

January 28 and 29, 2019 Evidentiary Hearing in Haeg v. State
3KN-10-01295CI

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Clerk: State of Alaska is now in session. Judge William Morse presiding.

Judge Morse: Be seated, please. All right, good morning. We are on the record. State versus Haeg, 3KN-10-01295. Council for the state and Mr. Haeg are present. -um- we are here on an evidentiary hearing on a re-man from the Court of Appeals on five topics. -um- I'm only going to be ruling on the five topics, but I understand, Mr. Haeg, that you want to expand the subject matter -um- of the hearing. I'm not going to rule on those things but I am going to give you an opportunity to present that additional information. So you can present the information on the other topics if you want present and that will preserve your record so that the Court of Appeals can review it and decide whether or not that is something that either the superior court or the Court of Appeals should -um- address. So I'll give you the ability during the next two days to put on whatever testimony you want regarding whatever you think is pertinent to your appeal.

Mr. Haeg: Okay.

Judge Morse: Okay. So are you ready to proceed?

Mr. Haeg: Yes.

Judge Morse: Call your first witness.

AAG Peterson: Your Honor, I will be [inaudible 00:01:20] rule 615, exclusionary rule as witnesses.

Judge Morse: You have -um- witnesses in the courtroom that you intend to call?

Mr. Haeg: -Um- there I believe there are. There's Mr. Cole there and Mr. Zellers. I don't know where he's at. The first witness that I'd like to call though is Mr. Robinson, and I don't know if he's here yet. Has Mr. Robinson put in an appearance?

Judge Morse: I – I don't see him.

Mr. Haeg: -Um- and I have ...

Judge Morse: Did you subpoena him?

Mr. Haeg: I have a valid for him ... yep...

Judge Morse: Did you serve him?

Mr. Haeg: for 8:30 this morning.

Judge Morse: Alright well we'll, hopefully he will be here. If he's not here now, then call an additional witness. We'll – we'll look into ... you know ... I'll give him time to be here. It's snowing out there, maybe he's delayed from coming up from Kenai or Soldotna but...

Mr. Haeg: Okay and there's just a couple things that I would like to-

Judge Morse: So you said that there's two witnesses, Mr. Cole and someone else?

Mr. Haeg: Yeah. Mr. Cole needs to be I guess outside and-

Judge Morse: Who are you gonna call first?

Mr. Haeg: Mr. Zellers. I'll probably call Mr. Cole first ...

Judge Morse: Ok.

Mr. Haeg: ... if Chuck Robinson isn't here. But before I do, I would just like to go over just for a few minutes what I've kind of ... I basically, to keep you from being confused, I've laid...

JUDGE Morse: Mr. HAEG...

David Haeg: ... out a sequence of events.

Judge Morse: Mr. Haeg, one thing at a time. One thing at a time. So if you're gonna call Mr. Cole first, then have Mr. Zellers step out. He can wait outside in the hallway.

Mr. Haeg: Ok and ...

Judge Morse: If there are other witness you intend to call ...

Mr. Haeg: Uh - my wife, Jackie. So she needs to step out also.

Judge Morse: Then have her step outside, too.

Clerk: Mr. Robinson is not out front, Your Honor.

Judge Morse: Okay. Is not?

Clerk: Is not. There's nobody out front.

Judge Morse: Ok.

Mr. Haeg: But the subpoena said Courtroom 601, so it's possible he's at 601.

Judge Morse: Well we'll see if he's up there. He's ...

Mr. Haeg: Okay. And – and I apologize . I'm not an ..

Clerk: They've sent ... everybody that's shown up at 601 has been sent down here but they're checking right now for Mr. Robinson.

Clerk 2: And the clerk said no one is outside of Courtroom 601.

Judge Morse: Okay. So go ahead, Mr. Haeg.

Mr. Haeg: Ok and because I'm kind of confused about this, whatever ... I was wondering ... I'm gonna call me myself as a witness, but I assume I can be here cause ...

Judge Morse: You can be here.

Mr. Haeg: Ok -um- can I be sworn in now so that kind of as I go along it's kind of test...

Judge Morse: No. When you testify you'll be up in the witness stand like everybody else and you'll testify from the witness stand.

Mr. Haeg: Okay well I'd just like to state right here I swear to tell the truth right now. The first thing is I've got a 300 more pages – or a 154 - 155 additional pages of a petition of petition signatures for a grand jury investigation. And I don't know who to give them to, because I gave the last bunch to Your Honor and you gave them to the Deputy Attorney General, Robert Henderson and he stated he isn't gonna give it to a grand jury. And so I would like to give these to you so that we have additional ones. Can I-

Judge Morse: You can bring them up. You can just give them to the clerk. We'll stamp the package as exhibit one.

Mr. Haeg: And again, it's 145 pages of signatures. We're calling for a grand jury investigation. This hearing will prove why a grand jury investigation is so important to the petitioners and why immediately after this hearing is concluded I'm asking everyone to join me in walking over to the governor's office to hand him a copy of the petition. And ask he support Senate Bill 15, which Senator Peter Micciche has introduced and would require a public petitions for a grand jury investigation to actually be given to a grand jury. I quote Your Honor's final statement in your October 8th, 2018 calendaring order. "The court again emphasizes that Haeg may only present testimony on the five topics identified by the Court of Appeals. Should he attempt to present evidence on the other topics, he will be cutting into the time allotted to the five permissible topics."

Mr. Haeg: I now quote Amidon versus State, 604 P2d 575, Alaska, 1979. "Failure to object to an error during the proceedings is deemed to be a waiver of the error". If I conduct this proceeding without objecting, I waive my right to object that the Court of Appeals lied and committed fraud to limit this hearing to only five topics. And if followed blindly will strip me of my ability to prove the true extent of the corruption and cover up in this case.

Mr. Haeg: So I am now going to object to the errors in these proceedings. On page 46 of its order, the Court of Appeal states that because I never provided them any briefing, specifics, or support, I cannot present evidence that the Alaska Commission on Judicial Conduct is corrupt, that Prosecutor Scot Leaders is corrupt, or that the attorneys in my case are corrupt.

Mr. Haeg: On page 44 of the Court of Appeals order, they ordered that I can present evidence that Attorney Robinson was ineffective for not protesting, quote, the apparent factual inaccuracies presented at sentencing, unquote. I carefully went over my briefing and found I had given the Court of Appeals 54 pages of briefing that detailed the specific how, why, and when and where of the corruption of the Commission on Judicial Conduct and its sole investigator for the past 30 years, Attorney Marla Greenstein. This 54 pages did not include the psychical evidence I also provided the Court of Appeals. One, copies of Greenstein's written certification confirming that she contacted and took testimony from specific witnesses during her official ACJC investigation of Judge Margaret Murphy, who was my trial judge. Two, affidavits from the same exact witnesses that Greenstein certified to have contacted, all swearing under oath that Greenstein had never contacted them and had in fact falsified the testimony they would've given, had they been contacted. Three, an affidavit Judge Murphy falsified to cover up her corruption during my trials. Four, 77 pages of recordings and transcriptions put together and certified as true by Superior Court Judge Stephanie Joannides, independently proving that Greenstein falsified an official ACJC investigation to cover up that Judge Murphy was chauffeured full time during my trial by the main witness against me, Trooper Brett Gibbens, and that Judge Murphy removed the evidence that would've exonerated me out of the official court record before my jury can see it.

Mr. Haeg: 25 pages of my briefing to the Court of Appeals detailed the specific how, why, where, and when of Prosecutor Scot Leader's corruption. This 25 pages did not include the psychical evidence I also provided the Court of Appeals. One, a copy of the map Prosecutor Leaders and Trooper Gibbens used to convict me at jury trial. Two, tape recordings and transcriptions of Prosecutor Leaders and Trooper Gibbens discussing before trial how they had falsified the map to support their case against me. Three, a copy of a sworn affidavit that Prosecutor Leaders falsified to cover up his corruption. And four, copies of official discovery requests that Prosecutor Leaders violated to keep his corruption covered up. Additional proof that I gave the Court of Appeals details and evidence of Prosecutor Leader's corruption is my video taped oral arguments to the Court of Appeals that records me showing them the actual map used against me at trial, showing them how the map had been falsified to support Prosecutor Leader's case against me, and explaining to them how Prosecutor Leaders and Trooper Gibbens tape recorded themselves discussing how they had falsified the map so it supported their case against me, and explaining to them that Prosecutor Leaders never gave me a copy of the map or a copy of the tape recording prior to trial as required by pretrial discovery requests to Leaders.

Mr. Haeg: 38 pages of my briefing to the Court of Appeals detailed the-

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Mr. Haeg: how, why, where, and when of my own attorneys corruption. This 38 pages didn't include the physical evidence I provided the court of appeals. Tape recordings and transcriptions of my own attorney's sworn testimony that government officials, and that includes Mr. Cole here, would harm them if they tried to protect me from prosecutor Leaders corruption.

Mr. Haeg: On the allowed issue of Robinson not protesting quote, the apparent factual inaccuracy's presented at sentencing unquote, I could not find a single word of briefing detail or evidence given to the court of appeals. So the court of appeals has ruled that issues of national importance, which received hundreds of pages of briefing and evidence, were not briefed well enough for an evidentiary hearing while an issue of near zero importance, which received not a single word of briefing or evidence, was briefed well enough for an evidentiary hearing. On pages 42 and 43 of the court of appeal states that because Cole and I, Mr. Cole right here, were immersed in a contentious fee arbitration at the time of my sentencing, I cannot present evidence that Robinson should have enforced Cole's subpoena to appear at my sentencing and testify that Prosecutor Leaders broke my plea agreement after I'd given up a year of guiding in reliance on it. Yet my date stamped fee arbitration application proves I filed for free arbitration against Cole five months after I was sentenced. The significance of this is that had Cole testified at sentencing that I'd given up a year of guiding for a plea agreement with minor charges, it would have proved my prosecution and conviction on far more serious charges was invalid. Here are the date stamped copies of my fee arbitration application and sentencing judgment proving beyond doubt the court of appeals lied when they ruled I was engaged or immersed in a contentious fee arbitration with Cole at the time of my sentencing. And I'd like to hand your honor the date stamped copies of my application to the bar associates for fee arbitration and the date stamped copy of when I was sentenced. Can I hand these in? And I got a copy for the state also if they would like one.

Judge Morse: Give the state a copy and -um- what I'd like you to do is, how many pages are there?

Mr. Haeg: Two.

Judge Morse: Alright. So we'll make that exhibit next in line, but I'd liked them stapled so that they don't -um- get misplaced. So that – what is that, exhibit two? Okay.

Mr. Haeg: And that - your copy may have more. It had also, I think the court of appeals ruling statement on it.

Judge Morse: So, the exhibit you've just given me is the two filing pages as well as some excerpts from the court of appeals?

Mr. Haeg: Correct.

Judge Morse: Alright. Just make sure those are staple altogether. [13:14]

Mr. Haeg: On page 42, the court of appeal states that because there is no evidence in the record, I cannot present any evidence I was given transactional immunity. Yet on February 7, 012, my attorney,

Brent Cole, who was deposed in this case, testified under oath on the record that I was given transactional immunity. Attorney Kevin Fitzgerald, who worked with Cole during my prosecution, also testified that Prosecutor Leaders gave me transactional immunity. Fitzgerald then testified that after I gave the statement required by the immunity, Prosecutor Leaders flat stated he would not be honoring my immunity. This testimony is also part of the record of this case. Judge Carl Bauman wrote in the record of this case, page 12 on 7-23-12, quote, a rogue or unauthorized offer of immunity is possible. The significance of this is that transactional immunity prevents prosecution for anything talked about during the required statement... And I was prosecuted for everything I talked about during my statement. Even more unbelievable is that part of my statement was used as evidence against me at trial. It is clear the court of appeals lied when they claimed there was no evidence in the record that I was given transactional immunity.

Mr. Haeg: -um- On page 49, the court of appeal states I cannot present evidence of Judge Bauman's corruption because I didn't point to anything other than Judge Bauman's adverse rulings to show he was corrupt. I quote my opening brief to the court of appeals, quote, Bauman in violation of AS 22.10.190, which required him to file affidavits that nothing presented to him was undecided for more than six months, failed to decide many of motions within six months, such as Haegs 1-10-11, motion for hearing and rulings before deciding state's motion to dismiss, decided by Bauman on 1-17-12, or over a year later. Haeg filed criminal and ACJC complaint against Bauman for perjury and asked Bauman be disqualified for corruption. Record 02179-2203, troopers dismissed criminal complaint, Greenstein dismissed ACJC complaint, and Kenai Judge Anna Moran refused to disqualify Bauman.

Mr. Haeg: In another part to the court of appeals I wrote this, Bauman is corrupt, including but not limited to A, falsifying six month affidavits to starve Haeg out. B, delaying PCR decision for three years to starve Haeg out. C, predating decisions to corruptly make it appear they had been made within the six month time limit. D, corruptly dismissing Haegs claim supported by Judge Joannides certified evidence of Greenstein/Murphy's corruption. There's some other stuff I go on there. But, uh here are the copies of Judge Bauman's orders and Judge Bauman's pay affidavits proving he committed perjury when he filed them, and it includes my complaints against him which are all part of the record. And I'd like to hand these in also.

Judge Morse: Just be clear are these documents already part of the record?

Mr. Haeg: I believe so. I believe they are, but I don't know. [16:58]

Judge Morse: I will let you resubmit them.

Mr. Haeg: Okay.

Judge Morse: But again, staple them all together so that we have the packet that you want us to look at.

Mr. Haeg: And I appreciate you letting me do this because it's been tearing my life apart. So again, thank you Your Honor.

Judge Morse: I have a question. Why didn't you appeal all of the multitude of errors you believe the court of appeals made to the Supreme Court?

Mr. Haeg: I did. I appealed to the Alaska Supreme Court.

Jude Morse: Ok - all right.

Mr. Haeg: One – one word, they said denied. We're not even going to look at it. And again, that makes me very angry because I had absolute proof the court of appeals lied-

Judge Morse: Go ahead. Go ahead, keep going with your-

Mr. Haeg: Okay. And I understand. It is clear the court of appeals lied when they ruled I did nothing more than point to Judge Bauman's adverse orders to show he was corrupt. Now that I've shown why I believe the court of appeals order limiting this hearing to five issues is a product of provable lies and fraud, and I believe intended to protect the judges, prosecutors, troopers, and attorneys in this case, I will proceed to prove the issues they have allowed me. And I have here, I was going to call Chuck Robinson as my first witness. But Mr. Cole, I guess is first one, and can he be sworn in?

Judge Morse: Come on up to the witness stand please.

Clerk: Please raise your right hand. Do you solemnly swear from the testimony you'll give now before the court will be the truth, the whole truth, and nothing but the truth.

Mr. Cole: I do.

Clerk: Thank you. You may be seated. And for the record, please state your name, spelling both first and last name.

Mr. Cole: My name is Brent. B-R-E-N-T, Cole, C-O-L-E.

Clerk: Thank you. [19:06]

Judge Morse: You may proceed, Mr. Haeg. Go ahead.

Mr. Haeg: Is it true you represented me from April of 2004 to December of 2004?

Mr. Cole: Uh that's vaguely the amount of time that I represented you. Yes.

Mr. Haeg: Okay -um- and I'm goanna - I'm not an attorney, so please give me some leeway. There's some testimony in another proceeding that I would just like to go over, and what I'd like to do, I guess, is give Mr. Cole a copy of it, and I'll read another copy, and have him basically affirm or deny that this was a correct.

Judge Morse: That's fine.

Mr. Haeg: Okay.

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Mr. Haeg: And can I walk up and give this to him?

Judge Morse: Sure can.

Mr. Haeg: Okay, Mr. Cole-

Mr. Cole: Can I just read this real quick?

Mr. Haeg: Sure.

Mr. Cole: It'll speed things up. [20:31]

Mr. Cole: Go ahead. [22:02]

Mr. Haeg: Okay, I'm just gonna start reading and if anything-

Judge Morse: Mr. Haeg just for my provided context, what- what is it that you're reading from?

Mr. Haeg: It is a transcription of the testimony Mr. Cole gave during uh fee arbitration test...

Judge Morse: Okay. So, there are was a fee arbitration hearing in front of the bar association. He gave testimony and that's what you're reading from.

Mr. Haeg: Sworn testimony. Yes.

Judge Morse: Sure. Go ahead.

Mr. Haeg: Okay. And it was on 07/12/06.

Mr. Haeg: Uh the person chairing it was Nancy Shaw; Attorney Nancy Shaw. I don't know if you know her, but she was the person running it.

Mr. Haeg: But, anyway, Mrs. Shaw states, "Mr. Cole is the only one who needs to be sworn in right now, and he has been. You're still under oath, Mr. Cole."

Mr. Haeg: I say, and I'll just say Haeg, "I'd asked you yesterday about why I didn't want the motion to enforce the agreement. Move forward. And I believe you said it was because I did not want to risk a five year suspension of my guide license. Is that correct?"

Mr. Haeg: Mr. Cole states, "We talked about this on several occasions. I explained to you that it was it would be against my advice to have you file that motion, because again, I could not understand how it would benefit you. All it did is get us back in front of the judge, open sentencing, which I did not understand. I put it to you several times. I went back and reviewed that tapes that you

made without telling me, of conversations we had on the 10th and on the 22nd, which they now have transcripts of it. Specifically, I asked you in one of those, 'do you want me to file this?'

Mr. Haeg: Mr. Haeg responds. "And what did I respond?"

Mr. Haeg: Mr. Cole. "You didn't say – you didn't say anything about it."

Mr. Haeg: Mr. Haeg. "That."

Mr. Haeg: Mr. Cole. "You did not tell me, 'Brent, I want you to file this. I don't care about anything else. We specifically talked about this. I specifically told you this. So, every time we talked, you ultimately said, 'you're right. I don't think I want to lose my license for five years.' And we talked about the fact that we had it down to one year."

Mr. Haeg: Mr. Haeg responds. "I'd like you to look at the spot where it says, 'that is what I wanted at the time. That is what I still want, because I feel they maliciously took that away from me.'"

Mr. Haeg: Mr. Cole replies, "This is what I said. I mean, you know, I've gotta deal with these people, but if you tell me that's the deal I want, and I'm not stopping until I get it. I'm gonna send you a letter saying that is absolut – saying that this is absolutely, in my own mind, crazy. But, I will do it if you tell me. That's what you – that's what I told you. You said, 'well, I'm not happy they took away my opportunity that I thought we had set away from me.' Okay."

Mr. Haeg: And he's got this in quote. Mr. Cole is quoting me from the recordings. "Okay, tell me right now. Is that what you want me to do?" Actually, he's quoting himself. "'Do you want me to go back and take the risk when you've got things in place?' You said, 'you mean go back to the original agreement?' Which, yes, a minimum one year. A minimum one year. The plane is up for the judge to decide. Is that what the time? Because I feel they maliciously-" I say okay. You don't say anything.

Mr. Haeg: "That's what I wanna do, Brent. I want you file a motion." And I replied. Mr Haeg replies. This is what I said at the time with the bar.

Mr. Haeg: "Does anybody read where I say, 'that is what I wanted at the time and that's what I still want?'" -Um- I then say, "So what you're saying is that I could have laid out. I co-operated with the state from the beginning, gave them a five hour interview which led to over double the amount of charges filed against me, gave up guiding for an entire year. The money was already gone. The season was already over, which dang near bankrupt Jackie and I because we still had to pay all the leases and all the insurance and all the bonding and we didn't get any income. Now, that. That hurt. Hurts. You're saying that a judge would have heard that and said, 'Mr. Leaders,' that's prosecutor leaders, "'You can just do whatever you want. You can promise this man the moon, and when he takes action, and sacrifices his life, you can just go-'"

Mr. Haeg: And, in this place, is where my wife jumps in, because I was pretty upset over losing my career and having my attorney saying that I never asked for something for my career being over.

Mr. Haeg: Miss Shaw jumps in. I then say, "Okay, I'm sorry. You know, is that what you're saying, Mr. Cole? Is that we already had all the witnesses flown in from Illinois Silver Salmon Creek, took my kids out of school, took people from work, came up here so they could all testify and the judge would have listened to all that with what's called detrimental reliance and she would have not required specific performance of that agreement?"

Mr. Haeg: Mr. Cole response to the bar association. "I will tell you again, David. I told you before the hearing they were not going to allow you to plead open sentences to the first charges and go and be able to get your plane back."

Mr. Haeg: I respond to the bar association. "You, still. Could you answer my question that the judge would have listened and that would have been the end of it?"

Mr. Haeg: Mr. Cole replies, "I really don't think the judge would have done anything, David. That is your version. Scot Leaders would have stood up and said, 'I don't know what he's talking about. I represent the state of Alaska. We make the charging decisions. We don't have any deal like that.' And then, the judge would have said to me, 'Okay. Then, we're gonna have briefing on that.' And then, at your direction, I would have filed my affidavit and he would have filed his and all of a sudden, where would that have gotten us?" [28:13]

Mr. Haeg: And I replied to Mr. Cole, "And while you're under oath, and on record here before the Alaska Bar Association, gonna tell me that when I tell you that is what I wanted at the time and that is still what I want, that I said no?"

Mr. Haeg: Mr. Cole replies to the Bar Association. "I'm gonna tell you that if you read this whole thing, it doesn't say that I want you to reject every offer and go in and do whatever you've gotta do to get this original deal. David, that's what I'm gonna tell you. If you read this from front cover to back, you will not get that sense."

