint to the ABA are issues within the scope of this proceeding. Judge Bauman correctly ruled that these proceedings are

too attenuated [weak] & too long after the fact of Haeg's 2005 conviction & sentence."

Judge Joannides ruled they were within scope & if Murphy/Gibbens knowingly testified falsely about their contacts during Haeg's trial (even if this testimony took place well after Haeg's trial) – this means Haeg's trial is invalid. The only reason to commit perjury is to cover up they conspired to convict Haeg. If the only judicial conduct investigator for Alaskan judges for the past 27 years (Greenstein) falsified her investigation to corruptly exonerate Murphy/Gibbens (even if this investigation took place well after Haeg's trial) – this also means Haeg's trial is invalid. The only reason to falsify the investigation would be do cover up that Murphy/Gibbens conspired to convict Haeg. Murphy, Gibbens, & Greenstein afterward all falsifying affidavits in connection with Haeg's complaint also means Haeg's trial is invalid.

> *Robinson*: "Murphy being chauffeured by Gibbens during your [Haeg's] trial is appearance of bias. Murphy & Gibbens lying about it afterward is proof of bias.[R.03109-3167]

20. Page 15, "Judge Joannides' ruling…there was an appearance of bias sufficient to disqualify Judge Murphy from Haeg's post-conviction relief action – isn't determinative of whether Haeg's sentence should be vacated due to an appearance of bias. Judge Joannides did not address any post-conviction relief procedure, nor evaluate Haeg's sentencing proceedings. Haeg incorrectly states in his brief that Judge Joannides ordered that an evidentiary hearing must be held."

It was Bauman who, after addressing some PCR procedure, & after evaluating some of Haeg's sentencing, vacated Haeg's sentence.

Judge Joannides did rule an evidentiary hearing was required to address Haeg's concerns about Murphy/Gibbens' corruption during Haeg's trial:

> *"I found that, at a minimum, there was an appearance of impropriety…it is premature to rule conclusively that earlier rides & 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."*[R. 02861-2865]

21. Page 16, "Haeg asserts Judge Murphy ate meals with Trooper Gibbens, but the record contains no affidavits stating that this occurred."

Page 33 of the record is an affidavit stating: *"Trooper Gibbens, the state's main investigator & witness against Haeg, chauffeured Judge Murphy everywhere on every day of Haeg's trial & sentencing – in front of Haeg's jury.* ***This chauffeuring included having meals together.****"*

Page 2537 of the record is an affidavit stating: *"Judge Murphy flew into McGrath from Aniak, state Trooper Gibbens picked her up at the airport & chauffeured her everywhere every morning, noon, & night of Haeg's trial & sentencing – which took place in McGrath.* ***In addition to the chauffeuring Judge Murphy & Trooper Gibbens were seen having meals together.****"*

22. Page 16, "Judge Murphy acknowledged [in her sworn affidavit] two incidents of contact with Trooper Gibbens: (1) she rode with him from the court house *after* Haeg's sentencing, & (2) he retrieved Diet Coke for her…Regarding the second contact, the judge explained that, as indicated on the sentencing transcript, she had asked Trooper Gibbens for a ride to the store during a break, but they ended up not leaving the building. Both Judge Murphy & Trooper Gibbens stated they never ate meals together nor discussed the case."

Judge Joannides certified evidence that Murphy/Gibbens previously testified Murphy never rode with Gibbens while Haeg was in McGrath [R.1335-1421]. This means Murphy has now committed Perjury By Inconsistent Statements [AS 11.56.230] - along with falsely testifying to ACJC during its investigation of her contact during Haeg's trial. Murphy also swears the reason Gibbens chauffeured her is walking to her hotel would have taken her past two open bars. This is provably false – more perjury.

If Murphy/Gibbens lied about everything else, no one would believe they didn't discuss Haeg's case and/or conspire to frame him.

23. Page 17, "Bauman ruled that he didn't need to resolve the dispute over the number of contacts between Judge Murphy & Trooper Gibbens because the two acknowledged contacts were sufficient to establish an appearance of impropriety & required Haeg's *sentence* to be vacated."

Bauman never ruled there were only 2 contacts – but did rule contacts occurred during Haeg's *trial*. [R. 02725-2759] And *how can trial contacts require Haeg's sentence be overturned but not his conviction?* Bauman overturned Haeg's sentence to justify not giving Haeg the evidentiary hearing Judge Joannides required be given to prove Murphy/Gibbens' corruption during Haeg's *trial*.

24. Page 17, "The court also held that Haeg had not made a prima facie showing that Judge Murphy & Trooper Gibbens discussed the case, exchanged notes during the proceedings, or that the judge had engaged in an independent investigation of the case."

Haeg provided affidavits Gibbens chauffeured/ate with Murphy full-time during Haeg's trial; Murphy/Gibbens lied about this during ACJC investigation; that if Murphy/Gibbens didn't conspire to frame Haeg why did they lie about their contacts; Murphy, at Gibbens request, destroyed Haeg's evidence; Murphy refused to do anything about Gibbens trial perjury against Haeg & then, knowing it was perjury, specifically used Gibbens perjury to justify Haeg's sentence; both conspired with investigator Greenstein to cover up contact; both knowingly falsified sworn affidavits to cover up contact; & Greenstein falsified her investigation to cover everything up. [02531-2563]

As Haeg/witnesses/jurors were left walking in a cloud of dust each day as Gibbens/Murphy sped off it was impossible to tell if Murphy was discussing the case with Gibbens, exchanging notes with Gibbens, investigating the case with Gibbens, or having sex with Gibbens. Haeg/witnesses simply swore out affidavits of what they did see. If Murphy/Gibbens denied what was seen they would deny what was not seen:

"No one would believe you got a fair trial if your judge was being chauffeured by the main witness against you." U.S. Department of Justice section chief Doug Klein

25. Page 18, "Haeg was well aware of the contacts…at the time they occurred. Haeg's attorney could have moved to disqualify Judge Murphy...or the issue could've been pursued in Haeg's direct appeal."

When Haeg asked Robinson what could be done, Robinson told Haeg "nothing".

Issues not raised at trial can't be pursued in direct appeal.

26. Page 18 claims, "In…direct appeal Haeg did not bring to this Court's attention any claim of judicial bias, but he certainly could've done so."

Haeg gave this affidavit on direct appeal to this court – who did nothing: *"Throughout Haeg's trial & sentencing Judge Murphy & Gibbens had unarguably prejudicial conduct outside court – with Gibbens transporting her to & from court every morning, noon, & night along with having meals with Judge Murphy outside court. In their testimony to the ACJC they denied these rides ever took place. This proves perjury & conspiracy between Judge Murphy & Gibbens to deny Haeg an unbiased court.*"

27. Page 19, "Haeg's…isn't a case [that] probably resulted in the conviction of one who is actually innocent. Haeg testified at trial & admitted the conduct underlying his convictions."

Haeg's testimony was compelled - meaning Haeg is entitled to a new trial – period. Rule 410, North, & Gonzales. Conduct, taken out of context, isn't a crime:

"A man on trial testifies to his jury that he & some buddies talked for weeks about how to kill a guy they disliked. The man on trial testifies that he & his buddies finally break into the guy's locked house in the middle of the night & shoot him dead. The jury convicts him & he is sentenced to die. While waiting for the electric chair the man wonders why his jury convicted him – because before trial he gave the jury evidence he & his buddies were members of Seal Team 6, the man they killed was named Osama bin Laden, & the government told them to do it for the public's greater good. Then he finds that the evidence he thought had been presented to his jury never was - explaining why he is now a death row inmate instead of a great hero." Unknown

"Context is everything. It was a truth I had learned through years of experience as an attorney, where the setting, the situation, & the

circumstances surrounding a crime can often make all the difference in the final perception of innocence or guilt." United States Attorney Iglesias

The context of Haeg's actions, just like the Seal Team Six member, was completely changed when Haeg's jury never heard what state told Haeg - & after state was allowed to falsify the evidence to Haeg's guide area.

28. Page 19, "Second, taking all Haeg's assertions as true, the rides Gibbens allegedly gave Judge Murphy to & from court proceedings do not amount to a situation perpetuating manifest injustice."

Haeg asserted: Murphy/Gibbens rode/dined together during Haeg's trial & in front of Haeg's jury; Murphy destroyed Haeg's evidence at Gibbens request; Murphy granted all state requests to eliminate Haeg's defense; Murphy overlooked Gibbens admitted perjury & then specifically used it to justify ending Haeg's career; both falsified testimony to ACJC about their contact; both knowingly falsified affidavits about their contact; both conspired with ACJC investigator Greenstein to cover up their contact; Greenstein falsified official ACJC investigation to corruptly cover up the contact; & Greenstein committed perjury to cover up her corrupt investigation.

