

IN THE COURT OF APPEALS FOR THE STATE OF ALASKA

DAVID HAEG,

Appellant,

vs.

STATE OF ALASKA,

Appellee.

Case No.: A-09455

No. 4MC-S04-24 CR.

OPPOSITION TO APPELLANT'S MOTION TO SUPPLEMENT THE RECORD
AND TO ALLOW HIM TO REPRESENT HIMSELF DURING REMAND

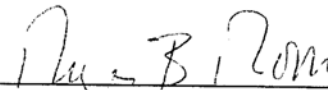
I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone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

COMES NOW the State of Alaska, by and through Assistant Attorney General Roger B. Rom, in opposition to appellant's Motion to Supplement Record & to Allow Defendant to Represent Himself During Remand. This opposition is supported by the attached Memorandum of Law and Affidavit of Counsel.

DATED September 8, 2006 at Anchorage, Alaska.

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By:



Roger B. Rom
Assistant Attorney General
Alaska Bar No. 9011128

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STATE OF ALASKA,)	Case No. A-09455
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MEMORANDUM OF LAW

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I. Factual and Procedural History

In 2004 the Alaska Department of Fish and Game (ADF&G) managed a Predator Control Program in the McGrath area. Permits were issued for certain game management sub units to allow wolves to be taken from the air with the use of an airplane. David Haeg applied for and received such a permit. In March 2004, David Haeg and Tony Zellers, both of whom were licensed under Title 8 as Alaska Big Game Hunting Guides, took a number of wolves with Zellers shooting the wolves they encountered from Haeg's private aircraft which Haeg piloted.

In early March 2004, Alaska State Trooper Brett Gibbens learned that Haeg and Zellers may have been taken wolves outside of their permitted area. Over the course of the next several months Gibben's investigation showed that Haeg and Zellers had taken a number of wolves outside of the legally permitted area and had provided

JUDITH S. JENSEN, JUDGE
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false information to ADF&G when fulfilling the requirement that the wolf hides be sealed by the agency. Eventually, search warrants were executed and the aircraft was seized. In June 2004 both hunters were interviewed by the troopers and admitted that they knew nine wolves were shot from the airplane while outside the permit area. Both men were charged with various criminal counts. Zellers case resolved by way of a plea agreement, and Haeg proceeded to jury trial where he was convicted. On September 30, 2005, he was sentenced for five counts of Unlawful Acts by a Guide: same day airborne in violation of AS 8.54.720(a)(15), two counts of Unlawful Possession of Game in violation of 5AAC 92.140(a), one count of Unsworn Falsification in violation of AS 11.56.210(a)(2), and one count of Trapping in a Closed Season in violation of 5AAC 84.270(14). He filed a timely Notice of Appeal in the Court of Appeals.

Appellant initially retained attorney Brent Cole to represent him. [REDACTED] [REDACTED] plea negotiation, but prior to trial, appellant fired Mr. Cole and obtained representation by attorney Arthur S. Robinson. Mr. Robinson represented appellant through trial and began working on the appeal. Appellant fired Mr. Robinson and retained the services of Mark Osterman to perfect the appeal. Once the brief was substantially completed and appellant reviewed it, he fired Mr. Osterman. Appellant attempted to waive the assistance of counsel and to proceed *pro se*. The matter was remanded by the Court of Appeals for hearing which occurred in McGrath on August 15, 2006, to determine whether he could knowingly and intelligently waive his right to counsel and whether he is competent to represent himself on appeal.

After a failed
plea
negotiation,

Shows how it bears on waiver of counsel
and sustains my motion.

II. Legal Argument

Yes, I do
want this
presented to
the jury in
my direct appeal
if it
helps to show
I am innocent
of the crime.
In fact, sabatini
is a
etc, etc.

Appellant seeks to supplement the record on appeal with matters which were not presented to the jury or the trial court in his criminal case. "Apparently," however, he does not wish this supplement to be considered in his direct appeal, but rather for the purpose of showing that he can intelligently and knowingly waive his right to counsel. He claims this material is "absolutely stunning and is extremely vital" but fails to show in any way how it could bear on his waiver of counsel. Simply put, he has failed to carry his burden of showing good cause under Alaska Bar Rule 41(r) to publicize confidential proceedings. The Court should therefore deny his motion.

Furthermore, the case is still on remand to the trial court for decision on whether appellant can knowingly and intelligently waive his right to counsel. It may very well be that the trial court makes a determination in his favor, making his request here premature.

Appellant also seeks an order of this court to direct the trial court to permit self-representation. In fact, appellant did represent himself in the hearing. He called witnesses and presented evidence on his own behalf. What appellant fails to understand, however, is that he cannot control his urge to deviate from the limited purpose of the remand. In essence what he is seeking here is permission to deluge the trial court with pleadings that have nothing to do with the issue of self-representation. The trial court has already held the evidentiary hearing and is now

merely waiting to obtain the results of the psychological evaluation and present its findings. The state is also mistaken that the trial court is waiting to obtain a copy of my psychological evaluation to present its findings.

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He may be
allowed to
do so during
remand or any
other stages

I want it for both purposes!!
show it to
I would positively show Golds complete failure to represent me, his trying to me on the AK Bar Assoc to cover this up, and with Osterman's brief, would positively show that Osterman is continuing this cover up to my immense detriment.

Since I will also want this official proceeding to be on appeal, the state's motion is rendered moot. In addition, bar proceedings are not by most courts a sufficient ground for a full trial on the remand but was not allowed to finish exam them. A court must be allowed to finish what a criminal defendant is allowed to present evidence at a fundamental breach of justice in any sentence in the present. To hold otherwise is to place form over substance. And as was said, I refuse to allow my fundamental rights to be violated. I will not accept any plea - even if this offends the attorney at the state's expense.

findings. Until the trial court submits its findings and recommendation to the Court of Appeals, there is no reason for this Court to issue an order directing the trial court to permit appellant to represent himself. He complains that he is not permitted to file motions with the trial court, but fails to explain how any motions that he might file would assist the trial court in its determination whether he should be permitted to proceed as his own counsel. His motion should therefore be denied. *F. con. d*

DATED September 7, 2006 at Anchorage, Alaska. *(file a motion for record)*

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By: *Roger B. Rom*

Roger B. Rom
Assistant Attorney General
Alaska Bar No. 9011128 *Ostern*

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and finally that he has actively represented interests in conflict with mine is ~~concerned~~. This conflict stems from his taped statements in which he indicates he is unwilling to show the "sell out" of me to the Assistant Attorney General by my attorneys Brent Cole and Arthur Robinson. I should be permitted to proceed as my own counsel because not one of my 3 attorneys has been loyal to me - which is the greatest duty an attorney owes his client.