Mr. Haeg: I reply to the Bar Association. "So, when I tell you quote, 'Well, to me, they weren't viable options. unquote'" And this is a recording of me and Brent Cole talking while he was still my attorney. I told him they weren't - there were no other viable options to me. That was my statement to him while he was my attorney. Then, I say, "That means there were options that were viable? Is that what you're telling me?"

Mr. Haeg: Mr. Cole responds to the Bar Association. "I can't speak for what you're thinking, David. You were not half the time rational in my mind."

Mr. Haeg: I responded. So, you can look at these. And, Miss Shaw jumps in here, and she says, "Mr. Haeg, I think you've covered this one enough." And I say, "I've hit that one enough?" Miss Shaw says, "I think you have." And I say, "Okay."

Mr. Haeg: So, that is the..

Judge Morse: Mr. HAEG let me ask you a couple of question, 'cause I wanna make sure that I understand that context, okay? If I'm understanding what you're saying, is that you believe that you had, and this is a question, that you had what either a-a-a deal worked out with the state, and-

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Judge Morse: Did that deal, in your mind, include transactional immunity?

Mr. Haeg: I believe so. At the time I didn't know what transactional immunity meant. I hired attorneys, and so now it gets..

Judge Morse: Why – why would the ...

Mr. Haeg: ... difficult for me.

Judge Morse: Just tell me what you think happened. You think you got transactional immunity?

Mr. Haeg: My attorney - no, I never got it...

Judge Morse: Do you think...

Mr. Haeg: ... but I believe – I believe I had it, because that man and a person worked for him, testified under oath that Scot Leaders gave me transactional immunity.

Judge Morse: You think that your lawyers told you that the state gave you transactional immunity?

Mr. Haeg: They did testify that, that is exactly what happened.

Judge Morse: Ok and so what were you getting in exchange for this transactional – what was the state getting in exchange for this transactional immunity? Usually transactional immunity means the – the person receiving it will not be prosecuted in exchange for giving some sort of testimony. The testimony that you'll be given can't be used against you. So what-

Mr. Haeg: I have no idea. That's why...

Judge Morse: Ok..

Mr. Haeg: because I was a pilot...

Judge Morse: Just – just...

Mr. Haeg: and a master big game, and I didn't know any of this. Now when I look at the-

Judge Morse: Listen to my question,

Mr. Haeg: Ok.

Judge Morse: you can't answer my question until you hear it. Was there an agreement in writing, was there an offer in writing?

Mr. Haeg: Nope. Mr. Cole says we were, he was working on his own and he didn't need anything in writing. [31:20]

Judge Morse: Who do you believe representing the state made the offer?

Mr. Haeg: Scot Leaders.

Judge Morse: Ok and roughly when was that?

Mr. Haeg: It would have been uh sometime in either uh June, July, August, somewhere in there of 2004.

Judge Morse: Okay. And when is it that you believe that your attorney, or someone working with your attorney told you that there was this offer

Mr. Haeg: Of immunity?

Judge Morse: Yeah.

Mr. Haeg: It was when I filed fee arbitration against him and-

Judge Morse: So after the case?

Mr. Haeg: Exactly.

Judge Morse: Criminal case is over, okay.

Mr. Haeg: Yeah.

Judge Morse: So – so ...

Mr. Haeg: At the time they said-

Judge Morse: Just wait.

Mr. HAEG: Ok – ok...

JUDGE Morse: I'm trying to understand the sequence. You've been living with this and I haven't,

Mr. HAEG: Ok.

JUDGE Morse: so I want to make sure that I have the sequence right.

Mr. Haeg: Well thank you.

Judge Morse: You - you did not uh enter any kind of a plea agreement. You went to trial, and later you learn what you think had been an offer that had been communicated and worked out between the lawyers, between the two lawyers, the state and Mr. Cole?

Mr. Haeg: On – no everything was worked out, but what happened is Mr. Cole told me I was required to go give a statement to the prosecution before trial, so I did.

Judge Morse: Wait, wait. Just wait, before trial?

Mr. Haeg: Yup.

Judge Morse: You gave a statement to the prosecution?

Mr. Haeg: Yes.

Judge Morse: And what were you told was the purpose of giving this statement?

Mr. Haeg: Mr. Cole said, "You're required to go in." And I said, "Okay." I don't know what the ramifications were.

Judge Morse: This is before the trial?

Mr. Haeg: Yes, and that's why when ...

Judge Morse: ok...

Mr. Haeg: ...that was put to the Bar Association, Mr. Cole said-

Judge Morse: Slow down.

Mr. Haeg: "The reason why I had you do this, is you were given transactional immunity."

Judge Morse: Now in the testimony or - or the questioning and the bar thing, there's talk about a filing of a motion. What motion?

Mr. Haeg: I don't know.

Judge Morse: Well then why are you handing this to me? You seem to think this means something. So help me out.

Mr. Haeg: With the Bar Association, what it means is that at the time I wanted a plea agreement enforced. This stuff with Mr. Cole-

Judge Morse: What plea agreement?

Mr. Haeg: The one that Mr. Cole made for me that said, "open sentencing".

Judge Morse: Ok and what were the terms of the plea agreement?

Mr. Haeg: Open sentencing on AS, whatever they were, would allow one year guide license suspension. And we were going to present evidence that it should be a one year guide license suspension.

Judge Morse: Well, hang on. You were - what were you going to plead to?

Mr. Haeg: I don't know. Mr. Cole can you help me out? AS 15, 720-A8A

Judge Morse: You were the one who wanted the deal. What is it that you thought to deal was? What was – what was the proposal? You plead to something and you get something. So what were you going to plead to?

Mr. Haeg: I was going to plead to AS whatever 17 or 720-

Judge Morse: I don't need to know-

Mr. Haeg: It would allow a one year-

Judge Morse: If you can't remember. I don't need you to remember the precise statute.

Mr. Haeg: I have the charging information, so I could get the exact citation.

Judge Morse: Ok tell me, go ahead and do. You've got it. Tell me what it is that you ...

AAG Peterson: Your honor, and-

Mr. Cole: Do you have a pen I can borrow?

AAG Peterson: I know that the petitioner is a pro per litigant, and will be given wide discretion and wide latitude on the form of his questioning, but there is a witness on the stand that should be answering questions posed to him. The petitioner will have an opportunity to take the stand and testify, but Mr. Haeg – sorry Mr. Cole's time is valuable. And so while he's on the stand, I think questions should be directed to him. The state objection form of question.

Judge Morse: Give me the statute.

Mr. Haeg: Ok - The AS 8.54.720A8A.

Judge Morse: The AS08.54.720A8A?

Mr. Haeg: Correct.

Judge Morse: Okay. So what class of a crime is that?

Mr. Haeg: It's like-

Mr. Cole: it's a class, A.

Judge Morse: A misdemeanor?

Mr. Cole: Yes.

Judge Morse: Okay and so you. Now I want to be clear, you think that somebody from the state said to you, "You plead to that misdemeanor open sentencing."

Mr. Haeg: Correct.

Judge Morse: Okay. How was that communicated to you?

Mr. Haeg: Mr. Cole told me he ran it by Mr. Leaders and Mr. Leaders agreed to it.

Judge Morse: Okay. So did you go in and enter a plea?

Mr. Haeg: Nope.

Judge Morse: And why not?

Mr. Haeg: Because after those charges were filed and we flew everybody in from around the country, when we drove to anchorage to Mr. Cole's office, he said, "I got bad news for you. Scot Leaders just changed the charges." The day we were supposed to plea out on November 9th, on November 8th Scot Leaders filed an amended information changing the charges that would require me to be sentenced to at least a three year suspension of my guide license. When the original charges were down to whatever. They would allow a one year or even less, I believe.

Mr. Cole: It was.. It was...

Mr. Haeg: I'm not sure on that. All I know is they were far less severe than what Scot Leaders changed at the last minute, and Mr.Cole said he could do nothing to enforce.

Judge Morse: Okay. So-

Mr. Haeg: And-

Judge Morse: Just wait. Was the original proposal ever reduced to writing?

Mr. Haeg: No.

Judge Morse: Okay. And so there was a change of plea hearing schedule?

Mr. Haeg: Yep.

Judge Morse: And the day before the change of plea schedule, Mr. Cole tells you that things have changed?

Mr. Haeg: Yep.

Judge Morse: And Leaders is not going to honor what you believe had been the terms of the agreement?

Mr. Haeg: And Mr. Cole said that he could not believe it had happened. That he had a binding plea agreement and then, well he said binding agreement, and then he says, "I can't do anything to enforce it because," quote unquote, "I can't do anything to piss Leaders off because I still have to be able to make deals with him after your case has finished."

Judge Morse: Okay. So, did you guys go into court the next day?

Mr. Haeg: Nope. Mr. Cole said we can't go in.

Judge Morse: All right.

Mr. Haeg: We telephonically, we entered a plea of not guilty.

Judge Morse: Okay. And -um- you - the terms of the agreement as far as what you're telling me is that particular charge, misdemeanor, open sentencing. So the judge would have had discretion between zero and one year in prison. Right?

Mr. Haeg: Yep.

Judge Morse: And whatever the range and the fine is.

Mr. Haeg: Yeah.

Judge Morse: And whatever sort of-

Mr. Haeg: And-

Judge Morse: Just wait.

Mr. Haeg: Okay.

Judge Morse: And whatever sort of forfeiture of licensing or planes that the statute allows?

Mr. Haeg: Correct.

Judge Morse: Okay. And was - I'm not familiar with the statute off the top of my head. Was there a, does the statute include something that says, "There can be a licensed forfeiture for up to one year, up to five years, or up to 10 years." Is there anything like that?

Mr. Haeg: I'm sure there is.

Judge Morse: Do you know?

Mr. Cole: It was between one and three years.

Judge Morse: That's what the statute says?

Mr. Cole: Yeah. That was what the agreement was going to be.

Judge Morse: Okay, so let me hear from Mr. Cole about what he currently can tell us about what the agreement had been.

Mr. Cole: Okay, so it's been a long time,

Judge Morse: I understand.

Mr. Cole: We're talking 15 years. But what David has left out a little bit here, is the condition that he was in when he was originally - the search warrants were originally served on him.

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Mr. Cole: That happened in April of 2004. He was a big game guide. He had six to eight brown bear hunters that were scheduled - that he was scheduled to take out that spring. And to him, it's my recollection, those were 15 to 20,000 dollar hunts, and he had just been searched. His wife was in town. They had gone to his house. They'd searched his lodge, and they'd found evidence supporting the claims that Mr. Haeg had -um- killed some wolves. And that was an investigation that Trooper Gibbens was engaged in.

Mr. Cole: At that time, the state had just started wolf hunting again, and the governor had gone out, I thought, on a limb to allow aerial wolf hunting, which was a very unpopular thing in some parts of the country and the state. And when David came in with his wife, he was shock maybe? Uh couldn't understand how they could do this and what could happen-

Judge Morse: When you say came in, you mean came into your office to talk to you about what happened?

Mr. Cole: He came into my office. Actually, he went to Kevin first, and Kevin couldn't handle him, so Kevin called me, asked me to handle David, and he took Mr. [Zellers 00:01:33]. [41:33]

Mr. Haeg: Can I ask who Kevin is?

Mr. Cole: Kevin Fitzgerald.

Mr. Haeg: Okay.

Mr. Cole: So just looking at the case, Judge, it was a bad case.

Judge Morse: Bad case meaning bad for the defendant or bad for the state?

Mr. Cole: Bad for the defendant.

Judge Morse: Okay, All right.

Mr. Cole: Then you have to understand at the time ... It's not the case now, but the real motivator behind all this is under AS0854605. At that time, if a guide got a sentence on any kind of a hunting or federal state hunting charge and received a fine of more than \$1,000, then they automatically lost their right to re-apply to be a guide for five years. And I had just ... Now, I don't know whether I had or not, but I had dealt with this issue -um- many times, and I had a sentencing, but I think it was later I had a sentencing. But anyway so I mean, Fish & Game cases get a \$1,000 fine for nothing. You know with Bristol Bay, they give \$2500 fines without a blink for strict liability. And this case was gonna go over \$1,000 fine, there was no doubt, if he went in open sentencing.

Mr. Cole: But the critical thing is, when David came in, he had these hunters coming in, and so he wanted me to make sure that he could get and service all these hunters that he had in the spring of 2004. Well the state - I had to go to the state to do that because they could have charged him immediately, and if they had charged him, they could have gotten a bail condition that he not provide these services, I thought. I could be wrong.

Mr. Haeg: They cannot put you out of business until you are convicted...

Judge Morse: Wait, wait. Let him finish his answer.

Mr. Cole: I don't...

Judge Morse: I'll give you a chance to talk but I want to hear from him.

Mr. Cole: So I was concerned about that. The other thing is, and I can't remember the - whether they took the plane at that time or not, and David would know that because the plane is very special to him. I can't remember what the deal was with that. But in order for us, in my own mind, because I looked at the evidence, I talked to David. He admitted killing the wolves. There were six. He admitted taking them. He had falsified documents as a guide. That was the worst thing you could do. He'd gotten a - He reported that they were taken while he was trapping. That was a lie. I knew, from my experience, and I've done this with more guides than anybody that lies by guides can be career-ending because you know we hold our guides to such high standards. So I knew that there were big issues in his mind, and he wanted to save his guide business.

Mr. Cole: So I went to [Leaders 00:04:56 44:58], and we struck a deal that he wouldn't file, that David would be able to do this, but he wanted to know where the location ... He wanted a statement, and he wanted to know the location of where the wolves were shot.

Mr. Cole: We kind of got through that period. That was in April and May, and David was allowed-

Judge Morse: So he gave - this is the statement that he's talking about. He went and gave some sort of statement to the state.

Mr. Cole: Yes.

Judge Morse: And part of the purpose of that was to delay the charging of certainly the resolution of any sentence until after the upcoming hunt season.

Mr. Cole: Because, in my opinion, I've been doing this for a long time...

Judge Morse: Right..

Mr. Cole: ...there's a couple ways you handle these cases. One of them, you say, "Screw you. Knock yourself out. State, bring your charges. We'll be in trial," but then you have a more difficult time getting a deal later on. On the other hand, if you come forward, you give them a good faith proffer, you work with them, you show contrition, you take some time off, you have the ability to work a better deal at the end, and that was always what my goal was. My goal was to get him back to guiding as soon as I could. That's what he wanted.

Judge Morse: But the – but the at least the interim arrangement was give the statement, and delay charging and certainly delay resolution, and thus complete the whatever it was. Six, seven, eight, 10. The – the – the planned hunts. The scheduled hunts.

Mr. Cole: Yes.

Judge Morse: Okay. Was there anything in writing uh that said you know "in exchange for this statement, you get X, Y, and Z?"

Mr. Cole: There wasn't at the time. And that...

Judge Morse: There was not?

Mr. Cole: There was not...

Judge Morse: Ok.

Mr. Cole: ... at the time, you know and - and I should've done a better job on that. There's no doubt about that. However, I did, when David fired me, Chuck Robinson called me and he said, "Hey, what about that statement?" And I said, well, you know he had "king for a day." Now, that's not my understanding-

Mr. Haeg: Ok now what's that mean? Can you tell me what that means, please?

Mr. Cole: That's use immunity.

Judge Morse: Let me take notes for a sec. Hang on.

Mr. Cole: That's not transactional immunity. I don't remember ever saying transactional immunity. You're going to have to show me that, David. In fact, I wrote just exactly the opposite. I - so I wrote a letter to Scot Leaders after David fired me, and I confirmed that David had use immun - what we call "king for a day" use immunity -um- for the interview that he gave back in April, and I never heard anything other than that. I was-

Mr. Haeg: The problem is-

Judge Morse: Just wait. Just a second. You – you thought that the state agreed not to utilize whatever Haeg said in this – in this statement against him?

Mr. Cole: Yeah.

Judge Morse: Okay, but that was, again, not in writing?

Mr. Cole: Not in writing.

Judge Morse: All right. So then when Haeg fires you, Mr. Robinson takes over. Robinson contacts you to talk about what the status of the situation-

Mr. Cole: He contacts me about the same thing David's talking about. Should we file this motion to enforce? What about this interview? Was he – he – you know there was something there, and I was like, well, yeah. Of course it was. It was "king for a day," and that's what I wrote.

Mr. Haeg: Can I say something, please?

Judge Morse: Just a minute. So that's the - In the testimony from the bar association, when you were talking, Mr. Haeg, about whether you ever instructed somebody to file a motion, it's the motion to enforce what you thought was whatever kind of agreement the state had given you that prompted you to give the statement, right?

Mr. Haeg: We also gave up a year of guiding after that. We did spring bear hunts, and then Mr. Cole says we got this deal. Cancel all your fall bear hunts and moose hunts and we did, so we gave up a whole year. And those hunts would've occurred in September and October. Mr. Cole's billing statement shows that he billed me for open senten - talking to the prosecutor for open sentencing in- in August.

Judge Morse: Hang on. Just a sec.

Mr. Haeg: We did not guide for September and October.

Judge Morse: Did you guide in-

Mr. Haeg: And then in November, they changed the deal.

Judge Morse: In April is when the search occurred?

Mr. Haeg: Yes.

Judge Morse: And did you have bear hunts scheduled for you know May, June, July, August?

Mr. Cole: Just Aug - April.

Judge Morse: Is that-

Mr. Haeg: April. Yeah.

Judge Morse: I'm sorry, in April?

Mr. Haeg: Yes.

Judge Morse: And did you do those hunts?

Mr. Haeg: Yes.

Judge Morse: -Um- and so there - he said something, there were, I don't know what he said, six, eight hunts that had been scheduled at the time of the search warrant? Was that roughly-

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Judge Morse: Right?

Mr. Haeg: Yeah.

Judge Morse: And did you do those hunts?

Mr. Haeg: Yes.

Judge Morse: Okay. And then there were some fall hunts.

Mr. Haeg: Then we made a plea agreement in August, and we canceled our September and October guiding season in reliance on that plea agreement. And then it was broken and nobody enforced it. And I know that is now wrong on so many levels, it's unbelievable. And something else-

Mr. Haeg: I want to state-

Judge Morse: Just slow down, slow down.

Mr. Haeg: Is that-

Mr. Cole: Judge-

Judge Morse: David, wait.

Mr. Haeg: Okay. The-

Judge Morse: Wait.

Mr. Haeg: The-

Judge Morse: Wait. I'm trying to help you here. You've been living this for, whatever it is, 15 years. You know this inside and out. Ok? You have to slow down and let me understand the context of what you're talking about. If you don't do that, you're gonna lose me and I'm not gonna understand. So I need you to help me understand what's going on. So, let me explain to you where I'm a little bit confused, so you can clarify my confusion, all right?

Mr. Cole: Judge, can I just-

Judge Morse: Just wait, just wait. When did you think you got this deal about delaying the – the - the one year of no hunting?

Mr. Haeg: In uh it would've been uh July, August.

Judge Morse: So, and you think sometime in July and August of '04, you got-

Mr. Haeg: In August, he billed me for-

Judge Morse: Listen to-

Mr. Haeg: For talking with the prosecutor for an open sentencing plea agreement.

Judge Morse: Okay, when did you think you made some agreement that meant that you had to give up guiding for a year? Sometime in July and August?

Mr. Haeg: Yes.

Judge Morse: And when would the year would've started in July or August?

Mr. Haeg: Yes. I'd like to say something, if I can.

Judge Morse: And when did you get rid - have Mr. Cole stop representing you?

Mr. Haeg: I think it would've been about maybe December of November's when the shit hit the fan. Scot changed the charges. Probably December. I could dig that up.

Judge Morse: Okay, and you said that-

Mr. Haeg: I would like - Can I just get one thing out before I lose my composure?

Judge Morse: I don't want you to lose your mind.

Mr. Haeg: Okay, can I get something out?

Judge Morse: Sure.

Mr. Haeg: Okay. The statement that I went in and gave, that everybody, even Scot Leaders agree it was given ...you know the state obviously doesn't agree I had transactional immunity, even though people have testified. But Scot Leaders agrees I had immunity according to evidence rule 410-

Judge Morse: You...

Mr. Haeg: Which means any statement, anything given in the course of plea negotiations shall not be used in any civil, administrative, or legal proceeding, period. The charges that I went to jury trial on quoted my statement and forced me into trial. Chuck Robinson protested it. The state never did shit, never did anything about it. And I was gonna say shit, and I'll retract that.

Judge Morse: I've heard that before.

Mr. Haeg: And – and the map that I made during my statement was the primary exhibit against me at trial. And so you understand how egregious that was. The map I made for a statement for a minor plea agreement was used against me at trial and they took my guide license for life. And that's why I'm so angry is-

Judge Morse: Ok..

Mr. Haeg: It's 15 years down the road and I don't have another life.

Judge Morse: Okay, stop. Stop.

Mr. Haeg: I can't rewind the clock back and have another life. Mine's gone.

Judge Morse: I'm sorry you think that. I mean I understand why you're upset, but if you think that your life is over, you're wrong.

Mr. Haeg: Okay.

Mr. Cole: I just wanna correct one thing.

Judge Morse: Go ahead.

Mr. Cole: You're talking about the motion that David wanted to have filed?

Judge Morse: Right.

Mr. Cole: That all has to do with the enforcement of the plea agreement that he thought we had prior to the sentencing. The transactional stuff never came up while I was there, number one. And

number two, I told Mr. Robinson ... his investigator called me, tape recorded me. I talked to Chuck Robinson. I told him, "Look, if you guys wanna file the motion, go ahead." I said you - They had the opportunity to file.