It would be hard to imagine a situation perpetuating greater injustice.

"No one would believe you got a fair trial if the main witness against you was chauffeuring the judge presiding over your trial." Dept. of Justice section chief Doug Klein.

29. Page 19/20, "Judicial bias isn't one that can be raised at any time if [it] stems from conduct known to the party when it occurred…in Cook this Court held the additional claim of judicial bias must be preserved"

State waived this by not raising it at trial. Cook didn't rule claims of appearance of bias/bias must be preserved & Greenway court ruled on this even though it wasn't preserved. Canon 2 requires judges to disqualify themselves in there is an appearance of

impropriety. Robinson, when asked, told Haeg nothing could be done – while knowing Murphy was biased against Haeg:

> "[Murphy] *is a law enforcement type of judge & she's not the independent, judicial type that you're supposed to have…in Alaska the is a Good Old Boys club of judges, prosecutor, and troopers who protect each other when they commit crimes. I couldn't protest Gibbens commandeering Murphy.*"

"*[N]o party should be able to take the decision-maker aside & privately influence them."*

Cook. This is what happened when Gibbens privately chauffeured/dined with Murphy.

30. Page 21, "Haeg failed to establish a prima facie case that his trial attorney's failure to object to Judge Murphy's contacts with Trooper Gibbens was ineffective assistance of counsel."

> Robinson: "The thing that pisses me off more about her [Judge Murphy] than anything else is that she *is a law enforcement type of judge & she's not the independent, judicial type that you're supposed to have…in Alaska there is a Good Old Boys club of judges, prosecutors, & troopers who protect each other when they commit crimes. I could not protest Gibbens commandeering Murphy.*"
>
> Robinson admits Murphy was defective but couldn't protest – & told Haeg nothing could be done when Haeg asked. This is automatic ineffectiveness:
>
> *"We believe it self-evident that an indispensable component of the guarantee of effective assistance of counsel is the accused's right to be advised of basic procedural rights, particularly when the accused seeks such advice by specific inquiry.* Without knowing what rights are provided under law, the accused may well be unable to understand available legal options & may consequently be incapable of making informed decisions." Smith v. State, 717 P.2d 402 (Ak 1986)

31. Page 22 state claims, "Robinson explained he did not object to the rides because he did not think the judge would be influenced in the case."

> "The thing that pisses me off more about her [Judge Murphy] than anything else is that *she is a law enforcement type of judge & she's not the independent, judicial type that you're supposed to have…in Alaska there is a Good Old Boys club of judges, prosecutors, & troopers who protect each other when they commit crimes. I could not protest Gibbens commandeering Murphy.*" Haeg's trial attorney Arthur Robinson.

In other words Robinson didn't object to the rides because he didn't think Murphy would be influenced. Robinson didn't object to the rides because *he positively knew Murphy was influenced toward law-enforcement/Trooper Gibbens,* knew she wasn't the independent type Haeg was *required* to have, & *could not* protest her private involvement with the very law-enforcement person who was trying to convict Haeg in her court – almost certainly out of fear of "The Good Old boys".

32. Page 22-24, "The affidavits submitted allege many more contacts between Trooper Gibbens & Judge Murphy than the two of which Robinson was aware. Haeg's affidavit does not allege that he talked to Robinson at the time about these alleged contacts between Judge Murphy & Trooper Gibbens. Haeg's failure to inform Robinson of the daily contacts he allegedly observed between Trooper Gibbens & Judge Murphy until years after they occurred is fatal to his claim that Robinson was ineffective in not objecting to the contacts"

> Affidavits submitted: *"Haeg's attorneys never protested that Judge Murphy, while presiding over Haeg's case, was being chauffeured by Trooper Gibbens – the main investigator & witness against Haeg –* ***even though Haeg asked if this was allowed."*** *"To prosecute Haeg the state had their main witness against Haeg (Trooper Brett Gibbens) chauffeur the judge presiding over Haeg's case (Judge Margaret Murphy) during Haeg's trial & sentencing.* ***Haeg's attorneys told him the above actions by the state was legal & that there was nothing they could do about it."*** [R. 01622-1631 & 02564-2723]

Haeg protested, at the time they occurred, the contacts to Robinson – who, at the time, told Haeg nothing could be done.

33. Page 24-25, "Bauman erred in summarily determining that the two contacts acknowledged by Judge Murphy were sufficient appearance of judicial bias to vacate Haeg's sentence."

Bauman used more than Murphy's 2 acknowledged contacts – he ruled contacts occurred during Haeg's trial & Murphy only acknowledged contacts after Haeg's trial.

"Early in this PCR case Judge Joannides reviewed & reversed Judge Murphy's denial of Haeg's motion that she be disqualified from handling his PCR. Judge Joannides wrote on March 25, 2011, '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.'*** *Judge Joannides had previously ruled on August 25, 2010, as follows: '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, & Haeg himself, in the impartiality of the judiciary.'*

The contact between Trooper Gibbens & Judge Murphy over time during the trial *& the sentencing, the Trooper's focus on the Haeg Batcub plane during the trial, the Judge's personal safety concerns the night of the sentencing & reliance upon Trooper Gibbens for protection, & the lack of findings noted above contribute to a possible lack of public confidence in the sentence arising from the appearance of possible partiality or influence.*

Conducting an evidentiary hearing or trial on the issue of appearance of impropriety would serve no purpose. Having one or more members of the public testify they observed contact would be cumulative to the acknowledged contact & the concerns expressed by Judge Joannides.

No reason had been advanced sufficient to reject Judge Joannides determination that there was an appearance of impropriety under the circumstances."[R. 02725-2759]

It's clear Bauman acknowledged far more "contact" then Murphy's admission of contact *after* Haeg's trial. The real issue is why didn't Bauman give Haeg an evidentiary hearing to prove Murphy/Gibbens' corruption *during Haeg's trial* – an evidentiary hearing Judge Joannides ruled was required:

"The reason why you have still not resolved your legal problems is corruption….if they do right by you & reveal, you know, you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & assigned lawyers were all in cahoots together. It's absolute unadulterated self-bred corruption." Long-time attorney Dolifka

34. Page 25-26, "Nor does the fact Judge Murphy accepted a ride from Trooper Gibbens after Haeg's sentencing give rise to an appearance of bias. First, Haeg's proceedings had ended. Second…the judge was going to have to walk past two open bars."

State finally admits it's significant if Murphy/Gibbens had contact while Murphy presided over Haeg's trial/sentencing/controlled Haeg's fate – & again falsely claims contact did not occur until after Murphy ended Haeg's life – while Haeg/witnesses swore affidavits Gibbens was chauffeuring Murphy during Haeg's trial & long before Murphy ended Haeg's life. State again claims reason for this one ride is Murphy was going to have to walk past two open bars. This is provably false.

35. Page 26, "In ruling that these two contacts gave rise to an appearance, the court also observed that Judge Murphy misspoke at Haeg's sentencing when she stated that 'the majority if not all the wolves were taken in 19-C' (an area in which Haeg guided moose hunts). The wolves were actually taken in unit 19-D, outside of unit 19-D East, but not in unit 19-C. Judge Murphy's confusion about where the wolves were taken may reflect poor memory, but isn't an appearance of bias."

Gibbens, to get warrants to search Haeg's home/seize plane/business, swore to Murphy that Haeg killed wolves in his 19-C guide area. During "required" interviews it was proven to Gibbens/Leaders no wolves were taken in Haeg's guide area. It was also proven to Gibbens/Leaders their map had a false 19-C boundary that corruptly made it appear wolves were killed in Haeg's 19-C guide area.

Later, at Haeg's trial, Gibbens - knowing it was false - testified to Murphy/Haeg's jury that since Haeg had killed the wolves in his 19-C guide area to benefit his guide business Haeg must be found guilty of the most severe guide crimes – crimes that would effectively end Haeg's life. Gibbens then presented his map that corruptly supported his false trial testimony that Haeg killed the wolves in Haeg's GMU 19-C guide area. Haeg demanded Gibbens admit he had knowingly given false sworn testimony. Gibbens, only after he knew his false testimony had been discovered, admitted to Murphy he knew no wolves were taken in GMU 19-C. Although this proved Gibbens committed perjury

nobody did a thing - not Leaders, Robinson, or Murphy – & nobody fixed the false map or explained to the jury this meant Haeg wasn't taking wolves in his guide area.

> AS 11.56.200. Perjury (a) *A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true. Perjury is a class B felony.*
> AS 11.56.235. Retraction as a defense. (a) In a prosecution under AS 11.56.200 or 11.56.230, if the false statement was made in an official proceeding, *it is an affirmative defense that the defendant expressly retracted the false statement before discovery of the falsification became known to the defendant*.