Judge Morse: And the motion that you're talking about that you said go ahead was to – to -um- ...

Mr. Cole: So...

Judge Morse: ... govern the use of the statement [Haeg 00:04:43 54:43] had given, no?

Mr. Cole: No, it has nothing to do with that.

Judge Morse: Ok.

Mr. Cole It only has to do with the plea, what agreement was in place in September of 2004. We had been negotiating a deal because, in my own mind, the state was very clear. They were gonna suspend David's license for a significant period of time. And I was working on getting that down as much as possible. I thought they initially said five years, three years. I don't know. I can't remember. I just remember that, when we originally talked, we finally got it to a period where I got to argue not more than one year ... or - or no, that the judge should impose one year. And he was gonna argue that the judge should impose a three year. And that had some small jail component that he was gonna ... is my recollection.

Judge Morse: So you think that if somewhere in September-ish, the fall of '04-

Mr. Cole: August, September-

Judge Morse: Okay, late summer.

Mr. Cole: We always talked on the phone.

Judge Morse: Right, I understand. But just somewhere around that time period, you had an agreement with Leaders that would have him plead to something-

Mr. Cole: Yes.

Judge Morse: And you got to argue for no more than a year...

Mr. Cole: Yes.

Judge Morse: ... of license suspension and the state got to argue for three to five, more than one year.

Mr. Cole: And the whole thing was couched, because in those days you had to senten - your –your composite sentence, your – your jail time, couldn't be more than five days. Because if it was, then you would lose your license for five years on any count. And it couldn't be for more than \$1000 on any count. This is the old ASO854.

Judge Morse: So the component that would allow this argument by you that he get no more than one year, necessitated that he receive no more than five days and no more than \$1000 fine.

Mr. Cole: On every count. Yep. But again, the whole focus, the whole time, for six months leading up to this was, "I don't wanna lose my guide license." And I understood that. That's what I do. I represent guides and I help them keep their licenses. So, I - we knew early on ... and I'm talking..

Judge Morse: Okay, I understand what you're trying to get at, but what I don't understand is, you think you had an arrangement with Leaders-

Mr. Cole: Okay, I'll explain that.

Judge Morse: To allow this open sentencing that-

Mr. Cole: No. Oh, just a partial open sentencing.

Judge Morse: Right.

Mr. Cole: Okay. So then what happened? As part of that deal-

Judge Morse: So did you have something in writing?

Mr. Cole: No, we never had anything in writing.

Judge Morse: But you think you had an oral agreement with Leaders?

Mr. Cole: Yeah.

Judge Morse: Tell me what the component of the agreement was?

Mr. Cole: It was suspended time, small amounts of jail time, fines-

Judge Morse: Below five days, below \$1000.

Mr. Cole: Below that. The critical thing was, we were pleading to a crime, a big game violation, that allowed us to argue one year loss of license and they got to do three. But the other kicker in this thing is, David had this favorite plane of his that the troopers had seized, 'cause that was the plane that was used to kill the wolves. And he'd put a lot of money into it and a lot of time. And they wanted to forfeit that, which in my experience, they were gonna win. I've represented guides and outfitters who've lost and given up airplanes, boats, rifles, whatever. When they commit illegal acts, the state forfeits their stuff.

Mr. Cole: So, that was a problem for David. He did not want to lose that airplane. And he – he told me that. And I kept telling him, "David, you can get another plane, but you're not going to win on this forfeiture." And he said, "Well, I want you to run it by Leaders and see if he will allow me to —um- argue open sentencing. Just go in and plead guilty to this charge and plead open sentencing."

Mr. Cole: Now, I have a problem with prosecutors that won't do that. I've always had a problem with that, judge. I was a prosecutor. I kind of figure, if you're deal isn't gonna stand up to a judge open sentencing, then as a prosecutor, you know you've got a problem. But – but Leaders So initially Scot said-

Judge Morse: He refused that.

Mr. Cole: No, initially he said yes over the phone. And then David's right, when we got-

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Mr. Cole: When we were getting ready to go out and do this sentencing he called up and said, "I'm not gonna do that, the troopers have vetoed this." They don't want to give him – they don't want to have the option of getting the plane back.

Mr. Haeg: The problem is ...

Mr. Cole: Just wait...

Mr. Haeg: I gave up my guide year- -

Judge Morse: Mr. Haeg-

Mr. Haeg: And they can't do that after I have placed-

Judge Morse: Mr. Haeg-

Mr. Haeg: Detrimental reliance on it.

Judge Morse: Stop.

Mr. Cole: But this happened in like August I mean I don't know what he's talking about this detrimental reliance. All this happened in August and we went into sentencing. But anyway so I was-

Mr. Haeg: The sentencing was-

Mr. Cole: I was unhappy with this judge okay and I told David that. And he had all those people there. I got on the phone that night and we worked out a different deal. And that deal got David, would have given David his guide license back 16 months from the date of the events.

Mr. Cole: He would have been guiding in the - he was getting his license back in July of 2005. He was only going to miss one season under my deal. Which he - David agreed to, we agreed to the jail time. We agreed-

Mr. Haeg: I never agreed to that-

Judge Morse: Just wait.

Mr. Cole: We sat in the room that night in my office with your friends and we made a deal with Scot Leaders. That's what I thought maybe David doesn't think that. I apologize for that but we had an understanding-

Judge Morse: Was Leaders in the room or was he on the phone?

Mr. Cole: No he was on the phone.

Judge Morse: Is it an active negotiation? Was Leaders on the phone and him there or is it you're on the phone and you talk to him?

Mr. Cole: David's in one of my other conference room, I'm in my office. We're talking and then I'm going back and forth.

Judge Morse: Okay and what do you think was the ultimate result of that negotiation?

Mr. Cole: I thought we had a deal whereby David we were going to be able to argue one to three, no. no excuse me that was what it was going to be and that's why we were calling the witnesses. What it was going to be was that he would be – he would get his license back in 16 months. It was gonna be like July 1st 2005.

Judge Morse: 16 months after the wolf kill? [1:02:29]

Mr. Cole: Yup and that's why I had encouraged. We knew David wasn't gonna guide that if they – but the other part of this-

Judge Morse: Anything about the plane?

Mr. Cole: The plane was gonna be forfeited.

Judge Morse: Did you guys, you - you thought you had an agreement between Mr. Haeg and the state. Did you guys set a change of plea? Start to effectuate that deal?

Mr. Cole: I have a hard time remembering exactly what happened after that. Mr. Leaders changed the plea, the – the amended the charges so that David couldn't come in and plead guilty at the hearing the next day or two days later or whatever. The next day I think it was gonna be. Where he filed that maybe a day or two before. But we had an agreement that was going to allow David to get his guide license in 16 months.

Judge Morse: So what happened to that deal?

Mr. Cole: And what happened to that deal? If he had just listened to me we would - he would have been done. But what happened was-

Mr. Haeg: What happened is I didn't agree to it.

Judge Morse: Let him speak then you can speak.

Mr. Haeg: Ok.

Mr. Cole: Then-

Judge Morse: You're not gonna be rude and obnoxious during this thing all right?

Mr. Haeg: I'm sorry it just-

Judge Morse: Just hold your tongue for a while, that's all I'm asking you.

Mr. Haeg: Okay I thought I'd been doing pretty well-

Judge Morse: I'm going to let you, you're doing pretty well.

Mr. Haeg: Okay.

Judge Morse: I just want you to continue doing well.

Mr. Haeg: Okay.

Mr. Cole: Then this issue with the plane came up. And David came to me and said, "Well look I want that plane back." And he said, "How about I have a super cub let's switch the super cub for the PA12." And I said, "Well actually that makes a lot of sense." This PA12 the troopers can't use that um it's not worth anything to them. They get a super cub they use super cups all the time that makes sense, that was a good idea I thought.

Mr. Cole: And so I floated that by -um- Scot Leaders and he said, he came back and said no. And I'm like really? We could get this thing all done. And he said no. So I told that to David and that turned into, in my opinion, the reason why David fired me. He lost confidence in me, he wanted to file this motion. He was never happy that - And from my perspective judge just so you know I never wanted David to go into an open sentencing situation. And I repeatedly told David don't do anything where you're gonna go in open sentencing. You're a guide. All the judge has to do is one of two things.

Judge Morse: Six days and thousand and one dollars.

Mr. Cole: Over a thousand or suspend your, revoke your license your hunting license. I mean just revoke your license for five years and you're not gonna guide. That you had so many downsides to an open sentence. And I told him that and we'd have these conversations. David's right he'd come in, he'd bring his friend. They'd argue oh we wanna file this and then we'd talk and then he'd say no. Now I- I get it.

Judge Morse: So the bottom line though is that the- the Leaders was willing to do the 16 month license suspension.

Mr. Cole: Yup.

Judge Morse: -Um- Insisted on the forfeiture of the particular plane used for the wolf kill and as a result Mr. Haeg said I'm not pleading to that?

Mr. Cole: He ultimately said that. He hired Chuck Robinson.

Judge Morse: Okay. He got rid of you.

Mr. Cole: Yeah he fired me and he could have filed all those motions and he could have done all that.

Judge Morse: Okay so Mr. Haeg I get it. I see your hand you're being very polite. Do you disagree with that recitation of the progression of the negotiations?

Mr. Haeg: Yeah I do.

Judge Morse: Okay so you tell me how you differ?

Mr. Haeg: A. On November 9th nobody agreed that there was a deal including Mr. Cole. In fact all the witnesses that were there we were all incredibly angry that Scot Leaders had pulled the rug out from under us at the last minute after we had given up our fall guide season. After I'd flown everybody in.

Mr. Cole: He said November...

Judge Morse: No wait.

Mr. Cole: But he means September 9th.

Judge Morse: So what...

Mr. Haeg: There never...

Judge Morse: Mr. Haeg...

Mr. Haeg: ...was a deal.

Judge Morse: Mr. Haeg.

Mr. Haeg: After that-

Judge Morse: Before that...

Mr. Haeg: and...

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Judge Morse: Mr. Haeg listen to me this is critical. When you walked in the day before and you gather all your witnesses to come in here to do what you think was gonna be an opening sentencing and that's why you had the witnesses. Because you were gonna convince the judge that you were a hell of a great guy. And you should not lose your livelihood okay. That was the whole goal right? So what did you think on the eve of that hearing was the deal?

Mr. Haeg: We go in the open sentencing and there'd be between one and three years of my guide license and the plane would be up in the air.

Judge Morse: Okay.

Mr. Haeg: Okay and-

Judge Morse: Just stop just let me write that down. So...

Mr. Haeg: and...

Judge Morse: ...just wait, it was possible that you would have had your license suspended for more than a year up to three?

Mr. Haeg: Correct.

Judge Morse: And also that you might have lost the plane that you used for the wolf kill?

Mr. Haeg: Correct.

Judge Morse: Okay so-

Mr. Haeg: Can I say something?

Judge Morse: Just wait. So I'm trying to understand your comment about detrimental reliance because you said that you stopped hunting for a year but you possibly could have lost your sentence – lost your license for up to three years.

Mr. Haeg: But we had already given that year up and it was gone. And I never even got credit for it. The US Supreme Court says if a defendant prior to being sentenced or in reliance on a prosecution's deal an offer that you agreed to. So it's a plea agreement it's a rule of 11 plea agreement. If you put detrimental reliance on it you get that deal. Not some other deal that they cook up later. The 16 months you don't get that deal.

Judge Morse: I understand that.

Mr. Haeg: You get the deal you agreed to at the time and that's why I have a problem because I gave up the guiding for this deal not some other deal that supposedly happened after November 9th. I gave it up for this deal.

Judge Morse: If you agreed to it.

Mr. Haeg: I agreed to it.

Judge Morse: And you could've lost...

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Mr. Haeg: He told me that Scot Leaders [00:00:01 1:10:01] agreed to it. I gave up guiding, and then come the date that we're supposed to go get sentenced and they say, no, there's no deal. He changed the charges. He wants you to throw in the plane, and this is why I'm really upset.

Judge Morse: Now, listen to this question.

Mr. Haeg: Can I say one thing please?

Judge Morse: Yes, you can answer my question.

Mr. Haeg: Please, Your Honor.

Judge Morse: No.

Clerk: [inaudible 00:00:17]

Judge Morse: So he reneged on the eve of the deal.

Mr. Haeg: Correct.

Judge Morse: Mr. [Cole 00:00:25] said that there was then additional negotiations. Were there negotiations?

Mr. Haeg: He started doing all kinds of stuff. I said, "I want this deal," and he's like, "Well I got this, I've got that." I'm like, I don't want those deals. I want this one that I agreed to prior. And-

Judge Morse: Okay. I know you wanted the old deal.

Mr. Haeg: Can I get just one thing out?

Judge Morse: No. Just listen to my question. Did he – did he say to you "I've got a revised deal?" This 16 months from the wolf kill date?

Mr. Haeg: Yeah, he said "I've talked to Scot and we've got all this revised stuff." Then I asked him, I'm like, "Can Scot Leaders change the deal again a second time after I agree to give them the airplane?" And he says, "Well, I don't think he'll do that." In other words, he led me to believe that Scot, after Scot already got a year of guiding out of me, changed the deal after the year's gone. Now Mr. Cole wants me to give him an airplane and tells me that after he has the airplane, he can change the deal and ask for my house or my kids. And I'm like, "I'm not doing it!"

Judge Morse: I'm glad you didn't give up your kids.

Mr. Haeg: Well, how can you-

Judge Morse: Mr. [Haeg 00:01:30], calm down.

Mr. Haeg: ... give a prosecutor something-

Judge Morse: Calm down. Calm down.

Mr. Haeg: ... and have him break the deal-

Judge Morse: Calm down.

Mr. Haeg: ... and then ask for something else, and your attorney says that he can do that?

Judge Morse: Calm down. Did you-

Mr. Haeg: Tell me how that's possible.

Judge Morse: Did you agree to the 16 month post wolf kill suspension?

Mr. Haeg: No, I did not.

Judge Morse: Okay. You agreed to nothing after the open sentence one to three year proposal.

Mr. Haeg: That's exactly right.

Judge Morse: Okay. Was there a discussion about exchanging the plane used for the wolf kill with a super cup?

Mr. Haeg: There was. I talked about that-

Judge Morse: Okay. Did you make that proposal?

Mr. Haeg: I did.

Judge Morse: So you were proposing additional terms that you had not originally agreed to?

Mr. Haeg: We talked about that, but then when Mr. Cole said that if we did anything new, Mr. Leaders could still break another deal. Then I was – then I was not talking about any more deals.

Judge Morse: My point is that you had come to what you thought was an agreement, and then you wanted to change at least the plane forfeiture, where you would forfeit not the one you used on the wolf kill but instead forfeit the [crosstalk 00:02:37]-

Mr. Haeg: I did not agree to a deal. I said would they be willing-

Judge Morse: You made a proposal. That's what simply I'm asking. You made a proposal, and you wanted Cole to explore that because you wanted to keep the one plane.

Mr. Haeg: Correct, but then when Cole said...-

Judge Morse: And there was never an agreement to forfeit the super cub.

Mr. Haeg: Correct.

Judge Morse: All right.

Mr. Haeg: And - and the key of this, Your Honor, is that at the time, I knew nothing, but I knew that when Mr. Cole said Mr. Leaders could break the deal and ask for the plane after he'd already got the guide year, when we asked him if Mr. Cole could continue ... Or Mr. Leaders. Excuse me. Basically, we asked him if Mr. Leaders could continue breaking plea agreements after we pay for them. Mr. Cole says, "Well, I wouldn't worry about it." Well, he's not the one giving up the airplane, and the guide year, and everything else. Upon that, I knew that no plea agreement-

Judge Morse: Okay.

Mr. Haeg: Mr. Leaders could say "We'll give you no jail time, no-"

Judge Morse: Let's be clear. I want to be clear about one thing, and I need you to make sure that I understand this correctly. At the time when you thought you had a deal, when you brought all your witnesses and friends and your supporters in to testify, you thought the deal was open sentencing with a possibility of a suspension of your hunting license between one to three years-

Mr. Haeg: Correct.

Judge Morse: And whether or not the plane would be forfeited would be up to the judge, correct?

Mr. Haeg: Correct.

Judge Morse: And the monetary fine, if any, and the jail sentence, if any, were open terms for the judge to decide.

Mr. Haeg: Absolutely.

Judge Morse: Okay. And that was the deal that you think should have been enforced-

Mr. Haeg: Absolutely.

Judge Morse: And should be enforced now.

Mr. Haeg: No.

Judge Morse: Okay. Then what are we ...

Mr. Haeg: I've lost ... Okay, Mr. Haeg, you get a year on your guide license. My guide license has been gone for 15 years now.

Judge Morse: Mr. Haeg, let's assume, just for purposes of discussion so I understand what we're doing here, I come to the conclusion that you had that deal, and they reneged, okay? What –do you want just a statement from me saying the state reneged, or do you want something else?

Mr. Haeg: I want an order from Your Honor declaring my conviction overturned and the state is free to charge me again, and we can start plea negotiating again, or we can go to trial.

Judge Morse: Well, what the US Supreme Court says if you had a deal that the state reneges on is that you get the deal.

Mr. Haeg: Not after you're convicted.

Judge Morse: Well, you're wrong about that.

Mr. Haeg: I don't think so.

Judge Morse: I beg to differ.

Mr. Haeg: Because my – my deal...

Judge Morse: Well, listen to me-

Mr. Haeg: ... was with charges far less severe than I have now.

Judge Morse: You want to start at ground zero where the suspension can be longer than three years? Why would you want to do that?

Mr. Haeg: I want to go back, be unconvicted, and me and the state start fresh because that's exactly what-

Judge Morse: And what are you exposed to? What is the maximum suspension you're exposed to, in your mind, if you go back to ground zero and lose?

Mr. Haeg: I don't know. What if I win?

Judge Morse: Well, then you get nothing, but if you lose, what do you think is the maximum exposure? Have you thought that through?

Mr. Haeg: I don't know. I'm quite certain the state could charge me with first degree murder and I could go to jail for the rest of my life, so the exposure is pretty severe.

Judge Morse: Let's try to be serious. I'm taking this seriously. I want you to take it seriously, too. On the charges that they have brought against you on the various hunting violations, what do you think your exposure would be to a license suspension? Do you know? You don't know. All right.

Judge Morse: But you want to take that unknown risk rather than going back to the deal you thought you had.

Mr. Haeg: Absolutely.

Judge Morse: Okay. That's an interesting calculation.

Mr. Haeg: What I want, Your Honor, and I think why everybody here, is we want to have a fresh, clean slate from the beginning without an attorney that lies to me, that deals can't be enforced, and you know, he was saying that the plane was seized, and all this stuff happened. Every single warrant that was used to seize my plane falsified where the evidence was found to my guide area, and the whole reason ... The whole reason, Your Honor, it was a guide crime was they said it was all found in my guide area, and all of that is a lie. They falsified this map, and there's a recording of the state talking about before trial falsifying the map, and they recorded themselves talking about that-

Judge Morse: Mr. Haeg, help me with one thing.

Mr. Haeg: So it should never have been a guide crime.

Judge Morse: Help me with one-

Mr. Haeg: We shouldn't be talking about a guide license suspension because-

Judge Morse: Help me with something here. Did you not testify at trial that you acknowledged killing the wolves outside of the proper area?

Mr. Haeg: Correct. I did.

Judge Morse: Then ...

Mr. Haeg: The evidence that the state told me to shoot them there was removed out of the court record, and I do have a problem with that, because I worked for a construction company, and-

Judge Morse: Stop. Do you have additional questions?

Mr. Haeg: When the state inspectors tells me to go dig in this salmon stream-

Judge Morse: Mr. Haeg. Mr. Haeg, you have a-

Mr. Haeg: ... I go do it. And so when the state told me to kill the-

Judge Morse: Mr. Haeg.

Mr. Haeg: ... wolves where I did, I did kill them there.

Judge Morse: Mr. Haeg-

Mr. Haeg: It wasn't inside the open area, but the state official told me to kill them there. Then, to make it worse, they claim they're all in my guide area, so they can charge me as a guide because they should ... That's the reason they made it a guide crime. Otherwise, it would've been a violation of the wolf control program, which to my career, my license, would've been like a traffic ticket. Nothing. They falsified everything to make it a guide crime, and that's why we're talking about this and that, and the plea deal. I know that Mr. Cole lied to me when he said we couldn't attack the warrants that were all falsified, so I realize now the state, from the very beginning, manufactured a guide case, and we should never be talking about guide charges at all because they gave me a permit to shoot wolves from the air, they told me where to shoot them. I went and shot them there. Then it was realized that that isn't an open area, and that they weren't supposed to tell me there. Well, is that my fault that they tell me to go there, or is it their fault? And if that isn't in my guide area, it obviously ain't a guide crime. I don't have a client with me.

Mr. Haeg: But what they did is they said Mr. Haeg killing the wolves here ... And this is where the wolf control program was happening, and half of it ... He killed them over here, and since he's allowed to guide here, but he isn't allowed to guide here, we're going to charge him with career-destroying guide charges. And all that was a lie, and we can prove it.

Judge Morse: Okay.

Mr. Haeg: That's why I'm upset is that it should never have been a guide problem to begin with.

Judge Morse: Are you done?

Mr. Haeg: Yes.

Judge Morse: Do you have additional questions for Mr. Cole?

Mr. Haeg: -um- I do, if I may.

Judge Morse: Okay.

Mr. Haeg: Is it true you believed Governor [Murkowski 00:09:49 1:19:49] had called both my prosecutor and judge and told them to make an example of me?

Mr. Cole: I said that might be a possibility.

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Mr. Haeg: Okay. Is it true my plea agreement was never placed in writing because we were working alone?

Mr. Cole: What do you mean, working alone?

Mr. Haeg: You stated exactly this in your deposition, page 141. You said, "The plea agreement was never placed in writing because we were working alone."

Mr. Cole: I don't remember making that statement, but sometimes I-

Mr. Haeg: I'd like to point the court to page 141, Mr. Cole's deposition.

Judge Morse: Do you have that?

Mr. Haeg: Uh I do.

Judge Morse: Show it to him.

Mr. Haeg: Well. Do you want it?

Judge Morse: Yes, if you're gonna ask him about it, you need to show it to him.

Mr. Haeg: Well, this is all record in the state.

Judge Morse: But he doesn't remember it. He gets to look at it.

Mr. Haeg: Okay, do you want-

Judge Morse: Show it to him.

Mr. Haeg: Okay.

Mr. Cole: Thank you. Do you have the next page?

Mr. Haeg: I don't.

Judge Morse: Do you have the full deposition?

Mr. Haeg: I believe so.

Judge Morse: Why don't you see if you can find it? This is a deposition, so it's not the bar hearing?

Mr. Haeg: No, this is a deposition in this case.

Judge Morse: Okay. And it's page 141?

Mr. Haeg: Yep. Here's the whole thing.

Mr. Cole: Okay, thanks.

Mr. Cole: I said that. I don't know why - I can't remember why I said that in the context.

Mr. Haeg: Okay. And my next question is, what does that mean, working alone?

Judge Morse: Try to answer it.

Mr. Cole: I – I – I just ... it doesn't make sense to me, so I don't know. The best I can say is, I was trying to resolve the case for you. I was working with Leaders. That's you know that was the best I can do. I was trying to do what – what you asked me to.

Mr. Haeg: Is it true because you didn't get anything in writing my family and I paid a very terrible price?

Mr. Cole: No. You could have done that – you could have enforced that through Mr. Robinson. I told you that. You had the [crosstalk 00:04:10]-

Mr. Haeg: The problem is Mr. Robinson-

Mr. Cole: Excuse me.

Mr. Haeg: Said it's all water under the bridge with Mr. Cole-

Judge Morse: Mr. [Haeg 00:04:13], Mr. Haeg-

Mr. Haeg: And I can't do anything.

Judge Morse: Mr. Haeg, be polite. When he's speaking, don't interrupt him.

Mr. HAEG: Ok.

Judge Morse: I won't let him interrupt you. I know you're upset about this, but you have to let him answer the question. So, continue your answer.

Mr. Cole: No, you fired me. I had a deal worked out for you. You could've gotten it. You would've been back in business in less than 16 months and you chose to go a different direction, which was fine. You had the opportunity before the trial to file all the motions and do whatever you wanted. And you hired an attorney to do that.

Judge Morse: Your next question.

Mr. Haeg: Is it true Leaders quote changed the rules unquote to be sure he got the airplane?

Mr. Cole: He would not allow you to go open sentencing on the airplane. That's true.

Mr. Haeg: He changed the rules, in other words.

Mr. Cole: No he just – that – that was a statement that he made to me and he came back and said that that wasn't gonna happen. We took that in stride. We made another deal. You would've been back in business shortly.

Mr. Haeg: So you would have never stated that Leaders changed the rules?

Mr. Cole: Whether you say he changed the rules, he changed the deal, he told me originally that he would go open sentencing, which I told you not to do. And even to this day, I would tell you not to do it. You would've been convicted and the same thing would've happened to you if you'd go open sentencing. But you wanted it. I tried to get it. He said he would originally and then he said no.

Mr. Haeg: Okay, so you would have never stated that Leaders changed the rules?

Mr. Cole: No, I might've said that.

Mr. Haeg: Okay, so Scot Leaders changed the rules to be sure he got the airplane?

Mr. Cole: You have to ask him.

Mr. Haeg: I want to know whether you stated-

Mr. Cole: I already told you I said that.

Mr. Haeg: Okay. Is it true that with nothing in writing, Leaders could keep changing the plea agreement over and over however he wished to?

Mr. Cole: No, I don't believe that's true.

Mr. Haeg: So if you were asked that and you said you didn't think that that was a concern ...

Mr. Cole: I didn't think it was a concern.

Mr. Haeg: Is it true you told me to give up guiding for the plea agreement?

Mr. Cole: I did, because it was always known from the beginning you were gonna lose your license for at least a year. And why not start it early and get it done? And it made it easier to negotiate with him.

Mr. Haeg: Is it true Leaders agreed to give me credit for this guide year if I gave it up before I was sentenced?

Mr. Cole: If you took the deal, yeah. What happened was David, you didn't take the deal. Then you went and you got convicted, you got into an open sentence, which is what I told you not to do, and then the judge out in [McGrath 00:07:33] didn't give you credit for that time. That's not me. That's because you chose not to take the deal.

Mr. Haeg: If the state testified at my sentencing that they had no idea why I gave up guiding for a year, would that be a true statement from the state?

Mr. Cole: I – I – I was under the understanding that they were going to be good with 6 – with a year - not more than a year. You were gonna lose your license for a year and that you were going to get credit for that. Yes, we were going to make that argument and I felt that they were going to agree to it.

Mr. Haeg: It other words, Scot Leaders knew I was giving up the guide year for a plea agreement?

Mr. Cole: I don't know what Scot Leaders knew.

Mr. Haeg: Did you ever tell Scot Leaders that I was giving up a guide year?

Mr. Cole: I told him that you weren't guiding in the fall of 2004, yes.

Mr. Haeg: Did you tell him why?

Mr. Cole: Yeah, I think so.

Mr. Haeg: Okay. So if he and Trooper [Gibbens 00:08:33 1:28:33] testify at my sentencing, they have no idea why I gave up guiding for a year, that means that they testified falsely?

Mr. Cole: I can't tell you what they testified to or whether they were false or not. I just was-

Mr. Haeg: Well, the court record proves what happened. I'm just saying, when they did so, they knew they were lying to the court.

Mr. Cole: I don't know.

Mr. Haeg: Is it true Leaders would only change the charges back if I also agreed to forfeit the airplane?

Mr. Cole: That - that's my recollection, yeah. And you agreed to it, originally.

Mr. Haeg: Is it true you told me you could not enforce the plea agreement 'cause you could not do anything to piss Leaders off, as you still had to be able to make deals with him after my case was finished?

Mr. Cole: I said that, but what I meant was, what I do is, I deal with prosecutors day in, day out. If they can't trust me and my word, then I can't get good deals going forward. -um- I could always have enforced that, but as I always told you David, why would you do that? Because then you are gonna be in an open sentence situation and you're gonna lose your guide license for five years. And that's what you told me specifically you did not want to happen. So I was trying to make a deal, and I did, that got you your license in 16-

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Mr. Cole: ... months.

Mr. Haeg: So when you said that you couldn't do anything to piss [Leaders 00:00:09 1:30:09] off as you still had to make deals with him after my case was finished, is it true that you ... it was in your best interest and not mine to not enforce the plea agreement?

Mr. Cole: I thought it was in your best interest, David. Again, going into an open sentencing with the statute under ASO 854605 was just suicide for a guide.

Mr. Haeg: I'd like to point out to the court that Cole deposition page 137, Cole admits that it was in his best interest not to enforce the plea agreement.

Mr. Haeg: Is it true that because of what Leaders did concerning my plea agreement, you are going to be more careful in the future when dealing with him?

Mr. Cole: Absolutely. That's true. I didn't ...

Mr. Haeg: Is it true Robinson should have argued at sentencing that my guide license suspension should be ordered retroactive to reflect the time prior to sentencing I was not acting as a guide?

Mr. Cole: I don't know the answer to that. I don't know what his strategy was at your sentencing.

Mr. Haeg: Would you have ever stated this?

Mr. Cole: I don't know. I don't remember it.

Mr. Haeg: Would you have? Is that something that you would now say that Robinson should have tried to get credit for that year?

Mr. Cole: Well, it kind of makes sense to me, yeah.

Mr. Haeg: Okay. Well, we have a report ... You wrote a letter stating that Robinson should have argued at my sentencing that I should get credit to reflect the time that I was not acting as a guide.

Judge Morse: Do you have that letter?

Mr. Haeg: Yes. Do you want it?

Judge Morse: Do you want to show it to him? Seems to me it's important to you and you should probably put it into evidence. Do you want to ask him questions or do you just want to put the letter in?

Mr. Haeg: Well, you said, show him the letter.

Judge Morse: If you're going to ask him questions about it, then show it to him. If you want to just put it in the record, go ahead and put it in the record.

Mr. Haeg: I don't know where it is in here.

Mr. Haeg: Any way I don't need it in there.

Judge Morse: Well, Take your time, take your time, because if you just make a bald statement and you don't support it that's going to hurt your case. If you've got-

Mr. Haeg: Well, I thought he testified that it would make sense that Robinson tried to get-

Judge Morse: You just made a representation that he said something in writing.

Mr. Haeg: Okay. Well, here then.

Judge Morse: So if you want to show it to him, that's fine.

Mr. Haeg: Okay. And look at the front. This is from Marston Cole, right here.

Judge Morse: Could you ... Mr Cole, could you ...

Mr. Haeg: I guess, can you read that into the record?

Judge Morse: Can you just give it ... the date of the letter and to who it was addressed?

Mr. Cole: This is the grievance that Mr. Haeg filed against me with the Bar Association, and I had to write a letter of response to them.

Judge Morse: Ok. So can you give me the date of your response?

Mr. Cole: My response is March 30th 2007.

Judge Morse: And so, Mr. Haeg, what's the section that you want him to read?

Mr. Cole: He's highlighted it, Judge.

Judge Morse: All right.

Mr. Haeg: So you agreed to...

Mr. Cole: Wait a minute. You asked me about filing to get credit for your guiding, right?

Mr. Haeg: Yep.

Mr. Cole: Well, this has to do with ... "I'm surprised Mr Haeg did not file motions to suppress the evidence at trial".

Mr. Haeg: No, that's another part to it, right here.

Judge Morse: Show him the part that you think is pertinent.

Mr. Haeg: I had it and then he flipped by it.

Judge Morse: Take your time and look for it. Let me just ask you a question. How much longer do you think your questioning of Mr. Cole's going to be?

Mr. Haeg: Well, I need to get going here, so ...

Judge Morse: My question to you is, how long do you think it'll be? I'm trying to get people a chance to go to the bathroom. Are you going to be ...

Mr. Haeg: Just a couple of minutes.

Judge Morse: Five more minutes? Okay. Then we'll complete your questioning of him and then we'll take a break.

Judge Morse: Mr. Haeg why don't we suggest this. Why don't we take the break now. You look through the documents to see if you can find-

Mr. Haeg: No. I'd like to get him to finish.

Mr. Cole: He can always bring it later.

Judge Morse: Do you want time to look for the document?

Mr. Haeg: 3-3-07. Right here. That part there. If you can just read it.

Judge Morse: Just wait. Let him look at it.

Mr. Haeg: Okay.

Judge Morse: And then when he's ready I want him to identify the letter, the date of the letter, and to whom it is addressed.

Mr. Cole: This is the same letter, section 3. "Whether the suspension of Mr. Haeg's guide license would be ordered retroactive to reflect the time prior to sentencing that Mr. Haeg was not acting as a guide." And I wrote this as simply a matter that's left to the discretion of the sentencing judge. Certainly Mr. Haeg could have and should have made this argument at sentencing.

Mr. Haeg: And my attorney never did, even though I asked him to. And-

Judge Morse: Ask your next question.

Mr. Haeg: Okay.

Mr. Haeg: Is it true you could not file a motion to suppress my statement because the State had released it to the newspapers?

Mr. Cole: No.

Mr. Haeg: I'd like to point out that Cole's deposition page 26, he states-

Judge Morse: Show it to him.

Mr. Haeg: That he could not file a motion to suppress my statement because-

Judge Morse: Show it to him.

Mr. Haeg: Okay.

Mr. Haeg: And I'd like you to read it out loud. Right here.

Mr. Cole: I don't remember making that statement. That's what it says. What I said was right. A motion to suppress this for trial, when evidence gets presented at trial. I could have filed the motion to suppress your statement at trial, but you fired me, number one.

Mr. Haeg: I'd like you to read this sentence right here.

Mr. Cole: I could not file a motion to suppress your statement because they distributed it to the newspaper. That doesn't make sense to me. Who typed this?

Mr. Haeg: Yeah. They took my statement that I gave up and they issued it to the papers-

Judge Morse: Ask your next question.

Mr. Haeg: Okay.

Mr. Cole: Well, who typed this up? Just curious.

Mr. Haeg: It's by Transcription Support Services, 4782 Mills Drive, Anchorage, Alaska.

Mr. Cole: Okay.

Mr. Haeg: Is it true you have testified under oath you are not my attorney when my statement was published in the Anchorage Daily News?

Mr. Cole: I don't remember testifying to that.

Mr. Haeg: Okay. Well, it's in your – its in the deposition. And in fact Mr. Cole was my attorney when it was released to the Anchorage Daily News, and I have that, can I submit it as evidence?

Judge Morse: You have a document that you want to put into evidence?

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Mr. Haeg: Yes. And it's because Mr. Cole said he was not my attorney.

Judge Morse: So-

Mr. Haeg: When it was-

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Mr. Haeg: ... published, when it fact it was. And so I believe that means he committed perjury in his deposition.

Judge Morse: Help me out here. Did Daily News publish an article?

Mr. Haeg: Huh?

Judge Morse: Did Daily News publish an article about your-

Mr. Haeg: They quoted the state, they said the state charging document said Mr. Haeg came in and said he admitted shooting wolves outside the area and da, da, da, da, da. And so what happened is I made a statement for a plea agreement that then was released to the papers, and it was-

Judge Morse: Slow down.

Mr. Haeg: ... it was published. And Mr. Cole said he was not-

Judge Morse: Wait.

Mr. Haeg: ... not my attorney at the time, when in fact he was.

Judge Morse: Is that what the article said?

Mr. Haeg: Yes.

Judge Morse: The article says that Cole was not the lawyer.

Mr. Haeg: It doesn't say Cole, it says, "Charging documents state Mr. Haeg admitted shooting wolves outside the area."

Judge Morse: Right.

Mr. Haeg: It doesn't say anything about Cole.

Judge Morse: So where's the statement that you think Cole made about him not being your lawyer?

Mr. Haeg: In his deposition, page 20.

Judge Morse: And what was the time period that he was referring to in the deposition?

Mr. Haeg: He stated that he was not my attorney when that was published in the Anchorage Daily News. It was published in Anchorage Daily News, November 10, 2004. And I didn't fire Cole until December of 2004. So anyway-

Judge Morse: So that – well just hang on.

Mr. Haeg: Okay.

Judge Morse: Let me just make sure I understand the context. The article comes out in ... what did you say?

Mr. Haeg: November 9 ... November 10.

Judge Morse: November 10, and sometime in the article ... I'm sorry. Sometime later he makes the statement at the time of the article coming out he was not your lawyer.

Mr. Haeg: Correct.

Judge Morse: And you think that was a false statement because you fired him after the article came out.

Mr. Haeg: Correct.

Judge Morse: When did you fire him?

Mr. Haeg: It was in ... I believe it was like December of ... It was well after the ninth, because that's when the plea agreement fell through was November 9. The article came out in the paper the next day, because they'd filed the new charges, and then it was like another month.

Judge Morse: How did you fire him? Did you write him a letter? Is there some document that says, you know, you're fired?

Mr. Haeg: I have billing statements that I think prove when he was still representing me.

Judge Morse: Did he move to withdraw?

Mr. Haeg: I think I talked to my business attorney, Dale Dolifka, and he said I should fire him and find a new attorney.

Judge Morse: Right, but there's a process for that, and that would know for sure when he did it.

Mr. Haeg: Yeah. Well I have ... I guess Mr. Cole, were you still my attorney on November 10, 2004, the day after we were supposed plea out in McGrath?

Mr. Cole: You keep saying that as November 10. My recollection it was in September, and that we had meetings for the next two months, ultimately I think you fired me in December.

Mr. Haeg: Correct. So you would have still been my attorney in November ... November 9.

Mr. Cole: I would think so, yeah.

Mr. Haeg: Okay. So that's why I believe, and I have the billing statements and a copy of the Anchorage Daily News article here.

Judge Morse: Do you want those to go in the record?

Mr. Haeg: Sure.

Judge Morse: Okay. Mark them as the next exhibits, whatever they are. And staple each package, please. So give her a moment to do that, and then Madam Clerk let us know.

Mr. Haeg: And I'm basically, I think, about done.

Judge Morse: Just wait. Just hang on. So the article is one exhibit?

Clerk: Yes. Number four.

Judge Morse: So the article is number four, and the ...

Clerk: statements...

JUDGE Morse: some sort of statement from a deposition?

Clerk: Number five.

Judge Morse: Is number five. All right, the article is number four, statement number five. Do you have another question?

Mr. Haeg: Is it true that you have testified that my killing the wolves where the state told me to was not a legal defense?

Mr. Cole: We discussed that and I do not think it was a legal defense.

Mr. Haeg: Okay.

Mr. Cole: I think I probably told you that.

Mr. Haeg: Okay. Well, your deposition page 45, "Mr. Cole testified that my killing the wolves where the state told me to was no defense ... or was not a legal defense to the state charging me with killing them where I killed them." Is it true your tactic for defending me was to have me, quote, "Fall on my sword," unquote?

Mr. Cole: Yeah, that's right, because you were a mess. You used to call me up crying from your house, and your mother-in-law called me crying and said you were a wreck and that if we didn't do something you were gonna go crazy. And so, yes, I went out of my way, and I had you fall on your sword so that you could have your bear hunting season and you could get through that, and we could work out a resolution after everything had died down.

Mr. Haeg: Is it true that, quote, "Fall on your sword," unquote, means you commit suicide?

Mr. Cole: It's a term of art. It doesn't mean that. No.

Mr. Haeg: -Um- that's all I have for Mr. Cole.

Judge Morse: Will you have questions?

AAG Peterson: Yes.

Judge Morse: How long will your questions-

AAG Peterson: Long enough that we should take a break.

Judge Morse: All right. So we'll take a break until, let's say, quarter till. [1:45:56]

Clerk: Please rise. Court stands at recess.

pm24is00

Clerk: Please rise. The court will resume its session with the honorable Judge Morse presiding.

Judge Morse: Be seat- Be seated.

Judge Morse: All right, we're back on record. You may proceed with your quest-, with the cross.

AAG Peterson: Your honor, may I approach? I- I brought up this same part of the deposition that uh, Mr. Cole previously read to, I want to read the ... I want him to read the rest of it into the record.

AAG Peterson: This is uh, page 26 of the deposition on February 7 of 2012. Could you read the highlighted part there?

Mr. Cole: Sure. A motion to suppress is for trial, what evidence gets presented at trial. I could have filed a motion to suppress your statement at trial, but you fired me, number one, so I didn't. And you had the opportunity with Mr. Robinson. He, if anybody, was going to file it, because you wanted a trial. It was Mr. Robinson.

AAG Peterson: And does that appear to be a correct statement of practice, even today?

Mr. Cole: Yes sir.

AAG Peterson: Okay. Okay, so ... I wanna make sure that it's clear for the record. Uh, the deal that you worked out for Mr. Haeg, back in 2004, uh ... it was for the final deal. Because there's a lot of talk about a deal from one to three years suspension, and the plane being forfeit. But then, it sounded like the final deal was a one year, just a 16 month suspension ... um, and the plane being forfeit. Is that right?

Mr. Cole: Yes.

AAG Peterson: And when I say the plane, I mean the plane that, that was used in the commission of the offense.

Mr. Cole: The PA-12, yes.

AAG Peterson: The PA-12. And was there an agreement that the fines and jail, time is part of that deal, would not be more than the amount that would trigger an automatic revocation of five years?

Mr. Cole: Yes.

AAG Peterson: Okay. So that was a very favorable deal for those offenses, wasn't it?

Mr. Cole: In my opinion, I thought it was a miracle, quite frankly.

AAG Peterson: And I should clarify it. When I say favorable, I mean favorable to Mr. Haeg.

Mr. Cole: Yes. I ... I saw his position as a guide. I saw the crimes. I saw what I thought was a significantly negative impact on predator control. I, I, foresaw a lot of bad things, and I really (laugh), wanted to help Mr. Haeg. I mean, I know he hates me to this day, but my intention always was, all along, to help him, and to put him in the best position to be back, and be a guide. And so I worked out, what I thought, was a very good deal, that would put him guiding. Um, he would miss essentially, one fall season, and one spring season, and would of been back guiding the following fall.

Judge Morse: Just let me ask one question. Um, I- I know that it- thi- this deal you just discussed would've been a fine and a jail sentence below the triggering. But just to be clear, if it had been above the triggering numbers, wha-wha- what was triggered? W-w, h-h ...

Mr. Cole: The trigger is AS ... and in- in those days, it AS08-54-605. And what it said was, if you received a sentence of more than five days, on any one count, then you lost your privilege to apply for a guide license for five years. And if you received a sentence an-, more than an unsuspended sentence of \$1,000 dollars, then you lost your privilege to apply for five years. So they didn't actually take away your guide license, but what they did is they prevented you from being up for applying and getting your guide license, because you have to apply.