Haeg was convicted & Murphy, to justify ending Haeg's life, stated the reason was Haeg took most, if not all, wolves in his GMU 19-C guide area. [Tr. 1437- 1441] In other words Murphy knowingly used Gibbens' admitted perjury to destroy Haeg's life – clearly as reward for the excellent/continuous chauffeuring/meals Gibbens provided her.

Murphy's specific use of Gibbens trial testimony that she knew was felony perjury isn't "poor memory". It is demonstrated bias on an incredible scale.

36. Page 27, "court thought… Murphy's sentencing comments contributed to an appearance of bias because she neither made detailed findings on Haeg's credibility, nor addressed his arguments that he took the wolves to benefit the local subsistence hunters/users & to bolster the results of the wolf predator control program. But Judge Murphy did adequately address these points. Judge Murphy specifically recognized that Haeg was someone who really doesn't believe they've done anything wrong."

Murphy never addressed Haeg's credibility/argument. But Murphy did remove Haeg's evidence – that the state told him he must take, for the publics greater good, the very actions they then charged him with a crime for taking – out of the record so no one would ever see it. *State has never disputed they told Haeg this.* State said this must be done so the program, which was doing very poorly, would seem effective & continued.

S*tate has never disputed they told Haeg this.* This evidence was removed so his jury never saw it – while cover letter, proving the evidence had been submitted, remained.

Haeg was doing exactly as state said must be done to protect the public, but Haeg's public jury never knew this. They were given false testimony & evidence Haeg was taking wolves in his guide area to benefit his guide business – doubling the deception. It's clear why Haeg doesn't feel he committed a crime - the government told him he was protecting the public – just as the Seal Team 6 member was told.

37. Page 28, "Haeg's sentence… 60 days with 5 suspended for each count was well within statutory maximums of one year for each offense."

Murphy sentenced Haeg to nearly 2 years in prison; forfeiture of plane/property he needed to provide a livelihood for his wife/daughters; $19,500 fine; $4500 restitution, & revoked his guide license for 5 years (after 5 years were up state told Haeg his license had expired forever) – all to cover up Haeg was doing exactly what state said must be done for public's greater good. Haeg's criminal history before this was zero – nothing.

38. Page 29, "Judge Murphy's sentencing remarks dispel any appearance of bias, & there are no affidavits in the record asserting that the judge & the trooper ate meals together, discussed the case, or engaged in any other contact other than Trooper Gibbens giving Judge Murphy rides."

Murphy, knowing it was perjury by Gibbens, specifically quoted Gibbens perjury in her sentencing remarks to justify the severe sentence she gave Haeg – proof of bias. There are affidavits in the record that Murphy/Gibbens ate meals together; affidavits that if Murphy/Gibbens did not talk together/conspire about Haeg's case while they were riding/eating together why did they deny the rides/meals; affidavits that Murphy destroyed Haeg's evidence so his jury would never see it; affidavits Murphy made conflicting ruling prevent Haeg's defense; affidavits that Murphy never addressed Haeg's

affidavit state was using his statement against him; affidavits that Murphy specifically used Gibbens admitted perjury to harm Haeg; affidavits that Murphy refused to prosecute Gibbens' perjury; affidavits Murphy/Gibbens falsified their testimony & conspired together during the investigation into contacts during Haeg's trial; affidavits Murphy/Gibbens conspired with Greenstein to falsify the ACJC investigation; & affidavits Murphy/Gibbens knowingly falsified sworn affidavits. [R. 00001-46, 00523-531, 01335-1421, 02531-2563] Haeg submitted affidavits that Murphy refused to rule his motion to bond his plane out so he could continue making a livelihood - & has been falsifying her sworn pay affidavits every two weeks since then. This is now hundreds of false affidavits – all so Murphy could help Gibbens keep Haeg's plane. [R. 02958-3000]

39. Page 29, "If Court determines Haeg's claim isn't… barred, & the alleged additional contacts are sufficient to establish a prima facie case of an appearance of…bias, then an evidentiary hearing is necessary"

Judge Joannides ruled evidentiary hearing should have occurred years ago. "Good Old Boys" will stop any evidentiary hearing for Haeg to fully question everyone – as it will not only prove they all conspired to frame Haeg - it will prove the only investigator of Alaskan judges for the past 27 years is falsifying official ACJC investigations so corrupt judges can continue fleecing the unsuspecting public.

> *"The reason why you [Haeg] have still not resolved your legal problems is corruption….if they do right by you & reveal, you know, you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together."* Long-time attorney Dolifka [Tr. 24-65]

40. Page 30-32, "court correctly denied Haeg's disqualification motion regarding Judge Bauman. Haeg moved to recuse Judge Bauman, claiming that the judge's rulings showed he was biased against Haeg."

Haeg claimed, & proved, Bauman falsified sworn pay affidavits so he could be paid while delaying rulings in Haeg's case. [R. 02170-2176, 02179-2203]

41. Page 32, "court correctly ruled Haeg failed to establish a prima facie case on any of his other claims... Haeg argues that he was entitled to an evidentiary hearing on…contact…during his trial."

Even Judge Joannides ruled Haeg was entitled to an evidentiary hearing:

"*it is premature to rule conclusively that earlier rides & meals did not take 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."*

Why Bauman didn't hold the required evidentiary hearing: *"The reason why you have still not resolved your legal problems is corruption.…if they do right by you & reveal, you know, you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. It's absolute unadulterated self-bred corruption."* Long-time attorney Dolifka

42. Page 34, "This Court previously determined Haeg's admissions during his own trial testimony were sufficient to convict him."

As shown Haeg's trial testimony was coerced & thus requires Haeg's conviction be overturned by itself. State gave Haeg permit to shoot wolves same day airborne & told Haeg it was for public's greater good to shoot wolves anywhere found but claim they were taken in program – thus Haeg's conduct is no crime:

"*A man on trial testifies to his jury that he & some buddies talked for weeks about how to kill a guy they disliked. The man on trial testifies that he & his buddies finally break into the guy's locked house in the middle of the night & shoot him dead. The jury convicts the guy & he is sentenced to die. While waiting for the electric chair the man wonders why his jury convicted him – because he remembered that before trial he gave the jury evidence he & his buddies were members of Seal Team 6, the man they killed was named Osama bin Laden, & the government told them to do it for the public's greater good. Then he finds that the evidence he thought had been presented to his jury never was - explaining why he is now a death row inmate instead of a great hero."* Unknown.

Haeg suffered the same injustice as the Seal Team Six guy - his jury was never given all the facts & in Haeg's case they were replaced with false evidence Haeg took wolves in his guide area – doubling the deception to the jury.

43. Page 34, "Haeg's case was tried by a jury, not Judge Murphy. There are no affidavits alleging that the jury was aware of the alleged contacts between Judge Murphy & Trooper Gibbens"

> Haeg's PCR application affidavit: *"Trooper Gibbens, the state's main investigator & witness against Haeg, chauffeured Judge Murphy everywhere on every day of Haeg's trial & sentencing –* ***in front of Haeg's jury.*** *This chauffeuring included having meals together."* [R. 00033]
>
> *"The trial court's role is especially sensitive in a jury trial. It must be ever mindful to eschew advocacy or the appearance of advocacy."* United States v. Malcolm, 475 F.2d 420 (9th Cir. 1973)
>
> *"[A]s one who, in the eyes of the jury, occupies a position of preeminence & special persuasiveness, the district judge must be assiduous in performing his function as governor of the trial dispassionately, fairly & impartially."* Pollard v. Fennell, 400 F.2d 421 (4th Cir. 1968)

44. Page 34, "Haeg did not submit affidavits alleging facts Judge Murphy & Trooper Gibbens…engaged in any actual impropriety…"

Haeg submitted affidavits that Murphy destroyed Haeg's evidence at Gibbens' request – *actual impropriety*. Haeg submitted affidavits that if Murphy/Gibbens did not talk together/conspire about Haeg's case while they were riding/eating together why did they deny the rides/meals; affidavits that Murphy made conflicting rulings to prevent Haeg's defense – *actual impropriety*; affidavits that Murphy never addressed Haeg's affidavit state was using his statement against him – *actual impropriety*; affidavits that Murphy specifically used Gibbens perjury to harm Haeg – *actual impropriety*; affidavits that Murphy refused to prosecute Gibbens for his perjury during Haeg's trial – *actual impropriety*; affidavits that Murphy/Gibbens falsified testimony/conspired together

during the official investigation into their contacts during Haeg's trial – *actual impropriety*; affidavits that Murphy/Gibbens conspired with Greenstein to falsify ACJC investigation – *actual impropriety*; affidavits Murphy/Gibbens knowingly falsified sworn affidavits – *actual impropriety*; & affidavits that Murphy never ruled on Haeg's motion to bond his plane out so he could continue to make a livelihood & is falsifying her pay affidavits to get paid while harming Haeg – *actual impropriety*.