Judge Morse: Th- the bottom line, you I-, you lose your ability to- to uh, guide for five years. Tha- that would be the negative consequence if the threshold [crosstalk 00:04:36]-

Mr. Cole: It was, it was a terrible statute, and it was very onerous in the stat- ... and it was hard to negotiate.

AAG Peterson: And you can't ... so ... this is ... we're delving into a little deeper. Your guide license is what - ... the guide license is- is what allows guides obviously, to guide, but it also, it allows guides to advertise to guide, right?

Mr. Cole: Well, yes. You can't, you can't guide-

AAG Peterson: You can't do anything without it.

Mr. Cole: You can't do anything without it, and that's why we negotiated, even before the hunting season. I negotiated it so David was gonna be able to begin advertising, and taking contracts on July 1st, which was two months before the guide season was supposed to start, that way ... because w-, when I talked to him, it was like, "Well, if you run it through September, he won't be able to get any clients, it'll be another wasted year." So we ... we negotiated it so that his guide license would ...a- commence, he would be able to get his guide license, and use it beginning July 1st 2005, is my recollection.

AAG Peterson: Okay. And ... the five year revocation period, the five year period that he couldn't renew his guide license, he also wouldn't be able to advertise during that time.

Mr. Cole: Wouldn't be able to-

AAG Peterson: So any business that he built up, is basically done at that point right?

Mr. Cole: Right. Right.

AAG Peterson: And the deal that you worked out for him, had him back to advertising within w-, a few months of the time that the deal would've been accepted? From September until July of the following year?

Mr. Cole: Yep.

AAG Peterson: Okay. Okay.

Mr. Cole: And I will say it, it had one other advantage. And that is, if you negotiate a suspension with the criminal case; in other words, no matter what it is, if you negotiate it with the state, then the Big Game Commercial Services Board can't come back in an administrative action, and take away your guide license.

AAG Peterson: Well, that's another part to this that hasn't really been brought up. So even if, by some ... you know, e-e-, well, let me just ask you, was there any possibility, given the types of sentences that are [meeted 00:07:04] out in these kinds of offenses, in a same-day airborne type of predator control case, that he was getting less than a \$1,000 dollar fine, or five days in jail? [7:12]

Mr. Cole: I- I had a case, and the reason I say-, I-I- I hesitated earlier, but it was an assistant guide who was maybe the nicest guy you'd ever meet. I had 50 letters. And what he did is, he was out with a client, and his wife was back at camp, and the guy shot a s- very small bear. And the gui-, the assistant guide made a mistake, and he- they tagged, they tagged it as a ... as being shot by the wife.

Mr. Cole: And then they went out, and the troopers came in and ended up finding that that was false. So ... but he, he had 30 years of a stellar ... and we went in open sentencing, and Judge [Teresee 00:08:05] just looked at us, and said, "Your guy's a great guy, but I give \$2,500 dollar fines routinely, every day on DUIs, on, you know, everything. Your guy's getting \$2,500 dollar fine." And he lost his guide license for five years, even though ... you know, we- we had a very good, sympathetic person, who was ... you know, a good person.

Mr. Cole: And I'm not saying David wasn't either, but the fact is, a \$1,000 dollar fine in those days, was nothing on fish and game things. And ... and I had represented people, many people, guides, that had lost their licenses for worse things. Um, and some not so worse. So I, I knew what the risk was going into this.

AAG Peterson: So having establish that, even ... even if by some happenstance, he didn't get a fine in excess of a \$1,000 dollars, or jail time in excess of uh, five days. The Big Game Commercial Services Board still could have looked at what he did, and revoked his guide license, right?

Mr. Cole: Absolutely.

AAG Peterson: But, what you just said was, and I believe the statute is still uh, it still says this to this day, that if the court imposes any suspension, the guide board is bound by that suspension.

Mr. Cole: That's correct.

AAG Peterson: They can't impose a separate suspension, so-

Mr. Cole: That's why we negotiate all these n-, and we always have negotiate 'em at the same time.

Judge Morse: What's the name of that? Big Game Guide Board?

AAG Peterson: The Big Game Commercial Services Board.

AAG Peterson: And so, did that ... knowing that, uh, even ... regardless of what the sentence was, that then, the guide board would, almost certainly take action. Is that your view?

Mr. Cole: Well-

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Mr. Cole: I, I will tell you, it was in the back of my mind, but frankly he was going to lose. He was gonna to get more than a thousand dollar fine for killing six wolves out of the area. He was going to lose his guide license for five years. If he had walked in there, pled guilty, they would have imposed more than a thousand dollar fine. It just ... I, I mean, yeah, hypothetically you're right, but it was going to happen if we didn't do something.

AAG Peterson: Right. Okay, so ... uh, there was talk about the credit received for the amount of time that he'd voluntarily given up his guide license. Um, is that something standard that you work out in guiding ... defending guiding ... guiding cases?

Mr. Cole: So I've been thinking about that, but ... but, yes, it is, but ... So it was always understood that he was going to lose his guide license for at least a year, and so to me it made sense to start early so ... And that's why, um, even if we had done the original sentencing, one to three, he was ... I, I had ... I was comfortable in arguing, hey, he's already taken off this year, and you should impose it, and I didn't believe Scot [Leaders 00:01:32] was going to have any problem with that at the time. When we actually did the deal, we ... we said, "It's going to be 16 months. He's going to be able to come back July 1." So, um ... Yes?

AAG Peterson: So ... so that ... Actually, that amount of time that he'd already given up was part of the deal that you worked out that Mr. [Haeg 00:01:55] rejected. Is that right?

Mr. Cole: Ultimately, yes. [12;01]

AAG Peterson: All right. And, uh, your February 7th, 2012 deposition has come up a couple times. You were asked that question why he didn't get credit for that year, or ... well, that, I guess, several months at that point. -Um- and do you remember what your answer was?

Mr. Cole: I, I, I ... No, I don't. I just ... I can only say I don't know why ... I don't know whether they argued it or anything. I was out of the picture at that point.

AAG Peterson: Right. No, I'm ... okay ... May I approach?

Judge Morse: Yes.

AAG Peterson: This page 11 of that same deposition ... And the question that Mr. Haeg posed is how come I never got credit for that deal? Refresh your recollection.

Mr. Cole: Because you didn't take the deal, David. It's not as if you'd ... It's not ... If you'd taken the deal, you would have gotten credit. You decided not to take the deal.

AAG Peterson: So-

Mr. Cole: But even there, he still had the opportunity to argue that in front of the judge. I mean, he could have argued that. The judge had the authority to make it, uh ... give him credit for that. But ... But really, again, he had ... He was going to get five years.

AAG Peterson: Because of the fine?

Mr. Cole: Because he got convicted and the fines and everything else.

AAG Peterson: Yeah, and ... really, it would have been largely irrelevant at that point because the fines were such that triggered the five year period in which he couldn't reapply for guide license.

Mr. Cole: Right.

AAG Peterson: -Um- and that would ... When I say the fines, I mean the fines were imposed at sentence and post trial.

Mr. Cole: Right.

AAG Peterson: Right. Okay, so-

Judge Morse: Well is there something in the statute that precludes him from, uh ... Yes, he gets a five year suspension, but is there anything that precludes the judge-

AAG Peterson: Yes.

Judge Morse: ... starting it pre ... prior to the conviction date?

AAG Peterson: Yeah, I believe the statute ... Well, Mr. [Cole 00:04:09], does the statute read that you can't apply for a guide license for five years?

Mr. Cole: Yes.

AAG Peterson: Okay. You said-

Judge Morse: And so the-

AAG Peterson: ... because he rejected-

Mr. Cole: Wait.

Judge Morse: What I'm understanding is the practice ... at least in the - in the fish and game community, legal community, the interpretation of that statute is that it is a prospective prohibition?

Mr. Cole: No. We could negotiate it because we were not going to be under AS08-

Judge Morse: No, but, but if there was a ... If you go to trial, you get sentenced. You roll the dice it's open sentencing, and you get the ...

Mr. Cole: I think you've got to follow the statute.

Judge Morse: Right, and you ... But you think that everybody agrees that the statute triggers the five years at conviction or at sentencing. You can't get the ... You can't go backwards like you were-

Mr. Cole: Right.

Judge Morse: ... like you could have done in a negotiation.

Mr. Cole: I think that's right.

Judge Morse: Okay.

AAG Peterson: And the current statute is a little different. It changed in the mid, late 2000's. Is that right?

Mr. Cole: Yeah.

AAG Peterson: To a graduated system where the amount of the fine determines the number of months in which you can't reapply for a guide license?

Mr. Cole: Right. \$2,500 fine, five days is 24 months. Then \$3,500 is 36, and \$5,000 it goes to five years ... something like that.

AAG Peterson: Now when you said at the deposition, "Because you didn't take the deal," specifically, what actions did Mr. Haeg undertake that, you know, manifested that decision where you understood that to be his decision?

Mr. Cole: He fired me ... and said he wanted a trial.

AAG Peterson: Now there was some talk about Mr. Leader's charging document. Um, was ... When the ... When the evidence first came out, I think you said it was in April that – that the troopers served the search warrants and had the evidence that Mr. Haeg committed these offenses.

Mr. Cole: Yeah.

AAG Peterson: Or it as in the spring of-

Mr. Cole: It was in the spring. It was in April of 2004.

AAG Peterson: And they didn't file charges immediately, the Attorney General's office.

Mr. Cole: No.

AAG Peterson: Okay, were you involved in any discussions trying to uh persuade them to not file charges immediately?

Mr. Cole: That was the whole idea. That's why we reached that agreement. He got to do his bear hunts. He agreed to come in and give a statement, and then we were gonna exchange discovery without filing of a document. We were gonna negotiate it, and I really wanted time to go by before -um- we sat down because it was kind of an emotional thing. Um, I- I - I will say that I wish Scot Leaders had been a little bit, uh, more timely because David wanted to get it taken care of. I wanted to get it taken care of, and, you know, we went for a number of months where

we didn't hear anything. But ultimately it started up again in August, and I thought we, we had it worked out.

AAG Peterson: And the fact that Mr. Leaders didn't file the charges right away meant that, you know, he wouldn't be able to argue for bale conditions and Mr. Haeg not being in the field, though. Is that right?

Mr. Cole: Right. That was all part of it.

AAG Peterson: Um ... And so was there ever a deal that would have allowed Mr. Haeg to plead open with the one to three year guide license suspension and the plane not be forfeit?

Mr. Cole: No. I don't believe so because that's why David came to me and said, "I want the opportunity to get that plane back." The only way that could happen was through an open sentence deal, which I repeatedly told him not to do.

AAG Peterson: Okay. When did he come to you with that counter offer term in relation to when the sentencing was scheduled to take place?

Mr. Cole: I – I – I ... Look, it's – it's been 17 years, but I believe it was in two to three weeks of September when the arraignment ended up happening. I think most of this happened within two to three weeks to four weeks, middle to late August, September.

AAG Peterson: And Mr. ... Was it after that counter offer was made to exchange the other plane, the Super Cub, I think you said, that Mr. Leaders filed the amended charging document?

Mr. Cole: No.

AAG Peterson: Okay, how ... What was the timeline?

Mr. Cole: No, that happened in, in November. That happened after we were ... Okay, so the first deal that we worked out was one to three years and forfeiture of the plane. And I think that happened in like August. The next thing was David was not happy with losing the plane, and he wanted the opportunity ... And I kept telling him, "David, the judge is going to forfeit this plane. You shot wolves illegally out of it. You use ... That's the instrument that you used to engage in illegal conduct. They're going to forfeit it." And he was insistent, and he asked me about that ... Or I suggested the only way you're going to get that is if it's in an ... [20:01]

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Mr. Cole: Open sentence and he asked me about that, and that's what I asked Scot Leaders. Originally he said yes, um, -um- and then shortly it b ... but ... I don't remember things quite the way David does on this. I thought I told David before the sentencing, or before the change of plea, that they weren't going to agree to an open sentencing. Um ... And all the witnesses were there because we were gonna argue the one to three years.

Mr. Cole: Um ... Then ... Leaders called me up and said "We're not gonna do that". I thought I told that to David. David was not happy. He was still not happy when we were meeting in September ... The arraignment was the next day. And then I called up Leaders and we made a new deal.

AAG Peterson: A, a deal that was even more favorable to Mr. Haeg.

Mr. Cole: It was even more favorable. That was the deal that we've talked about, which was 16 months, but he had to forfeit his plane. But, um ... We worked out all the terms ... Uh ... Mr. Leaders filed the amended charge, and if you look at it, what it does is it just cites a different big game guide violation, but the amended charge made it a minimum ... uh ... three years suspension.

AAG Peterson: Was that for same-day airborne?

Mr. Cole: Yeah.

AAG Peterson: That's the ...

Mr. Cole: And so, um ... I, that's just my recollection. And then, we did the change, we did the hearing, we were gonna set it on for a change of plea, we just pled not guilty, we were gonna set it on for a change of plea, and then ... David wasn't happy with the situation. I kept trying to work on it ... Then later in October, November -

Judge Morse: Just, just, can we just stop there, because I'm a little bit confused about that. The second deal, which, which was the sixteen-month suspension retroactive to, I mean, that would begin with the date of the killing -

Mr. Cole: Right.

Judge Morse: - And forfeit the plane, and then you said he filed this amended charge that referred to a statute that required a three year suspension. So ... Had, had, do you believe that Leaders reneged on a deal, or had Haeg rejected the deal? I mean was that deal killed?

Mr. Cole: The deal being ...?

Judge Morse: The sixteen month - [22:44]

Mr. Cole: Okay.

Judge Morse: - With the plane forfeit?

Mr. Cole: He never, he, he did not withdraw that deal, the sixteen month.

Judge Morse: Right.

Mr. Cole: What he withdrew was open sentence.

Judge Morse: Right, but he filed this charge, you said, that, that referred to a three year suspension.

Mr. Cole: He filed that I think so that we wouldn't come in and plead guilty right there, and then be subject to between one and ... or, or just plead open sentence. Because he, he told me he didn't want to get into a dispute over the airplane.

Judge Morse: So he was blocking the defendant just walking in and say "Guilty, boom".

Mr. Cole: Right.

Judge Morse: And, and ...

Mr. Cole: And now we've gotta go open sentence on everything.

Judge Morse: Right, and so ... But. Is it your understanding that despite his filing that, the sixteen month offer was still valid.

Mr. Cole: Oh yeah, we were just gonna amend the charge. Because, I think David even asked me about that. "Why aren't we amending the charge?" It, it might be on the tape, I can't remember. It was right at the end. And I just said "We'll work it out. It's gonna get done." Because I, I understood we had a deal. That night, everybody was happy. We didn't go to McGrath because we, we had worked it out. He was gonna get his, he was gonna get his guide license back in sixteen months, he was very happy with that. He was gonna be back in business. It took away a lot of the ... uncertainty about going in front of a judge.

Judge Morse: Then, and then just re ... Sorry, I'm being so obtuse. What changed after you thought you'd, you know, you'd cut the deal? I mean what -

Mr. Cole: It really had to do with the airplane.

Judge Morse: That's when he said "I wanna substitute the airplane".

Mr. Cole: He, he didn't want to forfeit the plane.

Judge Morse: At all.

Mr. Cole: At, at ...

AAG Peterson: He really didn't want to forfeit the PA-12.

Mr. Cole: The PA-12. He was willing, he was very happy. You know (laughs) It's like everybody, right? I, I got him the license ... suspension down to sixteen months, and he was, you know, ecstatic at my recollection.

Mr. Cole: But what was bothering him is he couldn't get his plane back. And originally we agreed to it, but ... Or that, that's my recollection. We had a deal. And then ... Once he got the license revocation, he turned to "Well, I wanna get my plane back". And that's what started it. And then there was the doubt about ... you know, filing the motions, the deal we had, why can't we do that ... And in my mind, I was like "David, we got a deal. Why, why do you wanna do all these things? If I, if I

file the motions to get this deal back, and you lose, you're getting no deals then. Now we're gonna be stuck in open sentencing, if you wanted, if you wanna plead. W-w, w-, we'll get nothing. Why do you wanna do that?"

Judge Morse:

You're next.

AAG Peterson

So the original charges that were filed, were they the result of a pre-charge negotiation? Because he wasn't originally charged with guiding, being a guide, and committing a same-day airborne, he was charge with being a guide and giving a wildlife offense, which has a lower minimum sentence. [25:48]

Mr. Cole:

If you look at it, I'm pretty sure that this, the penalties at that time for that charge, the original one, was one to three.

AAG Peterson:

But -

Mr. Cole:

And we were gonna argue. One to three. I said, you know, I was trying to get him to come down on the three, but he was gonna argue three, and I was gonna argue one. And ... And I was like "Well, we've already got through the fall of 2004, we'll get through just the spring now, and, you know, if I, if I'm right ..." I was a little worried he'd get two, you know how it is. You ... You argue one and he argues, the state argues three, and the judge cuts it in the middle and ... I was a little worried about that, but ... It was worth the risk, because we had mitigated. I was worried he was gonna get five years from the beginning. So now we're down to a good chance of cutting that in at least in half.

AAG Pederson:

And then you ultimately did get that deal.

Mr. Cole:

Sixteen months.

AAG Pederson:

For sixteen months. After that, Mr. Haeg came back with the counter-offer, to swap the other plane and forfeit the Cub.

Mr. Cole:

I don't know how you characterize it, but he wanted me to inquire about swapping -

AAG Pederson:

Oh.

Mr. Cole:

- the Cub.

AAG Pederson:

That's a different term, for rule 11, isn't it?

Mr. Cole:

Yep. I don't .. It, there was a deal on the table. Nobody changed their plea. I thought -

AAG Pederson:

Right.

Mr. Cole:

- David agreed to it. I thought we were good. But, it didn't get closed. I mean, I never set it on for a change of plea, because we kept working. He kept going on about the plane. And, "What about the plane? And I wanna go open sentence on the plane." And so we were ...

AAG Pederson: And the state wouldn't agree to that, right?

Mr. Cole: The state wasn't agreeing to that, so.

AAG Peterson: Okay. So there was no meeting of the minds on that question.

Mr. Cole: No.

AAG Peterson: And there was -

Mr. Cole: And so then he was asking -

AAG Peterson: I call it a counterproposal, you can call it something else, but he came back with a different term and said "I wanna subs, I wanna, uh, forfeit this other plane", right?

Mr. Cole: Yep.

AAG Peterson: Okay. And Mr. Leaders didn't agree to that. And then you were fired. And it went on from there, is that right?

Mr. Cole: That's correct.

AAG Peterson: Okay. Um Now ... A guide that commits a wildlife offense ... fulfills the elements of a guide committing a wildlife offense under title eight, for OA54-720, right?

Mr. Cole: I think so. [28:28]

AAG Peterson: Um ... I mean the statute says "If a guide commits a wildlife offense, here, here's the penalty". And if any wildlife offense, state or federal, even if it's just an ordinance, is that right?

Mr. Cole: That's what I was always afraid of, yup.

AAG Peterson: And killing wolves, however, isn't a violation. I mean, it could be, but, killing wolves from an airplane is same-day airborne, killing big game, right?

Mr. Cole: Yes.

AAG Peterson: And that's the same classification as the guide crime that he was ultimately convicted of, a class-A misdemeanor.

Mr. Cole: Yep.

AAG Peterson: If it's done negligently.

Mr. Cole: Right.

Mr. Cole: Yep.

AAG Peterson: Okay. At, did you ever tell Mr. Haeg that if he talked to the trooper or the prosecutor, that he could never be prosecuted for anything that he talked to them about?

Mr. Cole: No.

AAG Peterson: And, I think you already said this, but the, my last question is, I just wanna make sure it's clear ... You believe that Mr. Leaders filed the guide same-day airborne charges so Mr. Haeg didn't just come in and plead as-charged, and leave it completely up to the court, in – in an effort to get his plane back, is that right?

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Mr. Cole: Yes.

AAG Peterson: So that charge is available to the state, but because of your pre-ch ... pre-charging negotiations, it was initially charged.

Mr. Cole: Right.

AAG Peterson: Okay. Nothing further.

Judge Morse: Just one other thing- ... You- you just answered that uh, you never told Mr. Haeg that he had trans-, that he could never be prosecuted be-, eh-eh- ... Let me back up. You never told him that, if you give this statement to the state very early on, you could never be prosecuted for anything. You never told him that?

Mr. Cole: I don't - no.

Judge Morse: Okay.

Mr. Cole: I- I wouldn't have said that.

Judge Morse: And um, did you tell him something about, if you give the statement, the statement itself can't be used?

Mr. Cole: You know, it didn't really come up judge. I will tell you, at the time, we were in damage control, and the only way that I could see David getting out of this, is if he cooperated, and we made a deal. And so, I don't recall ever talking to him, or it coming up. I do know that I wrote a letter saying he had king for a day.

Judge Morse: Your hope was that, I mea-, th-th there wasn't any sort of official use immunity agreement, but you thought that cooperation would further your subsequent negotiations.

Mr. Cole: It would further keeping him in business. It would further charges not being filed at the time. It would further a resolution favorable, and a negotiation ... which ultimately, we achieved.

Judge Morse: And uh, th-th, n- not merely guide theoretically, but to um, fulfill his commitments to the six, seven, eight, clients who were already scheduled-?

Mr. Cole: Which was a big deal at the time. It was huge.

Judge Morse: To him?

Mr. Cole: To him. And his wife. They had taken in 20 ... approximately \$20,000 dollars for each person. And as a guide, you go and you spend that money getting everything ready, or you spend a lot of it. So giving it back, I mean, this is ... I didn't know this for sure, but I knew. This is what it was. It was a big deal.

Judge Morse: Okay. Um, Mr. Haeg, do you have any additional questions for-

Mr. Haeg: Nope.

Judge Morse: Nope? All right. He may be excused?

Mr. Haeg: Yep.

Judge Morse: All right. Thank you Mr. Cole. Make sure you bring whatever you ... you've got a document, is that ... that's just your notes? Okay, that's fine.

Mr. Cole: This is what he gave me. I think that's what-

Judge Morse: Well, give it back to him then.

Mr. Cole: Yeah, okay. [inaudible 00:02:53 32:53].

Judge Morse: Mr. Haeg, your next witness.

Mr. Haeg: Um, Chuck Robinson, [inaudible 00:03:02] I don't know where he's at.

Judge Morse: I don't know where he is, so we'll have to ... is he outside? He said Mr. Robinson's outside?

Judge Morse: Mr. Robinson, if you'd come on up to the witness stand please.

Mr. Robinson: Hello David.

Mr. Haeg: Hello.

Judge Morse: How you doing?

Clerk: And sir, if you'd remain standing, and raise your right hand. Do you solemnly swear from the testimony you'll give now, before this court, will be the truth, the whole truth, and nothing but the truth.

Mr. Robinson: I affirm.

Clerk: Thank you. You may be seated. And for the record, please state your name, spelling both, first and last name.

Mr. Robinson: Arthur, A-R-T-H-U-R. Robinson, R-O-B-I-N-S-O-N.

Clerk: Thank you.

Judge Morse: Mr. Haeg, let me uh, make a disclosure. Um, in I think '81 and '82, I lived in Kenai, as a - and worked as a public defender. Mr. Robinson was an attorney back then, there. And I don't know if I ever worked on a case with him, with a co-defendant or anything like that, but, you know, he was ... he was a criminal defense lawyer, I was a criminal defense lawyer. We knew each other. I never ... I don't think I ever went to his home. I didn't socialize with him other than maybe, I don't know, a beer after work, maybe occasionally, but, you know ... we were acquaintances. Um, and then, in 1990, I believe, um, then Governor, Cooper appointed Mr. Robinson to the State Reinforcement Board.

Judge Morse: At the time, the governor appointed the five members of the Reinforcement Board. Then there was an executive ... and Mr. Robinson was one of the five. Then there was an executive director, um, uh, a gentleman by the name of Mike Bradner, and then I was hired by the Department of Law, I- uh, at the time, was a public defender, I was hired by the Department of Law as an assistant Attorney General, to give legal advice to the reinforcement board. Um, that probably lasted a little- little under a year.

Judge Morse: Um, before the reinforcement census work could actually be done, we were doing preparation for it, could actually be done, Governor Hickel was voted in, and Governor Hickel um, replaced all the members of the Reinforcement Board. Uh, took me off of that assignment. I was uninterested in doing what they offered me in the Department of Law. I left the Department of Law. So for that year, um, I would ... okay, let me- let me a- add one thing. The board went on trips. They would have a hearing in Anchorage, they'd have hearing in Fairbanks, they had a hearing in ... Barrow, Nome, God, I mean a who- whole bunch of places. And I would travel with the board.

Judge Morse: And usually at the beginning of a hearing, I would give some summary of the ... Voting Rights Act, the um, general law of reinforcement to the members of the public. And Mr. Robinson attended, I don't know, if not all of them, most of those hearings. And I ... would interact with him. So ... and that-

Mr. Haeg: Can I disqualify you for that then?

Judge Morse: And that ended in ... Can you what?

Mr. Haeg: Can I disqualify you for that then?

Judge Morse: You can make that motion if you wish?

Mr. Haeg: I'd like to.

Judge Morse: And the motion's denied.

Mr. Haeg: Okay.

Judge Morse: So ... and-and- and then let me just f-f- file ... I think, I- I left Kenai in ... I was only there for a little less, I-, like 11 months. So I've been living in Anchorage since '82, '83. And never [inaudible 00:07:39] on another case with Mr. Robinson; with the exception of my work on the reinforcement board.

Mr. Haeg: Well, alls I know, is in this case, I found out that attorneys, and lawyers, and judges, have a very tight-knit community. And they do almost anything they have to, to protect each other. And I mean, I ... there've been sworn testimony...

Judge Morse: You-you- you can make those accusations, but if you're talking about me, and if you're talking about my relationship with Mr. Robinson, I've explained my relationship.

Mr. Haeg: Okay, well I understand, and I'm just saying that I don't want-

Judge Morse: You're suspicious.

Mr. Haeg: Any- any ... you know, any connection means. So anyway, you've denied it. Can I get going, or ...

Judge Morse: I would love to have you get going.

Mr. Haeg: Okay. Mr. Robinson, did you represent me for a trial and appeal, from around December 10th 2004, to about April of 2006?

Mr. Robinson: I did represent you. I'm not sure of the exact dates. It's been so long.

Mr. Haeg: Well, we could look at your billing ... we could ... if your billing statements kinda show that, you'd agree to it?

Judge Morse: Do you have some billing records he could look at?

Mr. Haeg: Uh ...

Mr. Robinson: Yeah, because I don't have any of your files there. I destroyed all my files after seven years of retiring from the practice of law. And that would have been as of January 2018.

Mr. Haeg: Well ... I don't-

Mr. Robinson: I mean, I'm not de-, I- I said I did represent you-

Mr. Haeg: Okay.

Mr. Robinson: It's just-

Mr. Haeg: Okay, that's good enough.

Mr. Robinson: The dates are not ...

Mr. Haeg: Um, did you file a pre-trial discovery request while you represented me?

Mr. Robinson: Yeah.

Mr. Haeg: Was it violated?

Mr. Robinson: In what way?

Mr. Haeg: Did you ask for anything that would be used against me at trial, to be given a copy of it to you before trial?

Mr. Robinson: I believe Mr. Haeg, what I did in your case, as I did in all of my criminal cases, is that I sent a standard broad request to the District Attorney's office, to reveal to me, any and all evidence that it had in its possession uh, regarding the charges against you. So, I sent them a letter-

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Mr. Robinson: Yeah.

Mr. Haeg: Okay. Um, is it true that they used a map against me at trial that we, you and I, never got a copy of before trial?

Mr. Robinson: I learned that later.

Mr. Haeg: Okay but that, in fact, did happen? That you made a request for this map, which was you in ...and I don't know. Do you want to look at it?

Mr. Robinson: It may help me to remember something I don't know-

Mr. Haeg: Okay, can I ... your honor can I-

Judge Morse: Yes.

Mr. Haeg: ... go up and show him this map?

Judge Morse: So, if I understand your testimony. Yes, they used a map and you learned later something about it?

Mr. Haeg: Yes.

Judge Morse: Yeah, okay. Go ahead, go ahead.

Mr. Haeg: And this is a copy of a map used against me at trial. Did we get this, something like this, before trial, you and I?

Mr. Robinson: I remember we got a map. It's gonna be very difficult for me to tell you all the details about the map. But as what I understood the map to represent, was an area in which the state was claiming you had taken wolves without permission. That's what I thought the map was supposed to represent.

Mr. Haeg: Okay, but the map that they used against us at trial. You're saying that they gave us a copy of that map before trial?

Mr. Robinson: No, what I'm saying is that the purpose of requesting evidence would include any geographical evidence, like a map. In which they were using to claim where the alleged crime took place.

Mr. Haeg: Okay and, and so your testimony is that you at, made that request but they never gave you something like this?

Mr. Robinson: Not that I recall Mr. [Haeg 00:01:46 41:48].

Mr. Haeg: Okay, and do you remember that they did use this against me at trial? And if you noticed it says, Prosecution Exhibit Number 25?

Mr. Robinson: I do remember that at trial.

Mr. Haeg: Okay.

Mr. Robinson: There was an exhibit from the state which was a map. Which was used

Mr. Haeg: Okay...

Mr. Robinson: ...from their part to prove, or try to prove, that you had taken wolves in a certain area.

Mr. Haeg: Yeah. Um,

Judge Morse: wh-what ... does that have a state trial exhibit number on it? What's-

Mr. Haeg: Yes, state trial exhibit number 25. And so um-

Judge Morse: Hey ask ...

Mr. Haeg: ... did you ...

Judge Morse: Go ahead, go ahead I mean, ask the next question.
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Mr. Haeg: So, is it true that yes, a – a discovery request was violated because you didn't get a copy of this prior to trial as your discovery request, requested?

Mr. Robinson: Well I'm not sure that I, you know, if my memory serves me well there were several smaller maps that were provided by the state or at least some. In other words some area where this alleged crime took place. That particular map that you're using to ask me a question about. All I can say is that they brought a map to court.

Mr. Haeg: Yep, a bigger map a far bigger map. Than anything you-

Mr. Robinson: A-a way bigger map.

Mr. Haeg: Yeah.

Mr. Robinson: Yeah, a way bigger map than-

Mr. Haeg: And this, your honor, isn't actually full size-

Judge Morse: Ask him questions.

Mr. Haeg: ... it's actually even bigger than this. And we never got a cop... and, it's true that we never got a copy.

Judge Morse: Well just hang on. Just, just, just slow down, slow down, slow down. You've got state exhibit 25?

Mr. Haeg: Yes.

Judge Morse: Was state exhibit 25 offered and used at trial?

Mr. Haeg: Yes.

Judge Morse: And, yet you're telling me that there is a different map that was used at trial?

Mr. Haeg: No. This is a copy of the map used against me at trial.

Judge Morse: Okay-

Mr. Haeg: We finally got this eight years-

Judge Morse: Okay hang on but, but-

Mr. Haeg: -after trial then we should have got it before.

Judge Morse: The thing you have in your hand?

Mr. Haeg: Huh?

Judge Morse: The thing you have in your hand was not the actual exhibit used at trial? I-it's a, it's a copy of it?

Mr. Haeg: Yes.

Judge Morse: Okay and the exhibit used at trial, you're telling me, was not provided to the defense in advance of trial?

Mr. Haeg: Correct.

Judge Morse: Okay. Is that your recollection sir?

Mr. Robinson: My recollection, you honor is this, we were provided discovery. We got to court a map was introduced at court alleging, where the alleged crime took place. I didn't know, at that time, that what was introduced in court was different than some other map that they produced later on. That's the point I make.

Mr. Haeg: Okay. And is it true that uh ... Is it also true that there was a tape recording of Prosecutor [Leaders 00:04:46 44:16] Trooper Gibbens and state witness Zellers that was not provided. And that, that, that tape recording captured those people discussing how no wolves were killed in my guide, unit ... game management unit 19C guide area and how their map had been falsified to prove this?

Mr. Robinson: I-I don't recall hearing a-a-any audiotape where anybody admitted to falsifying anything. Um, the tape that I heard is, best as my memory can serve me, were interviews of uh, Mr. Zeller uh, about what had happened between you and him when you guys were trapping wolves. Um, I don't remember Mr. Haeg hearing either Mr. Leaders or the troopers say we, we are lying or witnesses false information, I don't recall.

Mr. Haeg: Okay, um fairly recently did we have a-

Judge Morse: Hey, um Mr. Haeg, just Mr. Haeg I-I, let me interrupt you. I-I'm I don't wanna leave the map question quite yet because I still not sure I understand the point. Um, an-and let me summarize what I think you're trying to get across and, and if I'm mis-stating it tell me 'cause I don't want to be confused. Um, there's no question that a m, a map called exhibit 25 was introduced at trial against you. Right there? And what you have in front of you is a, a smaller copy of the actual trial exhibit. Okay, is it your right, am I, I'm right so far?

Mr. Haeg: Correct.

Judge Morse: Where is the actual trial exhibit 25? Was that-

Mr. Haeg: I believe the state still has it.

Judge Morse: That was ... Was that a part of their record in front of the Court of Appeals?

Mr. Haeg: Correct. Yep.

Judge Morse: So, in theory it still exists as far as you know?

Mr. Haeg: Yeah, at the-

Judge Morse: Just-

Mr. Haeg: ... oral arguments to the court of appeals the state brought in the actual map and was used on an easel.

Judge Morse: Okay. So it, at least at that point, it existed?

Mr. Haeg: Yes.

Judge Morse: All right. Now-

Mr. Haeg: And-

Judge Morse: Now just wait, gotta at least follow up. Your point about the disc ... the alleged discovery violation is that you're saying that you hadn't seen this giant, larger thing until trial itself?

Mr. Haeg: Correct.

Judge Morse: Okay. Was there a smaller version of the trial exhibit provided to you in advance of trial?

Mr. Haeg: No, not to Mr. Robinson either. No, no map that was a aeronautical chart was provided.

Judge Morse: Is that accurate as per your recollection Mr. Robinson?

Mr. Robinson: How far back we going, 2004 cause that?

Judge Morse: Right, no I-I mean I appreciate it but, I mean, do you remember anything about, you know, like being at trial and saying "Wh-where'd this thing come from?"

Mr. Robinson: I never ... I ... what I don't, what I don't recall is, is I don't recall, during the receipt of discovery from the state it was in-discrepancy between any maps that I received in discovery and what they produced at trial. I didn't know there was a different map.

Judge Morse: Okay. So, so I mean we're having to s... I mean we're having to ... No one's established to me that there's actually a different, changed map yet but you don't ... Whatev-whatever you saw at trial was consistent with what you would have been given in advance, even though the size of the thing was-

Mr. Robinson: Right. I mean when I s ... What-what was presented at trial I had no reason to believe that it was some different depiction than what was in exhibit 25.

Judge Morse: Okay.

Mr. Haeg: OK and, and-

Judge Morse: But did you think-

Mr. Haeg: I'm not an attorney-

Judge Morse: Just wait, one other thing-

Mr. Haeg: Anyway-

Judge Morse: When you get this giant map at trial, the larger version of 25, did you ... Do you recall thinking "Geeze, I've never seen this thing before."?

Mr. Robinson: No, I mean I didn't know there was anything different not to see is what I'm saying. In other words-

Judge Morse: But you, you mean you'd gotten in discovery something that you thought was what they were using at trial?

Mr. Robinson: Correct.

Judge Morse: Okay. All right.

Mr. Haeg: Well, there was nothing in discovery like this. At least, and I got-

Judge Morse: Well, he just said there was.

Mr. Haeg: Well, I'm telling you that we got his file and there was nothing like this ever and the reason why I'm so adamant about this is when I finally-

Judge Morse: Ask him questions.

Mr. Haeg: Okay. Is it true that you ... I've shown you this map and shown you a copy of the boundaries that are on this compared to the official uh, fish and game boundaries and that this map is in fact false. And I believe corruptly altered the game management unit boundaries to prove the wolves were killed in my guide area, when in fact they weren't. If you.. Have you, have we discussed this and you admitted that this map was false?

Mr. Robinson: We discussed it, you alleged it was false and my response was that if it was false if I had known about it at the time of trial we'd have brought it up as an issue, that's what we discussed.

Mr. Haeg: Okay and did I show you that, in fact, the map was false?

Mr. Robinson: You showed me what, you say, are differences between what was shown and what was hidden.

Mr. Haeg: Okay. And in fact was that ...

Mr. Haeg: Was ... what was falsified was that ... did the falsification make it seem ... corruptly make it seem like the wolves were killed in my guide area?

Mr. Robinson: Well, I don't know what you mean by corruptly? But-

Mr. Haeg: Wrongly, erroneously.

Mr. Robinson: Okay. Well, it turned that in fact the wolves that the state said were taken in a certain area were taken in another area.

Mr. Haeg: Yep, and this map helped the state prove that?

Mr. Robinson: That map or the one ... or exhibit 25?

Mr. Haeg: Exhibit 25.

Mr. Robinson: Exhibit 25 was used for the purpose of trying to show where the wolves were taken?

Mr. Haeg: Correct, and this is a copy of exhibit 25, and I showed you a copy of this and it in fact is false ... so in other words if this-

Judge Morse: Just wait.

Mr. Haeg: ... one's false because it's a copy that I ... this is a copy I got from the state. The state's map is false also. That's, I guess, what I'm getting at.

Judge Morse: Well, wait a minute. If I'm understanding what Mr. Robinson just said, and correct me if I'm wrong. Is that, uh, the state used trial exhibit 25 at trial, um, to prove the location of the criminal taking ... alleged criminal taking? And at no time during trial did Mr. Robinson say ... uh, did Mr. [Haeg 00:01:29] say to you, "That map is fake its been changed." And the issue of the alleged corrupted map never came up at trial?

Mr. Robinson: No.

Judge Morse: Okay, and so then after trial Mr. Haeg at some point did he come to you and say, "Hey, I think this thing is wrong." or altered?

Mr. Robinson: No, actually I didn't hear from Mr. Haeg about that issue until he got involved in these-

Mr. Haeg: Yeah, like a year ... a year from now. It took us eight years before we finally got a copy that we could look at-

Judge Morse: So-

Mr. Haeg: and found out-

Judge Morse: O- Okay, so eight years ago would've been eight years ago from today. So, where are, you know...

Mr. Haeg: Eight years after my conviction.

Judge Morse: Okay, so conviction in 2005?

Mr. Haeg: Yeah.

Judge Morse: So, somewhere around 2013?

Mr. Haeg: Yeah.

Judge Morse: You get ... where do you get this thing?

Mr. Haeg: Huh?

Judge Morse: Where do you get this thing?

Mr. Haeg: I get it ... Judge [Bauman 00:02:24 52:25] ... I ... realizing all the ... all the crap that went on in my case. I finally ...you know we got some of the stuff. I finally realized I should go look at the map that was used against me at trial. And, so I filed a motion with Mr. ... with Judge Bauman. He ordered the state to produce the map. Uh, and he ordered the state to give him the original map, and to give me a copy. Well, then the state never gave me a copy. I ended up going into the Kenai court house, and looking at the original map that was in-

Judge Morse: Okay so-

Mr. Haeg: ... Judge Bauman's possession.

Judge Morse: ... sometime in 2013-

Mr. Haeg: Yeah, and I'm not positive. It's when Judge Bauman was ... was presiding over my case.

Judge Morse: Sometime in the ball park of 2013 you're in front of Judge Bauman trying to get access to-

Mr. Haeg: The map.

Judge Morse: .. exhibits? And it's during the course of that proceeding that you get the map? Okay.

Mr. Haeg: A cop ... Yeah-

Mr. Haeg: ... and I don't actually get a copy. I end up having to go in and look at-

Judge Morse: Okay.

Mr. Haeg: ... the original one that was in Judge Bauman's procession. Found ... realized that it had been falsified to pro ... to in essence to ... well to-

Judge Morse: You ... you think-

Mr. Haeg: ... to actually make this a guide case.

Judge Morse: You think it's been falsified?

Mr. Haeg: Yep.

Judge Morse: After your 2013 inspection?

Mr. Haeg: Yep.

Judge Morse: And sometime after then, 2013/2014, you go to the Mr. Robinson go, "Here's this thing I've discovered. I think the map is wrong."?

Mr. Haeg: Yeah, and I ask, "Why didn't we get a copy of this before trial? So we could find out before trial it had been falsified?" And Mr. Robinson told me, "They never gave us a copy of this before trial, so we could find out it had been falsified."

Judge Morse: Okay, and what makes you think ... just so we're clear, what makes you think it's falsified?

Mr. Haeg: Because there is a game management unit boundary that has been altered like 20 or ... subs ... like 20 some miles-

Judge Morse: So, if I look on this map you show me the alteration?

Mr. Haeg: Yes.

Judge Morse: Show it to me.

Mr. Haeg: This, this.

Judge Morse: This side of an orange?

Mr. Haeg: Yeah, and I ... I drew this in b- because when they gave me a copy-

Judge Morse: So, that ... that ... just slow down. The ... the orange lines you added?

Mr. Haeg: I highlighted what the state had, so we could see-

Judge Morse: But-

Mr. Haeg: ... kind of black-

Judge Morse: ... but-

Mr. Haeg: ... and white copy.

Judge Morse: Wait, the oranges you added?

Mr. Haeg: Yes.

Judge Morse: All right, go ahead.

Mr. Haeg: They had outlined ... this was the line they used at trial. This is my lodge, and I guided 19C. This is my lodge. This is where the wolves were killed, and they gave this to my jury saying, "See?" and "Dave Haeg killed all the wolves in his guide area to benefit his guide business." When in fact if you look at the fish and games boundary. The boundary should've been here. The green is the real boundary, and I can prove that. This is from ... this from online with fish and game. And how I did this is I took-

Judge Morse: All right and this-

Mr. Haeg: ... Sparrevohn Air Force Base and Lime-Village. And if you draw a line through it, it goes right through the wolves.

Judge Morse: Okay, just so ... just so I'm clear here.

Mr. Haeg: So, this is Sparrevohn-

Judge Morse: Hang on.

Mr. Haeg: ... and this is Lime-Village.

Judge Morse: Hang on. What I'm trying to understand is this thing here accurately represents what was used at trial?

Mr. Haeg: Correct.

Judge Morse: Right, and you think that-

Mr. Haeg: But they-

Judge Morse: ... the ... the labels of the units? The boundaries of the units?

Mr. Haeg: Yes.

Judge Morse: And you think that the trial exhibit used inaccurately described the game units?

Mr. Haeg: Yes, it ... the one used against me at trial-

Judge Morse: Okay.

Mr. Haeg: ... has the orange. When in fact the real boundary ... the orange should've went through here were the green is.

Judge Morse: Okay.

Mr. Haeg: And what it did-

Judge Morse: But-

Mr. Haeg: ... is it put ... it ... they looped out around to put these wolves in my guide area because I was not allowed to guide here. And that's the whole ... this is the whole key Your Honor.