> *"No one would believe you got a fair trial if the main witness against you was chauffeuring the judge presiding over your trial."* U.S. DOJ

45. Page 34, "Nor did Haeg make a prima facie showing that his counsel provide ineffective assistance with regard to the alleged contacts… during his trial – for the same reason he failed to establish a prima facie case…with regard to the alleged contacts during his sentencing."

Robinson testified he knew, at the time of Haeg's trial, that Murphy was defective – but could not do anything. And, when Haeg specifically asked what could be done about Murphy/Gibbens contacts, Robinson told Haeg nothing could be done. False advice after specific inquiry is automatic ineffective assistance of counsel:

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

46. Page 35, "Haeg's affidavit regarding [contacts] during trial fails to state he informed his trial counsel about these multiple alleged rides at any point during the trial or sentencing. Robinson cannot be faulted for not raising an issue of which he wasn't informed."

> Haeg's affidavits state: *"Haeg's attorneys never protested that Judge Murphy, while presiding over Haeg's case, was being chauffeured by Trooper Gibbens – the main investigator & witness against Haeg –* ***even though Haeg asked if this was allowed."*** *"To prosecute Haeg the state had*

their main witness against Haeg (Trooper Brett Gibbens) chauffeur the judge presiding over Haeg's case (Judge Margaret Murphy) ***during Haeg's trial*** *& sentencing.* ***Haeg's attorneys told him the above actions by the state was legal & that there was nothing they could do about it."*** [R. 01622-1631 & 02564-2723]

47. Page 36, "contacts Haeg complains of didn't contribute to conviction; he confessed to all the conduct underlying his convictions, & there are no facts presented showing jury was aware of alleged contacts."

For Gibbens' favors, Murphy destroyed Haeg's defense; Haeg's testimony was coerced/requires conviction overturned; state told Haeg to take actions for public's best interest - so his conduct wasn't a crime; & affidavits show jury was aware of contacts.

48. Page 36-37, "Haeg failed to present a prima facie case that his attorneys were ineffective in failing to advise him of an entrapment defense – because, as matter of law, Haeg had no entrapment defense. Haeg failed to present any evidence that Spraker was a law enforcement official or was working with law enforcement officials to entrap Haeg. Haeg's claim is Spraker, not Boudreau, told him to kill wolves outside of unit 19-D East."

(a) Cole is recorded telling Haeg it was "entrapment" when Alaska Board of Game chairman Spraker, during BOG meeting, told Haeg it was in public's best interest for Haeg to take wolves anywhere but claim they were in control area. [00052-91] (As Cole lied about all else, it's possible this isn't called "entrapment."); (b) Cole is recorded telling Haeg this could not be presented in Haeg's defense as it wasn't "legal"; (c) Haeg, confused/alarmed about not being able to explain the actions that were destroying his/his family's life, presented this evidence to his long-time business attorney Dale Dolifka (a former criminal defense attorney). Dolifka's subsequent counsel. [R. 24-65]:

"Although I am not a hunter, the hackles stood up on the back of my neck because I knew exactly why you did what you did. If you only do one thing in your defense it must be to present, in your defense, evidence of what the state told you."

(d) After Dolifka's counsel Haeg demanded Cole submit this evidence for his defense; (e) Haeg was convicted & afterward found the evidence was missing from the trial record – while a cover letter, proving the evidence had been admitted, remained in the record; & (f) this means Haeg's jury never seen the evidence of what Alaska Board of Game chairman Spraker told Haeg – evidence Dolifka stated was Haeg's entire defense.

State may be correct Cole misnamed this "entrapment" – nonetheless it is an incredibly powerful defense - as attorney Dolifka recognized.

State claims Haeg didn't present evidence "Spraker" was working with law-enforcement. Bauman had stated there was no evidence program officials (without mentioning Spraker or Boudreau) were working with law-enforcement - so Haeg pointed out state itself testified program officials were working with law-enforcement. Without ever presenting this to Bauman state now claims "Boudreau" was working with law-enforcement but not "Spraker" (who is effectively Boudreau's boss). Spraker didn't tell Haeg what he did to help law-enforcement catch criminals (the very definition of "entrapment"). Spraker told Haeg what he did so wolf control program would continue benefiting the public. *Haeg cannot be prevented from raising this defense because Cole misnamed it or Spraker wasn't working with law-enforcement to catch criminals.*

Forgoing is to cover up Haeg was deprived of an incredibly potent defense (whether called "entrapment" or something else) by Haeg's criminal attorneys first telling him it wasn't a legal defense & refusing to raise it & then by Murphy, who removed it from the record after Haeg, at Dolifka's insistence, demanded it be presented for his defense. *The ramifications of this are mind-boggling – the official record of Haeg's trial*

itself was tampered with to cover up the state's corruption- only after Haeg's criminal defense attorneys were unsuccessful in keeping this evidence out of the trial record.

49. Page 37, "entrapment requires official[s] to engage in fundamentally unfair conduct calculated to induce someone to commit a crime, other than a person who was willing. Haeg was willing to take wolves outside unit 19D-East; he has never denied that he knew the wolves he killed were outside unit 19D-East. Because Haeg had no entrapment defense as a mater of law, his attorneys could not be ineffective for failing to pursue that defense & the failure to argue an invalid entrapment defense could not have contributed to Haeg's conviction"

State never brought this up to Bauman & Cole may have misnamed what occurred as "entrapment". State claims no entrapment because if Haeg took wolves outside the area he was willing to do so & if Haeg was willing he could not have been entrapped. This is bizarre. Legal criteria for "entrapment':

> "[D]efense of entrapment fails '[i]f the defendant is predisposed to commit the crime.' We use five factors to determine whether a defendant was predisposed, though no single factor is controlling. United States v. Busby, 780 F.2d 804, 807 (9th Cir.1986). These factors include: the character or reputation of the defendant, including any prior (1) criminal record; (2) whether the government initially made the suggestion of criminal activity; (3) whether the defendant engaged in the criminal activity for profit; (4) whether the defendant evidenced reluctance to commit the offense that was overcome by repeated government inducement or persuasion; & (5) the nature of the inducement or persuasion supplied by the government."

(1) Haeg had zero criminal history of anything; (2) government initially told Haeg he must take wolves anywhere but claim they were taken in program; (3) state itself admitted program participants lost money participating; (4) Haeg said no to government's prior suggestions the situation was so dire wolves must be poisoned; (5) government told Haeg he was best pilot/hunter in Alaska & he must immediately take wolves anywhere but claim they were taken inside to save program for greater good of all the public who depended on wild game to feed their families.

50. Page 37-38, "Haeg's attorneys were not ineffective in advising him regarding immunity. Court ruled that, as matter of law, Haeg had no immunity… & that therefore Haeg failed to make a prima facie showing his attorneys were ineffective for failing to argue immunity"

> Bauman never ruled Haeg did not have immunity by law: *"Although a rogue or unauthorized offer of immunity is possible,* it appears Mr. Haeg participated voluntarily in the interview under the cloak of privilege, not immunity, as part of settlement negotiations." [R. 02736]

Bauman admits it possible Haeg was given immunity, making it a matter of fact, not law – requiring an evidentiary hearing. Haeg's attorneys *specifically* testify state gave Haeg *"immunity"* & *"transactional immunity"* & that after Haeg's statement, required by immunity, state told them it wasn't going to honor Haeg's immunity. [00004-46]

Haeg researched "immunity" & found Alaska law (AS 12.50.101) only allows "transactional immunity" – exactly as Haeg's attorneys testified was given:

> Black's Law Dictionary (9th Ed.2009). "Transactional immunity" affords immunity to the witness from prosecution for the offense to which the compelled testimony relates.
>
> Webster's New World Law Dictionary, copyright 2010 Transactional immunity – a grant of immunity to a witness by a prosecutor that exempts the witness from being prosecuted for the acts about which the witness will testify.

Imagine Haeg's horror to realize he had been prosecuted after being given immunity prohibiting prosecution & that state threatened his attorneys to accomplish this. Bauman never held a evidentiary hearing because it would criminally implicate everyone.

51. Page 38, "Haeg is confusing immunity with the limited privilege of statements made in plea negotiations. Under Alaska Rule of Evidence 410(a) statements made in plea negotiations are not admissible *at trial* if the plea discussion does not result in a plea of guilty or no-contest…"

Haeg's attorneys *specifically* testified under oath that state gave Haeg "immunity" & "transactional immunity." Then testified after state got Haeg's statement it said it

wasn't going to honor Haeg's "immunity". It's clear why state claims Haeg is "confused" - he could never have been prosecuted if he had immunity – a very, very big problem.

State then falsifies Evidence Rule 410 – claiming statements are not admissible *at trial*. They're not admissible ***anywhere*** – Rule 410 never even mentions "trial".