Judge Morse: But-

Mr. Haeg: 19D I'm not allowed to guide-

Judge Morse: Shh.

Mr. Haeg: ... sorry, okay.

Judge Morse: Step back, step back.

Mr. Haeg: Okay.

Judge Morse: All the way back.

Mr. Haeg: Okay.

Judge Morse: Mr. Haeg help me out? Did you look at the map at trial?

Mr. Haeg: No.

Judge Morse: Why not?

Mr. Haeg: I was so scared Your Honor because my career ... my livelihood was at stake and I hired Mr. Robinson, and I trusted him to do a good job for us, and I did not ever look at this map at trial.

Judge Morse: Did they give you a map prior to trial that showed where the wolves were and where the game unit was?

Mr. Haeg: No.

Judge Morse: So, you knew that the map at trial was new because you'd never seen a map that depicted the game unit and a location of the wolf?

Mr. Haeg: Yep.

Judge Morse: So, you knew at trial ... you yourself knew that this was a brand new map that had never been provided to you?

Mr. Haeg: Well, and ... and let me rephrase-

Judge Morse: Answer my question.

Mr. Haeg: ... this, okay.

Judge Morse: Answer my question.

Mr. Haeg: I had ... I had actually seen the map before trial. Um, and this is very important and ... and please-

Judge Morse: That's why I'm asking you the question-

Mr. Haeg: ... bear with me. This is-

Judge Morse: ... and I'm not getting an answer.

Mr. Haeg: This map was used during my statement for the plea negotiation, and I'm the one that put all the wolf kill locations on it. But, see since it's aeronautical charts ... since it's for airplanes, and that's what all these lines are. These are airways for flying. The state then after I put the wolf kill locations on it for my plea ... you know it ... during plea negotiations. They then hand drew the boundary on by hand. And so-

Judge Morse: Just hang on slow down.

Mr. Haeg: Okay.

Judge Morse: So, you're telling me that the ... the location of the wolf kills that's depicted on trial 25, you put on during the ... when you gave the statement to the troopers?

Mr. Haeg: Yes, and see that's a whole nother-

Judge Morse: Hang-

Mr. Haeg: ... violation. And so this map is-

Judge Morse: Slow down, slow down.

Mr. Haeg: Okay.

Judge Morse: Just ... did you keep copy of the map that you, um, worked on with the troopers?

Mr. Haeg: I did it with Mr. Cole, and he's ... again he said, "We're ... you know we don't need anything."

Judge Morse: Just ... just you didn't get-

Mr. Haeg: But I didn't get a copy of it.

Judge Morse: ... you didn't keep a copy?

Mr. Haeg: No.

Judge Morse: Okay, And so when you, uh, at trial. When you were preparing for trial did you get a copy of a map that showed where the wolf kills were?

Mr. Haeg: No.

Judge Morse: Why didn't you ask for that because you knew it existed because you drew it?

Mr. Haeg: Mr. Robinson did ask for it, and-

Judge Morse: Right.

Mr. Haeg: ... they never gave us one.

Judge Morse: Right, but didn't you realize prior to trial that you had drawn this, you know, you'd ... you'd marked the ... the locations of the wolf kill and you-

Mr. Haeg: I was so ignorant-

Judge Morse: Just listen.

Mr. Haeg: ... Your Honor.

Judge Morse: Listen to me.

Mr. Haeg: I didn't know to ask.

Judge Morse: It's not a matter of the law.

Mr. Haeg: I didn't ... I did not ask for it, yes.

Judge Morse: But you knew it existed?

Mr. Haeg: Yes, I did.

Judge Morse: Because you made it?

Mr. Haeg: Yes.

Judge Morse: Nonetheless, knowing that you had created this map where you put the locations of the wolf kill, and you looked at the stuff the state had given you. Didn't you recognize that something was missing?

Mr. Haeg: No.

Judge Morse: Why not?

Mr. Haeg: I was so scared that I was petrified. My whole life before me was ... I mean, I was so scared I sit there at trial like this.

Judge Morse: Well, how about before trial?

Mr. Haeg: We didn't have a co-

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Mr. Haeg: ... copy, I didn't know.

Judge Morse: I- my point exactly. Why didn't you recognize, during the course of the preparation for the trial, that the map that you had drew on, locating the wolf kill, the most critical piece of information in the whole trial. You drew it, you put it there, where was it?

Mr. Haeg: Your honor, that's why I hired Mr. Robinson for \$50 thousand.

Judge Morse: Did you tell Mr. Cole, "I drew a map?"

Mr. Haeg: He was there when I did it, he told me to put the ... and there's a recording of, of me talking, and Brent saying "Yeah Dave, take a pen, mark it here, mark it there." There's a recording of me doing it.

Judge Morse: Okay.

Mr. Haeg: And then at trial-

Judge Morse: So-

Mr. Haeg: ... the state, at the, and the state-

Judge Morse: And so-

Mr. Haeg: At trial, the recording says the state, "Yeah we used this during Mr. Haeg's, uh, statement, and here's the map." Well, they recorded me putting on it. So not only is this a violation of my right against self-incrimination, 'cause I put these on, they falsified it so they could make it a guide crime, and then-

Judge Morse: Ask- [crosstalk 00:01:05 1:01:06]

Mr. Haeg: ... to boo- to boot, to cover up, they didn't give Chuck Robinson a copy of it, so we could find out that it had been falsified to frame me.

Judge Morse: When you put the wolf kill locations on there, was the boundary of the game unit on the map you were working on?

Mr. Haeg: No.

Judge Morse: Okay there- [crosstalk 00:01:22]

Mr. Haeg: Remember-

Judge Morse: Now wait.

Mr. Haeg: ... it was an aeronautical chart with no boundaries. They said-

Judge Morse: Okay, okay.

Mr. Haeg: It's a pristine.

Judge Morse: Okay.

Mr. Haeg: So I marked 'em. And because it's an-

Judge Morse: So-

Mr. Haeg: ...aeronautical chart-

Judge Morse: ... at trial, you know they're handing you a map that you had prepared, and now your memory is jogged and you said what to Mr. Robinson about where did that thing come from? Did you say anything to him?

Mr. Haeg: I did not say anything, I was sitting there with my head down. I probably didn't even see the map.

Judge Morse: Well that's-
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Mr. Haeg: It's hard to see a map when you're going like this-

Judge Morse: Well- [crosstalk 00:01:53]

Mr. Haeg: ... your honor. My whole guide career, from 18, I was maybe Alaska's-

Judge Morse: Stop.

Mr. Haeg: ... youngest-

Judge Morse: Stop.

Mr. Haeg: ... master guide-

Judge Morse: Stop.

Mr. Haeg: ... my whole life was imploding. And I'm sitting there like this.

Judge Morse: And-

Mr. Haeg: And now I found out that my whole-

Judge Morse: Mr. Haeg.

Mr. Haeg: ... life imploded because-

Judge Morse: Mr. Haeg.

Mr. Haeg: ... they falsified a map. And, to boot, they didn't give Mr. Robinson a copy of it before trial, so, me and him, in the- the unstressful conditions of being in his office-

Judge Morse: Did you testify?

Mr. Haeg: ... now we're at trial.

Judge Morse: Did you testify at trial?

Mr. Haeg: Yes.

Judge Morse: When you testified did you, um, do anything with the map?

Mr. Haeg: No.

Judge Morse: You didn't stand up and point to it? Did you look at it?

Mr. Haeg: Nope.

Judge Morse: Okay. Okay, so th- th- the summary here is, you crafted the map placing the wolf kills. At the time you put the wolf kills on there, the boundaries of the game unit was not there. You knew you had done this map, you did not keep a copy of the map. When you got the pretrial information from the state, you didn't recognize that the map that you had worked on was missing.

Judge Morse: Then, when at trial, for reasons that, because of your stress, and fear and confusion, you don't look at the map and recognize that this is something that had not been provided to you in discovery. Even though you ... did you also ... did you recognize that in fact, that was the map you worked on?

Mr. Haeg: I don't even remember that.

Judge Morse: You don't?

Mr. Haeg: I just-

Judge Morse: Where-

Mr. Haeg: ... know that-

Judge Morse: Where did ... didn't the state testify? Didn't somebody testify? Here's this map, see where the wolf kills are, Mr. Haeg told us that?

Mr. Haeg: The state testified that Trooper [Gibbens 00:03:43 1:03:42] put the wolf kill locations on it. The beauty of it though, is, is that at the recording-

Judge Morse: Okay, no-

Mr. Haeg: ... of my interview-

Judge Morse: Okay, hang on, hang on.

Mr. Haeg: ... the state-

Judge Morse: You're telling me, that at trial, the trooper testified that he put the location of the wolf kill on there?

Mr. Haeg: Yes.

Judge Morse: And, did that sound odd to you at the time?

Mr. Haeg: I didn't even, didn't even make it ... I'm sittin' there like this.

Judge Morse: Well, Mr. Haeg, I'm having difficulty understanding why you were so ... wh-wh-why you were not focused. I mean you seem like a very-

Mr. Haeg: Mr. Cole has testified in his deposition he thought I was going to commit suicide. That's how focused I was.

Judge Morse: And how, what was the time period when you thought you were as unfocused at trial ... eh, I mean, well. You were unfocused at trial. How, how, far into, prior to trial did you think you were in that state?

Mr. Haeg: I'm still in that state. Can't you ... I mean, that's why I act the way I do.

Judge Morse: The reason I'm wondering is, because doesn't that suggest that some of your memory about what happened prior to trial is suspect?

Mr. Haeg: No.

Judge Morse: Because you were so-

Mr. Haeg: Because there's a recording of Trooper Gibbens, Prosecutor Leaders, me, and Brent Cole, and they're saying, "Dave, here's an aeronautical chart." And the beauty about this i- your honor, is it gets worse.

Judge Morse: Well, wait a minute. Wait, wait.

Mr. Haeg: They then use this map-

Judge Morse: W-

Mr. Haeg: ... after my, after m- after I put the wolf kill locations-

Judge Morse: Mr. Haeg.

Mr. Haeg: ... on it-

Judge Morse: Mr. Haeg.

Mr. Haeg: ... they-

Judge Morse: The recording, wh- when was that made?

Mr. Haeg: Um, I'd have to look but-

Judge Morse: Uh, it was made at-

Mr. Haeg: ... it would be in-

Judge Morse: ... the time that you-

Mr. Haeg: ... June, June of 2004, or so.

Judge Morse: I'm not worried about days, I'm worried about y- y- this recording is of you putting the wolf kill indications on the map?

Mr. Haeg: Yes, yep.

Judge Morse: Okay.

Mr. Haeg: In ink.

Judge Morse: All right.

Mr. Haeg: And that's recorded by the state.

Judge Morse: All right, and so you-

Mr. Haeg: Then, like-

Judge Morse: Just, another question. You said that there's a recording of Leaders and ... Gibbens?

Mr. Haeg: Yes.

Judge Morse: Gibbens, confessing to falsification?

Mr. Haeg: Yeah. L-

Judge Morse: Where is that- [crosstalk 00:05:55 1:05:53]

Mr. Haeg: This is very important.

Judge Morse: I know, where is it?

Mr. Haeg: It is, uh, I think my wife has a transcription-

Judge Morse: Where did it c-

Mr. Haeg: Of it.

Judge Morse: Where's the tape?

Mr. Haeg: It's still at home. I mean, I can provide it-

Judge Morse: Where did you get it?

Mr. Haeg: Huh?

Judge Morse: Where did you get it?

Mr. Haeg: I got it from the state, nine years after we finally get the-

Judge Morse: Part of the, part of the Judge [Bauman 00:06:14 1:06:41]-

Mr. Haeg: Yes.

Judge Morse: ... thing.

Mr. Haeg: Yeah.

Judge Morse: And was ... and I'm sorry. Was that, uh, did you have that at the time of the appeal?

Mr. Haeg: I'm not certain on that. I don't think so-

Judge Morse: Well, you know when the Bauman hearing was. When was the Bau- Bauman hearing?

Mr. Haeg: It was two th- I know ... when you say appeal, the original appeal to the court of appeals, or when I got into post-conviction relief?

Judge Morse: All right.

Mr. Haeg: There's so many proceedings that I get confused.

Judge Morse: Okay, let's cut it up. Did you have it at the time of the direct appeal? The first appeal?

Mr. Haeg: I don't believe so, no.

Judge Morse: Okay. Did you have it at the time of the appeal that got remanded, that I'm dealing with?

Mr. Haeg: Yes.

Judge Morse: Did you present that information to the Court of Appeals?

Mr. Haeg: Yes. And why I'm so freaked out here-

Judge Morse: Okay.

Mr. Haeg: ... and I'm just going to explain this. [crosstalk 00:07:00]

Judge Morse: I don't want you to tell me about-

Mr. Haeg: Is they brought in-

Judge Morse: ... how you freaked out. I want uh, I want-

Mr. Haeg: ... they brought, I-

Judge Morse: Listen.

Mr. Haeg: ... I-

Judge Morse: Just listen to me, please. Take a deep breath. Take another one. Ready? Good, good. Now, you think that there's this tape that you have, and you have a transcription of it, and you're claiming that the state trooper and the prosecutor are confessing to falsification of an exhibit on there?

Mr. Haeg: Yes.

Judge Morse: And you showed that to Mr. Robinson at some point?

Mr. Haeg: Fairly recently. The transcription, where Scot Leaders and Gibbens, and it's Tony's [Zellers 00:07:42 1:07:42]-

Judge Morse: Just-

Mr. Haeg: ... the state witnesses Zellers-

Judge Morse: Did you-

Mr. Haeg: ... it was during their interview.

Judge Morse: Did you ... who transcribe this thing?

Mr. Haeg: My wife transcribed it.

Judge Morse: Okay. Did you play the tape, the recording itself, Mr, for Mr. Robinson?

Mr. Haeg: No, I did not.

Judge Morse: But you gave him the transcription that your wife generated?

Mr. Haeg: Yes.

Judge Morse: Okay. And- [crosstalk 00:08:06 1:08:06] so Mr. Robinson, did you get a transcription of this tape that supposedly shows the state and the, the, the prosecutor and the trooper talking about falsification, or something like that?

Mr. Robinson: Prior to trial?

Judge Morse: E-E-Ever?

Mr. Robinson: I didn't get anything prior to trial. And most recently, probably within the last year of so, Mr. Haeg showed me a transcript of an interview, that- Trooper Gibbens and Scot Leaders had-

Mr. Robinson: Correct. Correct. But, I, I mean I, by the time Mr. Haeg showed that to me, I had already retired. I retired in January- (laughs)

Judge Morse: Right.

Mr. Robinson: ... 2011.

Judge Morse: You may be coming back.

Mr. Robinson: (laughs)

Judge Morse: Um, but, but you got it way back when, and this is nothing that you had seen [crosstalk 00:08:54] prior to trial?

Mr. Robinson: [crosstalk 00:08:55 1:08:54] Prior to trial, no.

Judge Morse: Okay. Have you given me a copy of this transcript?

Mr. Haeg: I don't-

Judge Morse: Well give it to me.

Mr. Haeg: Um-

Judge Morse: If you don't have it now-

Mr. Haeg: Okay, it-

Judge Morse: ... get it tonight.

Mr. Haeg: ... and I, I, we won't be able to, till we go home, you know what? Maybe a few days-

Judge Morse: But-

Mr. Haeg: ... I can't, I don't know. We brought a lot of stuff up here.

Judge Morse: Yes. But it seems to me that if you've got a tape and a transcript of the state and the prosecutor confessing to changing exhibits, that would be something you would want me to look at.

Mr. Haeg: Yes, it is.

Judge Morse: So don't hide it.

Mr. Haeg: Okay.

Judge Morse: Don't hold back.

Mr. Haeg: And, and I apologize-

Judge Morse: I-

Mr. Haeg: ... I'm not a lawyer.

Judge Morse: ... I know why you would have left that critical piece of information at home.

Mr. Haeg: I'm trying to do kind of the best I can, and we may-

Judge Morse: And you're doing-

Mr. Haeg: ... I'll talk with my wife-

Judge Morse: ... a darn good j-

Mr. Haeg: we may have it.

Judge Morse: You're doing a good-

Mr. Haeg: We may have it your- here, your honor.

Judge Morse: Okay.

Mr. Haeg: I don't know.

Judge Morse: Okay.

Mr. Haeg: But I'm just ... uh-

Judge Morse: So, write-

Mr. Haeg: I just, I want to-

Judge Morse: Mr Haeg, I'm helping, trying to help you here. Take a moment on a piece of paper, or a notebook or something-

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Judge Morse: ... that you've got, that you won't lose, and say, "Get a copy of the recording, of the Leaders, Gibbens, and [Zellers 00:00:12 1:10:11] interview and the transcript to the state and the judge." (silence)

AAG Peterson: And I believe this argument was made to the Court of Appeals and the PCR.

Judge Morse: I- I don't know.

Mr. Haeg: It was.

AAG Peterson: Yeah.

Mr. Haeg: And- and-

AAG Peterson: It was not remanded.

Mr. Haeg: And right there, can we just talk about this for just a second-

Judge Morse: No, no. [1:10:42]

Mr. Haeg: Please?

Judge Morse: No. You-

Mr. Haeg: Okay.

Judge Morse: Are gonna get that thing for me, I'm going to make it part of this record. I don't know what its significance is. I don't know whether or not the recording, or the transcript say what you claim they say. And if they- Court of Appeals is already done with- dealt with it, my hands are tied. If they haven't dealt with it, they will have that in front of them when you go back there, if you do. But you ... I don't want you-

Mr. Haeg: I'm- I'm just gonna say something, please, and don't- Please don't take it the wrong way. The- the-

Judge Morse: Go ahead.

Mr. Haeg: The Court of Appeals, one, the- They limited us to five issues, right? Your honor recognize that. To take away what happened with the map and the recording of Scot- of Scot Leaders and Gibbens and Zellers talking about how the map had been falsified, they said I never briefed it well enough, and never gave them any evidence of it. And there- There's a- a video tape of me at oral arguments to them where the state brought in the original map, and I said, "Here is the original map used against me at trial. " Here's how the state falsified- And there's a recording of them doing it, and- and there was transcriptions in the briefing to them.

Mr. Haeg: I don't know if I sent them the CD or not. But they then said, "Because Mr. Haeg, you never brought up that the map was false. And you never, uh, you know gave us any proof, and I'm here you know I'm showing them that you don't get to litigate this on remand. " And I'm like, "That's a lie." There's a video tape of me going ...

Mr. HAEG: ...in front of the court of appeals and sho-

Judge Morse: Mr. Haeg.

Mr. Haeg: And giving them the stuff that I'm giving you.

Judge Morse: Then lets focus on that.

Mr. Haeg: I- I understand.

Judge Morse: Stop arguing about the Court of Appeals screwed up. You're here now. This is-

Mr. Haeg: Yeah.

Judge Morse: Your opportunity-

Mr. Haeg: And- And I appreciate it.

Judge Morse: All right. So I'm trying to help you here.

Mr. Haeg: Okay.

Judge Morse: Don't beat the dead horse.

Mr. Haeg: Your honor, I want to just break down and cry, because-

Judge Morse: Well, don't cry.

Mr. Haeg: It's 15- My-

Judge Morse: You keep telling me that. But now it's time for you to focus on this opportunity to tell me how you've been wronged and to show me evidence of that.

Mr. Haeg: Okay.

Judge Morse: Stop telling me the Court of Appeals is a bunch of horses asses. I got that.

Mr. Haeg: Well, I don't understand why they didn't or-

Judge Morse: I got that point. I got that point.

Mr. Haeg: Okay.

Judge Morse: I got that.

Mr. Haeg: Okay.

Judge Morse: You don't like what they did. You think they screwed you. Okay?

Mr. Haeg: Yep.

Judge Morse: Crystal clear in my mind. [1:12:55]

Mr. Haeg: Okay.

Judge Morse: Here's your chance.

Mr. Haeg: Okay.

Judge Morse: So don't blow it. All right?

Mr. Haeg: O-

Judge Morse: So stop freaking out about stuff that you've already told me and focus on what Mr. Robinson did or didn't do-

Mr. Haeg: Okay.

Judge Morse: Because they would - did tell you that you can deal with what you claim to be his ineffectiveness.

Mr. Haeg: Okay, now-

Judge Morse: So far-

Mr. Haeg: Okay.

Judge Morse: You've told me one thing.

Mr. Haeg: Yeah, okay, I'll keep going here.

Judge Morse: That somehow he didn't recognize that the discovery violation occurred.

Mr. Haeg: Okay.

Judge Morse: Okay?

Mr. Haeg: Can I-

Judge Morse: You probably want to focus some more about what he did when he got the case, and found out about what [Brent 00:03:34 1:13:33] Cole had done or not done, or what the deal was, or what you told him about what Mr. Cole had done, or, you know, that's- that's what you clearly can do. And right now if you keep telling me that the court of appeals is a bunch of jerks, you're wasting your time to focus on what they told you you could do here. All right?

Mr. Haeg: Okay. Okay. I- I appreciate that.

Judge Morse: Got that?

Mr. Haeg: Okay. One more question I'd like to ask Mr. Robinson on kind of on this issue is was part of Leaders and Gibbens case against me at trial that I was eliminating wolves in my guide area to improve my guide business?

Mr. Robinson: Yeah.

Mr. Haeg: So that was to the jury?

Mr. Robinson: That was the theory that they- [crosstalk 00:04:13]

Mr. Haeg: That was to the jury. The jury heard that.