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

State must lie as it specifically used Haeg's statement for charging Haeg – meaning Haeg's conviction is invalid.

52. Page 39, "This Court has already determined that the State did not use Haeg's interview when it presented its case in chief. At trial the State used a map upon which Trooper Gibbens, not Haeg, had made marks."

After direct appeal to this court, Haeg was finally able to look at state's trial map. (State, violating Haeg's pretrial discovery request, never gave Haeg a copy.) Haeg realized it was same aeronautical chart ("map") on which state required Haeg to mark wolf kill locations during "immunized" interview. Haeg also realized GMU boundaries had been falsified to corruptly make it appear wolf kill locations Haeg marked were in Haeg's GMU 19-C guide area. Haeg realized state's recording of pretrial interviews, when combined with recording of Haeg's trial, prove beyond doubt that Haeg, during his interview, is the one who marked wolf kill locations on the map - & proves state knew map had a false GMU boundaries on it (corruptly making it appear the wolves were taken in Haeg's guide area) when they presented it against Haeg at trial. Haeg presented all this to Bauman in 5-11-12 Motion for Immediate Evidentiary Hearing on Newly Discovered

Known False Evidence Presented During Haeg's Trial (& Now to Judge Bauman). [R. 02917-2928] Bauman also refused to give Haeg an evidentiary hearing on this.

53. Page 39, "Haeg claims he [testified because of] Gibbens "false" testimony."

Haeg claimed he was forced to testify because state was using his prior statement to force him to – even though state wasn't allowed to use this statement. [R. 00017]

54. Page 40, "Robinson wasn't ineffective for failing to object to the State's use of the map because there was no reason for him to do so."

Robinson testifies he knew, when it was presented by state against Haeg at trial, the map was the one Haeg had been required to mark wolf kill locations on during his interview. [R. 03109-3167] So Robinson knowingly let Haeg be convicted in violation of rights that would prevent Haeg's conviction– irrefutable ineffective assistance. Even state agrees if Haeg's interview was used against him at trial his conviction is invalid.

55. Page 40, "Haeg failed to overcome the presumption that Cole's failure to challenge the [charging] information was tactical, & has not shown this tactic was one no minimally competent counsel could have used. This Court held that Haeg had not shown that he was manifestly prejudiced by the information, the remaining evidence from Gibbens & Zellers supported the charges against Haeg."

Cole has testified his tactic for Haeg's defense was for Haeg "to fall on his sword" - but refused to answer if Haeg agreed to this tactic. [R. 03191-3370] "Falling on your sword" is suicide. No attorney would use his own client's suicide as a defense for his client – especially if the client never agreed to it.

This court claiming it didn't matter if Haeg's statement was used is wrong/corrupt - all ruling law holds that if the right against self-incrimination is broken the conviction is invalid – period – no matter what other evidence and/or witnesses there are:

"[A] defendant in a criminal case is deprived of due process of law if his conviction is founded, in whole or in part, upon an involuntary [statement], without regard for the truth or falsity. . . even though there is ample evidence aside from the [statement] to support the conviction." Jackson v. Denno, 378 U.S. 368 (U.S. Supreme Court 1964) Also Kastigar & North

Evidence for many charges came from Haeg's pretrial statement *alone*:

"Haeg provided the information for the sealing of the wolves, knowing that it was false at the time he signed the form." [R.00111-115]

56. Page 41, "Gibbens mistakenly stated in his affidavits that Haeg took the wolves in the area Haeg guided. Haeg's attorneys' tactical decisions to not challenge the search warrants were reasonable. [T]his Court held Haeg had forfeited any challenge to the search warrant affidavits because he did not challenge them before trial."

Haeg's attorneys testified their tactic was "for Haeg to fall on his sword" - but refused to answer if Haeg agreed to this. "Falling on your sword" is suicide. Suicide's not a reasonable defense –especially if client never agreed to it. Prior to trial Haeg asked his attorneys what could be done about false affidavits/warrants & they told Haeg "nothing". False counsel of rights, after specific client inquiry, is automatic ineffectiveness:

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

"It is a denial of the right to effective assistance of counsel for an attorney to advise a client erroneously on a clear point of law." Beasley v. U.S., 491 F2d 687 (6th Cir. 1971)

"When I read your case & the lay people here read your case it appears that the whole foundational things built on a lie. Unless we're all misreading it it looks like it - it the whole deal about section this & all the affidavits. Everything had it. And then the hearing while it wasn't that at all it – when I used it… And that was kind of odd thing to use as fruit of the poisonous tree. We all had that. For us old coots that was a common

> *theory in law school. And once you poison something it's like a house without a foundation. So all the good folks that are here today that we would talk about – I think almost everyone goes back to that original seminal issue that how the hell did this case go on when it appears to lay people & to me a lot of it was built on a lie in a sworn affidavit?"* Dolifka

57. Page 42-43, "If a police officer intentionally makes misstatements to the court the search warrant will be invalidated regardless of whether probable cause would remain from the affidavit after the misstatements were exercised. [T]here is no reasonable inference that Trooper Gibbens was deliberately trying to mislead the magistrate in order to obtain search warrants. The court explained that there was no dispute between the parties as to where the wolf kill sites were located. Haeg's assertion that a motion to suppress would have 'end[ed] prosecution' is therefore incorrect."

Gibbens admitted he knew the wolves were not killed in Haeg's guide area when testifying to Murphy they were. This means Gibbens was deliberately trying to mislead Murphy. State claiming, "there was no dispute between the parties as to where the wolf kill sites were located" is bizarre. From day one Haeg disputed this – a dispute confirmed by pretrial "interviews" & his attorneys' sworn testimony. [R. 03109-3370]

Ruling law holds if a warrant is invalid so is the is the evidence obtained with it:

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

All evidence found with Gibbens' false warrants, or claimed by Gibbens to have been found in Haeg's guide area when he knew it wasn't, isn't admissible. State would have been left with no evidence of a crime – ending prosecution.

58. Page 43, "This claim [ineffective assistance of counsel] is barred because Haeg failed to raise it on direct appeal."

Haeg raised this on direct appeal & this Court ruled Haeg must claim ineffective assistance during PCR – exactly as Haeg has done.

59. Page 43, "Haeg claimed Robinson was ineffective because the subject matter jurisdiction defense he raised was unsuccessful. Haeg asserts that in light of this defense he was told to 'stand mute.'"

Haeg didn't claim Robinson used valid defense that was unsuccessful – Haeg claimed *Robinson used a defense he knew at the time was invalid*.

Robinson himself wanted to "stand mute" – claiming no other defenses could be brought up as this would "admit" court had subject matter jurisdiction. [R. 00028] Only after Haeg demanded did Robinson speak – but never brought up anything such as: (1) state told Haeg it was in public's best interest to take wolves anywhere but claim they were taken in program; (2) never brought up state falsified evidence to Haeg's guide area & knowingly presented this at trial/to seize evidence/plane; (3) never brought up state was using Haeg's statement against Haeg at trial; (4) never protested Murphy was "a law enforcement type judge & not the independent judicial type you're supposed to have"; etc; etc; etc. Robinson testified Haeg's only trial defense was court did not have subject matter jurisdiction because charging information wasn't sworn to - & then testified he knew, before Haeg's trial, that state fixed this error prior to trial – meaning Robinson committed perjury & lied to Haeg that subject matter jurisdiction was a valid trial defense/appeal point. What better way to get your client convicted then to tell him you must stand mute for what you know is an invalid defense & that for this invalid defense to work you can't oppose false evidence presented against you? Robinson testified Gerstein (U.S. Supreme Court) & Albrecht (U.S. Supreme Court) proved court did not have subject matter jurisdiction if charging information wasn't sworn to. [R. 03109-3167]

Haeg found both ruled that failing to swear to charging information does ***not*** deprive court of subject matter jurisdiction. See Gerstein & Albrecht. Haeg found subject matter jurisdiction is granted by statute & AS 22.15.060 states district court has jurisdiction of misdemeanors. Haeg was prosecuted in district court for misdemeanors – court irrefutably had subject matter jurisdiction - period.

60. Page 44, "court correctly found Haeg failed to make a prima facie showing Osterman provided ineffective assistance... Osterman can not be faulted for not making arguments on Haeg's behalf to the court of appeals because Haeg fired him before he made any arguments."

Haeg presented evidence: (1) all conversations with Osterman were recorded; (2) Osterman, after reviewing Haeg's file, stated it was the biggest sellout of client he ever seen; Haeg didn't know Cole & Robinson "were going to load the dang dice so the state would always win", this court would overturn Haeg's conviction immediately, he & Haeg would sue Cole/Robinson for millions, he charged 3 to 5 thousand per point on appeal but would just charge $12,000 for the whole appeal because Haeg had done most the work, & he needed all $12,000 up front; (3) that Osterman, after Haeg paid him $12,000, refused to put Cole & Robinson's "sellout" in Haeg's appeal, stating, "I cannot do anything that will affect the livelihoods of your first 2 attorneys & you owe me another $36,000 for your unfinished appeal because I charge $8,000 per point on appeal."; & (4) this forced Haeg to unsuccessfully represent himself to this court.[R. 00174-303]

> State: Your Honor, I just – I want to object…*the testimony regarding collusion & corruption, I think is better saved for the PCR hearing because that's going to go, at least with respect to his first two lawyers, it's going to go directly to the issue of his PCR claim.*
> *Judge Joannides:* And do you have a tape of Mr. Osterman's comments to you that he did – he won't take the case because it would affect….
> *Mr. Haeg:* He wouldn't – he wouldn't use the arguments. He took the case…..

Judge Joannides: No, but that he wouldn't use the arguments because he didn't want to impact….
Mr. Haeg: Correct.
Judge Joannides: …their livelihood. *You have that on tape?*
Mr. Haeg: Yeah. [Tr. 36-48]

61. Page 44, "Haeg argues Peterson interfered with his ability to completely depose Cole about his representation of Haeg, Haeg raised this claim below, but Judge Bauman did not rule on it. Haeg therefore has waived this issue for appeal."

A judge cannot waive issues by refusing to rule. This would eliminate appeals from corrupt judges like Bauman. Peterson told Cole not to answer incriminating questions – including when Haeg asked Cole (who admitted his tactic was to have Haeg "fall on his sword") if he agreed to "fall on his sword". Civil Rule 30(d)(1) states:

> "A party may instruct a deponent not to answer *only when necessary to preserve a privilege,* to enforce a limitation on evidence directed by the court, or to present a motion under paragraph (3)."

There were no limits on evidence or motions under paragraph (3). This leaves Peterson with telling Cole not to answer to preserve a privilege of Cole's. The only privilege Cole had would be against self-incrimination.

62. Page 45, "Peterson told Haeg…he could call Bauman if he thought Cole was required to answer... Haeg chose not to avail himself of this..."

Civil Rule 30(d)(1) required Cole to answer; Haeg pointed this out to Peterson & Cole. Cole, at Peterson's urging, still refused to answer - along with stating there was no way he was staying longer than 6 hours. Haeg still had questions when Cole left after 6 hours. Wasting time trying to contact Bauman (who was in a different city), when Cole stated he was leaving after 6 hours, would have only made deposition more ineffective.

63. Page 45, "Haeg claimed Robinson ineffective because he did not call Cole as a witness at Haeg's sentencing. As superior court explained, whether to call a witness is a tactical decision reserved to the attorney."

Haeg demanded Cole be questioned at Haeg's sentencing - with questions Haeg had typed up - to prove Cole/state conspired to cheat Haeg out of a plea agreement after Haeg gave up year of guiding for it. Robinson agreed & subpoenaed Cole. Cole failed to show up; Haeg asked Robinson what could be done; & Robinson told Haeg "nothing". Yet the subpoena meant Cole could have been arrested & forced to testify. Robinson now testifies he never intended to question Cole – meaning he lied to Haeg about agreeing to question Cole - along with lying to Haeg about not being able to do anything about Cole not showing up. Robinson charging Haeg for Cole's subpoena was just a trick so Haeg would believe Robinson was actually going to question Cole. Had Robinson told Haeg the truth Haeg would have fired Robinson & hired an attorney willing to prove Cole sold Haeg out. False counsel after specific inquiry is automatic ineffective assistance. Smith

64. Page 45, "Robinson did not call Cole at Haeg's sentencing for a sound tactical reason. Cole's testimony about failed plea negotiations wasn't relevant to Haeg's sentence, & he did not want Cole subject to cross-examination by the State about his conversations with Haeg."

Haeg already giving up a year of his family's only livelihood for agreement Cole & state cheated him out of was undeniably relevant to Haeg's sentence. Not only would Haeg get credit for year - it would prove conviction on charges more severe than what Haeg had already paid for was invalid. What could Cole testify to that Haeg had not after testifying for hours at trial? Even Bauman realized this, asking, "What could have been worse?" State, "Well, you know, it's hard to say. I don't know. It was a strategy that Mr. Robinson made not to call Mr. Cole." Strategy to protect Cole/state at Haeg's expense.

65. Page 46, "Haeg had voluntarily given up guiding since Fall of 2004."

Cole told Haeg to give up guide year as payment for plea agreement with minor charges, without requiring plane loss, & only requiring 1-year not guiding. [R. 00020]

66. Page 46, "claim that there was an enforceable plea agreement is barred because the issue wasn't raised on appeal. Judge Bauman found that there was never a plea agreement. Haeg's assertion… that he accepted a plea agreement that required him to give up guiding for one year & did not require him to forfeit his plane. But he points to no evidence in the record that proves this."

Claim could not be appealed, as it wasn't litigated in trial court. Bauman couldn't rule there was no plea agreement without giving Haeg an evidentiary hearing to prove there was. Haeg pointed to in record affidavits & tape recordings of his attorneys proving Haeg accepted, & paid for, a plea agreement with minor charges & only requiring 1-year not guiding & not requiring plane forfeiture. [R. 00052-91]

67. Page 47, "Haeg argues that unidentified state government officials, 'Harmed [&] threatened to harm Haeg's attorneys if they tried to defend Haeg.' Haeg misrepresents the record & asserts that Cole & his business attorney Dale Dolifka testified that the State was 'threatening & harming private attorneys to obtain convictions.' Neither Cole nor Dolifka testified this occurred."

"Everyone in your case has had a political price to pay if they did right by you [Haeg]. If they did right by you the DA would take it out on them & other cases. Then you got the case of your lawyer & the other lawyer got hurt. You had a series of situations which everyone was doing things to protect everyone rather than you because there was a price to pay." Long-time attorney Dale Dolifka's sworn testimony [Tr. 23-65]

It's clear Dolifka testified state was threatening to harm/harming anyone who helped Haeg - specifically state's "DA" [prosecutor Leaders]. Attorney Dolifka then testified he also "paid a huge price" for helping Haeg.

Cole testified if he tried to help Haeg prosecutor Leaders would harm Cole, not Haeg. (R. 03191-3370] Cole also claimed he "can't do anything that will piss [state prosecutor] Leaders off." [R. 00052-91]

> "The thing that pisses me off more about her than anything else is that she *is a law enforcement type of judge & she's not the independent, judicial type that you're supposed to have…in Alaska there is a Good Old Boys system of judges, prosecutors, & troopers who protect each other when they commit crimes. I could not protest Gibbens 'commandeering' Judge Murphy.*" Robinson

Robinson failed to defend Haeg out of fear of the "Good Old Boys". It is clear Dolifka/Cole/Robinson testified state – specifically prosecutor Leaders & Trooper Gibbens - harmed, or would harm, anyone trying to defend Haeg.

> *"[I]n a case of joint representation of conflicting interests the evil – it bears repeating – is in what the advocate finds himself compelled to refrain from doing….It may be possible in some cases to identify from the record the prejudice resulting from an attorney's failure to undertake certain trial tasks, but even with a record of the sentencing hearing available it would be difficult to judge intelligently the impact of a conflict on the attorney's representation of a client. And to assess the impact of a conflict of interests on the attorney's options, tactics, & decisions in plea negotiations would be virtually impossible."* Holloway v. Arkansas, (U.S. Supreme Court 1978)

Holloway explains perfectly all puzzling/bizarre/alarming events above – once the state threatened Haeg's attorneys they were effectively working for state instead of Haeg.

CONCLUSION

State told Haeg it was in public's best interest for Haeg to kill wolves anywhere but claim they were in the program. State then prosecuted Haeg for doing exactly this.

Haeg's newly hired criminal attorneys then told Haeg it could never be brought up what state told Haeg as this wasn't "legal" - while Haeg's long-time business attorney (a former criminal attorney) told Haeg that if he only did one thing to defend himself it must

be to present evidence of what state told Haeg. As a result Haeg demanded his criminal attorneys, over their objections it wasn't legal, present this evidence for his trial defense.

Haeg then proved to criminal attorneys state was falsely claiming - in affidavits/warrants/testimony/physical evidence - Haeg killed wolves in his guide area. Criminal attorneys told Haeg nothing could be done about this but did tell Haeg he was required to give state an interview because state had given him "immunity."

During interview state requires Haeg to mark wolf kill locations on map. During interview it is proved to state/Haeg's attorneys that Haeg had not killed wolves in his guide area. Prior to trial it's proved to state/criminal attorneys a Game Management Unit boundary on state's map has been falsified to corruptly make it appear the wolves Haeg marked were in his guide area.

Prior to trial Judge Murphy, at state's request, removes/destroys the official on-record evidence of what state told Haeg.

State's trial case is Haeg corruptly took wolves in his guide area to benefit his guide business. When state presents their evidence & testimony to Haeg's jury everyone (other than Haeg & Haeg's jury) positively knows all evidence & testimony has been falsified to corruptly make it appear Haeg took wolves in his guide area to benefit his guide business. State & Haeg's criminal attorneys also know it was Haeg who, during his interview, placed wolf kill locations on map state uses against Haeg at trial.

In other words everyone (other than Haeg's jury/Haeg – who at time didn't know evidence had been removed, map was his, or it had been falsified) knew a massive fiction was being presented to Haeg's jury while they were being deprived of Haeg's evidence – evidence Dolifka claimed was Haeg's only defense. Why?

> *"Context is everything. It was a truth I had learned through years of experience as an attorney, where the setting, the situation, & the circumstances surrounding a crime can often make all the difference in the final perception of innocence or guilt."* U.S. Attorney David Iglesias

Every trace of the true context of Haeg's actions was meticulously wiped out of existence over Haeg's best efforts to raise it - so Haeg's jury & the public would never know state told Haeg to take these actions for the good of the public.

The false testimony/evidence were all continued/expanded over Haeg's protests - so Haeg's jury & public would believe Haeg's actions were to benefit his guide business.

These deceptions turned Haeg into a rogue, reviled, & outlaw guide - from a knight in shining armor doing the State's bidding to protect the public.

Deception of this magnitude could not happen without Haeg's attorneys helping – thus state threats to them. Once they were helping the state convict Haeg why stop with covering up what state told Haeg & falsifying evidence to Haeg's guide area? Why not give Haeg immunity, force him to give statement, prosecute him anyway, & use statement to boot? Why not promise minor charges so he gives up guiding & then change the charges after he is broke? Why not illegally keep the plane he needs to provide a livelihood, without the required prompt postseizure hearing, so Haeg goes broke faster/maybe commits suicide? This is why attorneys have testified:

> *"The reason why you have still not resolved your legal problems is corruption….if they do right by you & reveal, you know, you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. It's absolute unadulterated self-bred corruption."* Dolifka

> *"I looked at this & it was a disaster in it & what Chuck [Robinson] did was wrong – what Cole did was wrong. There's no two ways about it. You did not realize… their [state's] dang dice was always loaded. They [state] was*

always goanna win. It's the biggest sellout of a client I have ever seen. What [prosecutor] Scot Leaders did was stomped on your head with boots & he violated all the rules…& your attorney allowed him, at that time, to commit these violations." Attorney Mark Osterman [R. 00174-303]

Yet motive why all this happened remained unanswered.

Positive Proof of Why Haeg Was Framed

After Bauman overturned Haeg's sentence state named witness Robert Fithian for Haeg's resentencing. Haeg asked why. Fithian stated at Fairbanks Board of Game meeting Haeg & Zellers told him they were going to kill wolves inside Haeg's guide area to benefit Haeg's guide business (interesting because this is where state told Haeg he must, for public's greater good, take wolves wherever they could be found but claim they were taken in wolf control program.). Haeg told Fithian state falsified evidence to Haeg's guide area to convict Haeg for taking wolves in his guide area. Fithian stated he didn't know this. Haeg asked Fithian why state was going to have him commit perjury to collaborate their case. Fithian replied state worked too hard to get wolf control program going to see Haeg's case end it. (In addition, Zellers never attended BOG meeting in Fairbanks.) Fithian is now positive proof state knowingly framed Haeg, in direct violation of almost every constitutional right there is, to protect wolf control program.

No one could ever tell Haeg what he should do or how far he should go to address government threatening/conspiring with defense attorneys to destroy people in violation of all constitutional rights – then Haeg recently found his answer:

"The liberties of our Country, the freedom of our civil constitution are worth defending at all hazards: And it is our duty to defend them against all attacks. We have receiv'd them as a fair Inheritance from our worthy Ancestors: They purchas'd them for us with toil & danger & expence of treasure & blood; & transmitted them to us with care & diligence. It will bring an everlasting mark of infamy on the present generation, enlightened

as it is, if we should suffer them to be wrested from us by violence without a struggle; or be cheated out of them by the artifices of false & designing men. Let us remember that "if we suffer tamely a lawless attack upon our liberty, we encourage it, & involve others in our doom." It is a very serious consideration, which should deeply impress our minds, that millions yet unborn may be the miserable sharers of the event." **Samuel Adams, U.S. Founding Father**

"And what country can preserve its liberties, if its rulers are not warned from time to time, that this people preserve the spirit of resistance? Let them take arms... What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots & tyrants. It is its natural manure." **Thomas Jefferson, Founding Father**

"If there must be trouble, let it be in my day, that my child may have peace." **Thomas Paine, U.S. Founding Father**

Haeg gives his word, on the lives of his beautiful wife & beautiful daughters, that he will see this hard-to-prove evil ended – even if it takes shedding blood - so that his & all children - & "millions yet unborn" - may have peace.

Bauman, who wasn't Haeg's trial judge, never provided Haeg a single evidentiary hearing to prove his criminal attorneys lied to intentionally deprive him of numerous rights pre, during, & post trial – when an evidentiary hearing is required if there is possibility of relief – relief now proven by Bauman overturning Haeg's sentence.

"It is settled that ***a claim of ineffective assistance of counsel is one that generally requires an evidentiary hearing*** *to determine whether the standard adopted in Risher v State, 523 P.2d 421 (Alaska Supreme Court 1974), was met by counsel's performance. Particularly* ***where, as here, it is the pretrial & post-trial performance of counsel as well as the performance during trial that is specifically alleged to have been inadequate, it isn't sufficient that the trial judge found counsel's performance as observed in the course of trial to be adequate."*** Wood

"Practically speaking, an appellate court is almost never able to find ineffective assistance of counsel in the absence of an explanation in the record for counsel's actions. As the supreme court of California pointed out in People v. Pope, ***an evidentiary hearing is almost always a prerequisite to an effective assertion of ineffective assistance of counsel."*** Barry

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

Bauman overturned Haeg's sentence in hopes Haeg would settle & not demand an evidentiary hearing to prove corruption of state, Murphy, Gibbens, Leaders, Greenstein, Haeg's attorneys, this Court & the many others now involved. But Bauman forgot: *overturning Haeg's sentence guaranteed Haeg an evidentiary hearing* – which is why state is now forced to appeal Bauman overturning Haeg's sentence.

State threatening defense attorneys to convict "we the people" is such a direct & unacceptable attack on our constitution that it must be stopped at all cost. Make no mistake; *anyone can be convicted of anything if true evidence is replaced with false.*

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

> *"Prejudice presumed because counsel did not serve as advocate – such that he was a 'second prosecutor' & defendant would have been 'better off to have been merely denied counsel.'"* Rickman v. Bell

> *"Governments collaboration with defendant's attorney during investigation & prosecution violated defendants Fifth & Sixth Amendment right & required dismissal…"* United States v. Marshank

"Court found both prosecutorial misconduct & ineffective assistance which created the 'real potential for an unjust result.'" State v. Sexton

It's also indescribably evil for Judicial Conduct investigator Marla Greenstein continuing, apparently unopposed after her Trooper SWAT team quashed testimony that would have exposed her, to falsify investigations to cover up for corrupt judges.

Relief Requested

(1) Explain exactly what else Haeg must do to "exhaust" all state remedies – so DOJ may prosecute all those implicated; (2) overturn Haeg's conviction; (3) affirm Bauman overturning Haeg's sentence; (4) order independent investigation into every aspect of Haeg's case; & (5) any other relief justice may require.

Will This Court of Appeals Grant Relief?

"The reason why you have still not resolved your legal problems is corruption….if they[appeals court] do right by you & reveal, you know, you have the attorneys going down, you have the magistrates [judges] going down, you have the troopers going down. Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. It's absolute unadulterated self-bred corruption. I talked to Judge Hanson for 3 hours about your case. I lean on him all the time. He now sees it. The system crushes them. I don't have any question now because I couldn't figure out why your appeal could be over & done with. I walked over here & lawyer A says ***my God they're violating every appeal rule ever.*** *How can it be like this?"* Long-time attorney Dolifka [R. 23-65]

Since this Court first "violated every appeal rule ever" to deny relief, more have been criminally implicated. If this Court didn't "do right" the first time it sure can't now. Yet a growing number pledge to hold accountable those responsible – no matter what. They claim they aren't doing this for Haeg – they claim that until this sophisticated evil is ended they may be next & until this is ended our constitution, for which so may have died & sworn to protect, isn't worth the paper it's written upon. All concerned agree the

following action be taken at all cost: (1) exhaust all State remedies, as DOJ states they require before prosecution; (2) document all delays, as it is certain DOJ's requirement is being used in conjunction with court delays to starve into submission those aggrieved; (3) ask everyone possible attend the as-yet-to-be-scheduled oral argument in front of this Court of Appeals – as DOJ will be attending; (4) document how this Court will again twist facts & law to suit an increasingly tortured cover up now embroiling itself & numerous others; (5) burn onto CD items proving corruption/cover up; (6) "wake sleeping giant" by distributing CD door to door, email, internet, website, etc - with authorization permitting unlimited duplication/distribution – asking everyone who has pledged allegiance to our flag, sworn an oath to protect our constitution, or believes in freedom from government oppression, to read & act against Alaska's judicial system being held hostage by "absolute unadulterated self-bred corruption." Fly all witnesses & concerned to DC to demand independent judicial, criminal, & media investigation. Boeing 747-400 charter for ability to return enough federal marshals to do the job. Tell those indicted: *"Unless you wish to bear the burden yourself, please state what you were told & by who. If authority/threats were used, you will be exonerated & blame properly placed"* (7) file a class-action lawsuit in federal court naming all individuals/agencies – claiming deprivation of rights under color of law & RICO violations; (8) publish book (outline above) to educate/warn public how this sophisticated, evil, & domestic enemy of our constitution can grow/hide in plain sight; (9) pass legislation preventing this – replace ACJC, Bar, & internal affairs with public grand jury investigation of judges, attorneys, & Troopers; public, not attorney, selection of judges; prohibition of attorneys becoming judges/judges becoming attorneys (as in Europe to eliminate corruption); requirement

Troopers be elected by towns in which they serve (eliminating practice of transferring corrupt officers to other unsuspecting communities); & term limits for judges; (10) vote every year against retaining judges; (11) if nothing is done about lives being destroyed with fraudulent judgments to line pockets of corrupt attorneys, judges, & Troopers - for Haeg to attempt repossessing the plane he used 9 years ago to provide for his family.

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

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

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

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

en-mass, using the most powerful weapons they have (Troopers boast their new tank can withstand .50 caliber fire); & Haeg be remembered for unwaveringly defending the Constitution in the face of overwhelming strength against him – strength which attorney Dolifka testified has "crushed" all others, & will continue to crush all others for god knows how many more years, until the "sleeping giant" (you the public) wakes up & kicks ass.

> *"The strength of the Constitution lies entirely in the determination of each citizen to defend it. Only if every single citizen feels duty bound to do his share in this defense are the constitutional rights secure."* Albert Einstein
>
> *"Our people may tolerate many mistakes of both intent & performance, but, with unerring instinct, they know that, when any person is intentionally deprived of his constitutional rights, those responsible have committed no ordinary offense. A crime of this nature, if subtly encouraged by failure to condemn &punish, certainly leads down mad to totalitarianism"* Elkins (U.S. Supreme Court 1960)

I declare under penalty of perjury the forgoing is true & correct. Executed on December 30, 2013. A notary public or other official empowered to administer oaths is unavailable & thus I am certifying this document in accordance with AS 09.63.020. In addition I would like to certify that copies of many of the documents & recordings proving the corrnption in Haeg's case are located at:

www.alask ta eofcormption.com

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

Certificate of Service: I certify that on December 30, 2013 a copy of the forgoing was served by mail to the following parties: Gilson, Judge Gleason, Judge Joannides, U.S. Department of Justice, FBI, & media.

Tr. 25-65

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

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

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

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

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

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

Mr. Dolifka: Not only is that what appalled me, that is primarily what I sought counsel from Judge Hanson. That – those were the things that disturbed me, was we were – Judge Hanson & I were talking about – as was Mr. Ingaldson – about other cases that were just disturbing. But the main thing with yours that I would talk with Judge Hanson was – & I would actually call him & say Judge, am I losing my mind, am I reading this correctly? And he took an interest in your case & I think he was shocked by those tapes as well, of what you just read. I just – I did – your case became more & more troubling to me because it was endemic of our whole community. It might have been cutting edge, *but it wasn't the only one.* And for what – what Mr. Osterman said to you on tape should disturb any lawyer who believes in ethics of any kind.

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

AAG Peterson: Your Honor, I just – I want to object…*the testimony regarding collusion & corruption, I think is better saved for the PCR hearing because that's going to go, at least with respect to his first two lawyers, it's going to go directly to the issue of his PCR claim.*

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

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

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

Mr. Haeg: Correct.

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

Mr. Haeg: Yeah.

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

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

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

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

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

Mr. Haeg: Ok.

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

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

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

Mr. Haeg: Ok -um- -uh-…

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

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

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

Mr. Haeg: Ok.

Mr. Dolifka:…true'…

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

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

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

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

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

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

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

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

Mr. Dolifka: I agree with that.

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

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

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

Mr. Dolifka: Well, it wasn't this case, but my friend, Mr. Ingaldson, & I more than once tried to get our local newspaper to help us deal with our imploding community & they wouldn't, largely because of – I -- -- don't know that there's a more political area than Kenai/Soldotna. We have fish politics on the river, we're an oil patch place, & so we just sit in this cauldron of – of political things. And those I can live with. When it went

into the judicial system is when it became unnerving because fish politics & oil politics is just politics. But when it gets into the court system which keeps this whole thing together, that was the poison that was disturbing.

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

Mr. Dolifka: We had some trooper problems.

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

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

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

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

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

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

Mr. Haeg: Okay.

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

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

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

Mr. Haeg: Ok & then you…

Mr. Dolifka: But I…

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

Mr. Dolifka: Well I probably…

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

Mr. Dolifka: During that time that I probably would have said that. There needs to be some new blood in this case & that's why I'm so happy for you that a new judge has been assigned to this case. What this case need more than anything is an infusion of new blood where there's not old turf wounds. I – I actually think a new judge assigned to it is the best thing that could have happened because *there won't be an agenda that's already been formulated.*

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

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

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

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

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

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

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

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

Jackie Haeg: Yes, that made me believe.

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

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

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

Jackie Haeg: Yes.

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

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

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

Jackie Haeg: Correct.

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

Jackie Haeg: Correct.

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

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

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

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

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

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

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

Jackie Haeg: Yes, I do.

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

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

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

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

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

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

"[S]tate courts were being used to harass & injure individuals, either because the state courts were powerless to stop the deprivations *or were in league with those bent upon abrogation of federally protected rights…Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it*….Among the most dangerous things an injured party can do is to appeal to justice." Testimony resulting in 42 U.S.C. 1983 (Civil Rights Law)

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

"The Court found that reversal of Mathis's conviction could expose [defense attorney] Schofield to liability for his part in the delay since Mathis would have spent years in prison on an erroneous conviction; affirmance, on the other hand, would have served Schofield's interest in avoiding discipline or damages…" Mathis v. Hood, 937 F.2d 790 (2d Cir. 1991)

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

"Requirement of 'due process' isn't satisfied by mere notice & hearing if state, through prosecuting officers acting on state's behalf, has contrived conviction through pretense of trial which in truth is used as means of depriving defendant of liberty through deliberate deception of court & jury by presentation of testimony known to be perjured, & in such case state's failure to afford corrective judicial process to remedy the wrong when discovered by reasonable diligence would constitute deprivation of liberty without due process." Mooney v. Holohan, 294 U.S. 103 (U.S. Supreme Court 1935)

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

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

"From counsel's function as assistant to the defendant derive… the more particular duties to consult with the defendant on important decisions & to keep the defendant informed…The reasonableness of counsel's actions may be determined or substantially influenced by the defendants own statements or actions. Counsel's actions are usually based, quite properly, on informed strategic choices made by the defendant & on information supplied by the defendant. In short, inquiry into counsel's conversations with

the defendant may be critical to a proper assessment of counsel's …litigation decisions." Strickland v. Washington

"[T]he conflict itself demonstrated a denial of the right to have the effective assistance of counsel. Thus, a defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief. Because it is in the simultaneous representation of conflicting interests against which the Sixth Amendment protects a defendant, he need go no further than to show the existence of an actual conflict. An actual conflict of interest negates the unimpaired loyalty a defendant is constitutionally entitled to expect & receive from his attorney." Cuyler v. Sullivan, 446 U.S. 335 (U.S. Supreme Court 1980)

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

"Counsel had advised defendant that he, the attorney, would have to work with the federal people in the future & that, therefore, it was best not to make waves when there was little if any chance of fighting Federal Prosecutors. REVERSED AND REMANDED" United States v. Ellison, 798 F.2d 1102 (7th Cir. 1986)

"The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent & educated layman has small & sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, & convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill & knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it though he not be guilty, he faces the danger of conviction because he does not know how to establish his innocence." Powell v. Alabama, 287 U.S. 45 (U.S. Supreme Court 1932)