Judge Morse: I get it.

Mr. Haeg: Good.

Judge Morse: I know how the trial works.

Mr. Haeg: And this- okay.

Judge Morse: But again, you- you-

Mr. Haeg: Okay.

Judge Morse: You- What you can clearly do is talk about what Mr. Robinson screwed up on. To be blunt.

Mr. Haeg: Okay.

Judge Morse: So the two areas that you talked about was mostly the change, you know, the failure to enforce the plea agreement that you thought Cole had done for you. So it would really help your case if you asked him questions-

Mr. Haeg: O-

Judge Morse: About what he learned about Mr. Cole's negotiations.

Mr. Haeg: Okay.

Judge Morse: And why he did or did not pursue those. Okay? That's-

Mr. Haeg: I'm getting there. It's just I wrote this up, and it's hard. I'm so stressed that I need to kind of follow my notes, or I won't be able to do this, because-

Judge Morse: Well, my suggestion is-

Mr. Haeg: Mr. Robinson

Judge Morse: You jump ahead to the part that is really important.

Mr. Haeg: Okay, well let me just ask this one question here.

Judge Morse: Go ahead.

Mr. Haeg: Mr. Robinson, has- has Prosecutor Leaders committed other discovery violations?

AAG Peterson: Objection relevance.

Judge Morse: I assume you mean in this case.

Mr. Haeg: In other cases.

Judge Morse: That's irrelevant.

Mr. Haeg: Even one that made the local newspaper?

Judge Morse: Yes.

Mr. Haeg: Okay. (silence) Mr. Robinson, is it it true that you did not recommend that I go to trial?

Mr. Robinson: Repeat that question.

Mr. Haeg: Is it true that you did not recommend that I go to trial?

Mr. Robinson: Let me just try to understand the question. Are you asking me whether I recommend that you do or do not go to trial?

Mr. Haeg: Did you ever tell me-

Judge Morse: Ask him a- Ask him a question that doesn't have all the negative.

Mr. Haeg: Okay.

Judge Morse: And the simple question is, "Did you advise me to go to trial?"

Mr. Haeg: Okay, did you advise me to go to trial?

Mr. Robinson: After you decided you wanted to. Yes.

Mr. Haeg: So there would have never been any point where I said, "Should we try to make a new plea agreement?" And you saying something like, "We found this subject matter jurisdiction, and it's so strong that we should go to trial?"

Mr. Robinson: Well, if I understand your question, your question is, "Did I advise you to take the plea deal or go to trial?" Based on my memory, Mr. Haeg. I asked you and told you. I said, "We have two avenues that we could take here Mr. HAEG. We could try to enforce the plea agreement, if we have sufficient evidence that there really was an agreement, or we can go to trial." We investigated by talking to Brent Cole as to whether or not there was in fact a plea agreement, and he said that he and Leaders really never came to any solid agreement. So when I told you that I said, Well, you know, Brent says that there wasn't a solid agreement. And I said so the choice is yours whether you want to prove there was an agreement or you want to go to trial.

Mr. Robinson: I did tell that in my research I found, or thought I'd found, some case law that says that in order for a court to have jurisdiction over your kind of case, it has to be based on some sworn testimony of the complaint on the information. It just can't be a - be a mere allegation. Because the system requires these things to be made under oath. You decided to go to trial, so that's the strategy we took.

Judge Morse: Did Mr. Cole-

Mr. Haeg: Is it true-

Judge Morse: Hang on. Does Mr. Cole- You- You spoke with Mr. Cole about the status of the plea negotiations?

Mr. Robinson: Yes I did.

Judge Morse: And did Mr. Cole tell you that their, uh, that that in his opinion, there had been a deal struck?

Mr. Robinson: Well, Mr. Cole said that he- said that there wasn't (laughs)- He kind of put it in the sense that they had discussed dealings, but they hadn't really come to some final, firm agreement. I kind of questioned that a little bit, because I knew according to David, that there had been a time set up for him to go in and plead guilty to-

Judge Morse: Something-

Mr. Robinson: Something. Uh...

Judge Morse: Th- That would suggest that there was probably a deal or partial deal-

Mr. Robinson: Right.

Judge Morse: If they were going to ...

Mr. Robinson: Right.

Judge Morse: If they were willing to go in and change a plea.

Mr. Robinson: Sure. But-

Judge Morse: Ant it was - was Mr. Haeg saying we had a deal?

Mr. Robinson: Mr. Haeg thought he had a deal-

Judge Morse: Right.

Mr. Robinson: At some point in time.

Judge Morse: Right.

Mr. Robinson: But-

Judge Morse: And Cole was- didn't really back that up?

Mr. Robinson: Correct. At – at least to me he didn't.

Judge Morse: Right.

Mr. Robinson: Now, I don't know whether- what he told David or what he told others but he didn't back up that there was in fact a plea agreement that we could enforce.

Judge Morse: But you told Mr. Haeg that there was two basic options.

Mr. Robinson: Correct.

Judge Morse: You know, we- because Haeg was saying we- there was a deal that- that the state reneged. And we- and you were telling, "okay, we can try and prove that there was a deal."

Mr. Robinson: Yeah.

Judge Morse: And if we can prove it, we can try and get it enforced.

Mr. Robinson: Correct.

Judge Morse: And the other option is- ei- ,you know, either don't do that or if we fail at that effort

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Judge Morse: -go to trial? [1:20:02]

Mr. Robinson: Well, I don't think, I don't think it ever came up that I was gonna try to renegotiate a plea deal at that particular time, so, he decided to go to trial. Those are the options. Try to either force the agreement, if there was one, or go to trial.

Judge Morse: But he, he said, you – you - you're telling me that he opted not to try to enforce, but instead we're going to trial?

Mr. Robinson: Correct.

Judge Morse: - I, I'm an innocent guy, let's go for it?

Mr. Robinson: Correct.

Mr. Haeg: Is it true, in fact, that you told me that everything that happened with Mr. Cole was water under the bridge, and we would have to start renegotiating with the state?

Mr. Robinson: You didn't have a deal, so obviously you'd have to negotiate some kind of deal.

Mr. Haeg: So, so when you say, enforce the plea agreement, you mean some new plea agreement, and not the one Mr. Cole had made for me?

Mr. Robinson: No. Our discussions were about the alleged agreement that Mr. Leaders, you, or Mr. Cole had agreed to. According to you. And that Leaders had changed his mind, according to you, and according to Mr. Cole. So, Mr. Cole was basically telling me that because Mr. Leaders said not going along with the plea he had agreed to before, that you really didn't have an agreement, because Mr. Leaders wanted to change his mind about the deal. That's the way I understood it David.

Mr. Haeg: Okay, well, and just so everybody knows, I have a list, and if I start jumping around it'll get real confusing and so, I'm gonna go down my list-

Judge Morse: Go ahead.

Mr. Haeg: -and not jump around. Is it true your defense for me at trial and on appeal, was that there was a lack of subject matter jurisdiction because Leaders had not provided an affidavit for the charging information?

Mr. Robinson: And the point on appeal was made actually at court. The court got an appeal, and yes, I argued that the district court did not have subject matter jurisdiction over your case because they didn't have the proper document report in order to obtain jurisdiction. In other words, my theory was, that if there was a complaint for a misdemeanor like there is for a felony, our laws require that these things be supported by oath and affirmation, but the complaint does not.

Mr. Haeg: Okay, is it-

Mr. Robinson: And therefore I argued in front of the district court Judge Murphy, that because it was not a sworn to complaint, the court didn't have jurisdiction, because to invoke jurisdiction, you have to have proper documentation to do...

Judge Morse: And so you made the argument, she rejected.

Mr. Robinson: And she rejected it.

Mr. Haeg: Ok. Is it true you told me this defense was so strong that we should not put up any defense at trial?

Mr. Robinson: No, because there were other cases that you were charged with, besides the moose, if you recall.

Judge Morse: Let me ask you... your jurisdiction issue, with that-

Mr. Robinson: To all charges.

Judge Morse: To all charges?

Mr. Robinson: Well, he... the - the total complaint, that was against him because it wasn't sworn to...

Judge Morse: Okay. And then, er, but you had other, you thought you had other - other avenues to defend?

Mr. Robinson: Oh well, and we did present other avenues to defend on the- on the other charges that he had.

Judge Morse: Okay go ahead Mr. Haeg.

Mr. Haeg: Um. Um, can you look at this?

Mr. Haeg: Okay you just testified that, uh, you'd never told that it was so strong that we should not put up any defense at trial, and I just wanna-

Mr. Robinson: No, what I-

Mr. Haeg: ... to admit a transcription of a- of a meeting with Chuck Robinson, 1/5/06, where-

Mr. Robinson: When was the meeting?

Mr. Haeg: 1/5/06, I think it was in your office. It was me, Jackie, Greg Stoumbaugh, and you, and I'm just gonna read it here.

Judge Morse: What is it you're reading?

Mr. Haeg: It is a transcription of a meeting with Mr. Robinson while he was my attorney.

Judge Morse: Who-
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Transcript by Rev.com

Mr. Haeg: I ask, I-

Judge Morse: [crosstalk 00:05:02] Hang on, hang on.

AAG Peterson: I object him reading that into the record.

Mr. Haeg: Okay, do I have him do it?

Judge Morse: Just wait. Where did this thing come- who made this recording? Who made the transcript?

Mr. Haeg: I made the recording, Mr. Robinson was there when I had the tape recorders on the table, you remember, me and Greg Stoumbaugh come in, and Jackie. It was towards the end of your representation of me, and my wife made the transcription. And can I have him just read this?

Judge Morse: Well, sure.

AAG Peterson: Wait, no, I'm gonna object to that. He wants to ask him questions about it, he can ask him questions about it. There are rules that govern how the evidence comes in. If he disagrees with what the witness testifies to, then he can try to refresh his recollection, but, but you can't just have him read a document that his wife created.

Judge Morse: You could ask him questions about whether or not something was asked, something was said.

Mr. Haeg: Okay. Is it true that on 1/5/06, I stated to you, quote, you said the argument- and this is the subject matter jurisdiction- was so compelling, you recommended I didn't even put on a defense. Do you remember that?

Mr. Robinson: Yeah. You want me to tell you what I remember?

Mr. Haeg: Yeah.

Mr. Robinson: Ok. What I said to you, Mr. Haeg, is what I would have said to any client in your position, is that in order to make the motion to dismiss your case for lack of jurisdiction, a couple things had to happen. First of all, prejudice had to attach to the case, in other words you come to court, everybody's there, court's in session, and then jeopardy attaches. For the purpose of the kind of motion that I intended to make was that you would lose that jeopardy attachment if you began to testify about the charges against you.

Mr. Robinson: In other words, it wasn't a question whether you did it or not, the question was whether the court had jurisdiction to hear the case or not. I explained that to you.

Mr. Haeg: Okay. Is it true that your response was, "That was a strategy, that was a strate- suggestion that we had, yes"?

Mr. Robinson: I just told you, it was a strategy suggestion that we had.

Mr. Haeg: Okay. And then is it true that I responded to you, I said, that you made to me, I didn't bring it up, you did?

Mr. Robinson: Bring what up?

Mr. Haeg: To not put up any defense at trial.

Mr. Robinson: No. I never told you to never put up a defense. What I told you, Mr Haeg, was that a relationship to a motion to dismiss, that all we really needed to have was jeopardy to attach. Didn't need testimony from anybody. Didn't make the argument that the court didn't have jurisdiction because they, it was proceeding with an un-sworn to, without oath, complaint against you.

Mr. Haeg: Okay. Is it possible me, as an ignorant person, when you said don't put up any defense, I just thought that you were not gonna do anything?

Mr. Robinson: I don't know what you thought.

Mr. Haeg: Okay.

Mr. Robinson: I'm just telling you what I thought.

Mr. Haeg: Okay. Is it true you told me this defense was so strong that we should, quote on quote, "stand mute at trial", unquote.

Mr. Robinson: I just explained to you that, I just told you that, for purposes of making a motion like that, all you really need is for jeopardy to attach, and jeopardy attached when you come to court, Judge bangs down on the gavel and says, "We're ready to proceed". Alright, then jeopardy attaches in a criminal case.

Mr. Robinson: So I was explaining to you that, if you're gonna make a motion that asks the court to dismiss the charges based on the fact of lack of jurisdiction to hear the case, you don't need to put on a defense. Not that I was encouraging not to, I was just explaining to you the procedures involved with that kind of motion.

Judge Morse: Well let me see if I, let me make sure I understand, I think, where you're going here, is that -um- you thought you had case law that said that this complaint had to be based on sworn testimony, sworn statement, and you thought that this complaint was not?

Mr. Robinson: Correct.

Judge Morse: And if you went to this Judge in advance of trial and said, this complaint doesn't have a sworn statement, Judge would say, "Hey, you're right", and would dismiss the case, and then the state would just turn around and get a complaint with sworn statement, and start to process anew?

Mr. Robinson: Correct.

Judge Morse: So, for this to be ultimately effective, you wanted to get the case to a point where if the case would- so, pick a jury, jeopardy is attached for purposes of double jeopardy-

Mr. Robinson: Correct.

Judge Morse: -so that, if you then jumped up and said, "Hey Judge, you don't have jurisdiction", Judge says, "You're right, we don't have jurisdiction", then the state would try to fix this problem, but because you had passed the magic line-

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Judge Morse: ... of double jeopardy, they could not do that?

Mr. Robinson: That's correct.

Judge Morse: Right. So the timing issue, and a, um ... okay. That was, I mean, that was the context of your advice to him about-

Mr. Robinson: Correct.

Judge Morse: ... about doing it in a way that would make it effective rather than just simply, um, ultimately ... to make it incurable, whereas if you did it early on, it would be curable?

Mr. Robinson: Correct.

Mr. Haeg: Okay. Is it true you've told me the US Supreme Court cases Albright versus United States, and Gerstein versus Pugh, supported your defense that the prosecutor not providing an affituit-affidavit to the charging information deprived the court of subject matter jurisdiction?

Mr. Robinson: I used that case, and I think a couple of other cases to support my theory [crosstalk 00:00:47 1:30:46].

Mr. Haeg: Okay, but the two main ones were Gerstein-

Mr. Robinson: Well, I-

Mr. Haeg: Gers- .. Albright versus US and Gerstein versus Pugh.

Mr. Robinson: Well, it's very difficult. I mean, I've done so much legal research now, you know, [inaudible 00:00:58], in the past. It's very difficult now to say that in Mr. Haeg's case, it was only these two cases that ...

Mr. Haeg: Okay. When it ... Is it, is it true that at your deposition ... And I don't know exactly what it has there, uh ...

Mr. Robinson: I'm not saying those cases had no- no- no impact on my theory, I'm just saying that I did tell you about those cases, yeah.

Mr. Haeg: Okay. So do you admit that those were cases that you relied upon?

Mr. Robinson: It may not have been the only ones, but yes, they were involved.

Mr. Haeg: Okay. Okay. Um, is it true you told me we shouldn't bring up any other defenses as this may waive or admit subject matter jurisdiction?

Mr. Robinson: I just explained it to you. I think the judge has explained to you, what the procedure is in court. For this type of motion, had I done it in advance of trial, we hadn't even talked about the testimony or whatever the defense was going to be, the judge could have granted motion, and then the state would have just been able to amend the complaint, because there was no double jeopardy attached.

Mr. Haeg: But that isn't my question.

Mr. Robinson: But I'm explaining it to you, the answer to your question. What I explained to you is that if we allowed the proceeding to start, including picking of the jury ... Now once that occurs, jeopardy attaches. Double jeopardy attaches.

Mr. Haeg: Okay.

Mr. Robinson: So if we win the motion, then the state can't come back and say, "Oh well, we just want to amend the complaint, and try to [crosstalk 00:02:43 1:32:43]."

Mr. Haeg: I don't disagree that that's what you said. What I'm asking is after jeopardy attached, and you made the motion after jeopardy attached, that you told me we shouldn't bring up anything else, the false map or anything else-

Mr. Robinson: Well, I didn't know about the [crosstalk 00:02:58 1:32:57]-

Mr. Haeg: Because that may waive ... That may admit and waive to the court that they in fact had subject matter jurisdiction.

Mr. Robinson: Well, first you assume it's something that ... I didn't even know there was a false map at the time at the time we talked about strategy regarding the motion to dismiss. Number one. Number two, I was just trying to explain to you that it's not a evidence ... we don't need evidence if the court agrees that because this complaint was not ... or the information was not sworn to, there's no thing that the court can take jurisdiction over.

Mr. Haeg: Again, I'm asking is it true that you told me we shouldn't bring up any other defenses after you had raised ... let jeo- ... after jeopardy had attached, and you had filed the motion, isn't it true you told me we shouldn't bring up any other defenses, because they may waive subject matter jurisdiction?

Mr. Robinson: No, I didn't tell you not to bring up any defenses. What I'm saying is that there was any ... there was no need to bring up defenses at the time of making this motion, because jeopardy had attached. That's what I was telling you.

Mr. Haeg: Is it true that you told me if we did bring that up, it may sabotage your-

Mr. Robinson: Prior to [inaudible 00:04:13 1:34:13]-

Mr. Haeg: No, after jeopardy attaches.

Mr. Robinson: No.

Mr. Haeg: Jeopardy comes in, jeopardy attaches. You file the motion that subject matter jurisdiction wasn't had, and- and, you know, so we're in jeopardy. You file the motion, and then you tell me a ... "Hey Dave, and we shouldn't bring up any other defenses because this may jeopardize, admit or waive the subject matter jurisdiction."

Mr. Robinson: I don't ... No, I didn't tell you that way. And maybe you interpreted it that way, but I didn't tell you that that way. I didn't tell you that you didn't need to bring up any defenses, what I said was that we don't need to bring up any evidence at this point, because jeopardy's attached and if the judge agrees with us, your case is over. Period. And the state can't come back and amend the complaint.

Mr. Haeg: Okay. But-

Mr. Robinson: And then after she ruled, I didn't tell you not to bring up the defense. We went ahead with your defense.

Mr. Haeg: Okay, so after she ruled, you- you did not tell me that, "Hey if we bring up other defenses, this may waive or admit subject matter jurisdiction."

Mr. Robinson: No. I didn't tell you that way David. No.

Mr. Haeg: Okay.

Mr. Robinson: I did tell you ...

Mr. Haeg: And so at-

Mr. Robinson: ... that we could waive defenses if we prematurely asked the court to dismiss the case for lack of jurisdiction.

Mr. Haeg: And so it true during my trial, and then later on appeal, that the subject matter jurisdiction defect, because of the prosecutor not swearing to the charging information, that ... that that defect or that defense was valid through trial and on appeal?

Mr. Robinson: The question of appeal would be, did the court err by not granting your motion to dismiss? That would have been the issue on appeal. Which I raised on appeal for you.

Mr. Haeg: Okay. And so basically, we went through trial, and into appeal, with you continuing to rely on the subject matter jurisdiction.

Mr. Robinson: Along with other points on appeal, yes.

Mr. Haeg: Oh, okay. Okay. Thank you. Is it in fact true that you knew before trial and appeal that Leaders had cured the subject matter jurisdiction defect?

Mr. Robinson: No. He hadn't cured it, because the complaint that you were going to court on wasn't sworn to.

Mr. Haeg: I'd like to point out that in Robinson's deposition,-

Mr. Robinson: He may have cured it afterwards....

Mr. Haeg: ... on page 10, he admits he knew that Scot [Leaders 00:06:49 1:36:48] had cured the subject matter jurisdiction before trial.

Mr. Robinson: I don't think that I got anything that showed that your complaint was sworn to, which was in my opinion the only way it could be corrected.

Judge Morse: So what- what are you trying to show him?

Mr. Haeg: Um, just hang on here.

Judge Morse: All right.

Mr. Haeg: Okay, I'd like to have Mr. Robinson read into the record, like halfway down page 10 and the beginning of page 11, in his deposition-

Judge Morse: This is the ... Robinson's deposition?

Mr. Haeg: Robinson's deposition of-

Judge Morse: Page 10?

Mr. Haeg: Page 10 and 11, and it's a September 9th, 2011 deposition. So I'd like you to read this here, and the state's questioning Mr. Robinson and he's answering. So from about here down to here. Top of the next page.

Judge Morse: Mr. Robinson, would you give me the ... He's pointing to somewhere ... Give me a line number. Page 10, line what?

Mr. Robinson: This is page 10. He's showing me line 17.

Mr. Haeg: And then through to page 11, like line three or so.

Mr. Robinson: I'm reading it. Okay, I read it. What's your question?

Mr. Haeg: And can you, can you read it into the record, please?

Mr. Robinson: Yeah. Gladly. And did you raise that issue in a motion prior to trial? Yes, I did. And how did the court rule on that motion? Denied the motion. And you ... no answer, and allowed Mr. Leaders to amend the information. So prior to actually completing trial, the information was amended? Yes.

Mr. Haeg: Curing this defect.

Mr. Robinson: Well, that was after we made the motion, David.

Mr. Haeg: And-

Mr. Robinson: Not [crosstalk 00:09:07].

Mr. Haeg: ... Robinson answers yes.

Mr. Robinson: Yeah, but that was after the ... It was ... Listen. I do have a memory about that-

Judge Morse: What is your point?

Mr. Robinson: ... proceeding.

Mr. Haeg: My point is, during trial and even after trial, he was telling me this was valid, when now he's testified he knew before trial it was no good.

Mr. Robinson: No, I didn't say-

Mr. Haeg: He's sending me to trial on something that's no good, he's sending me to appeal on something that's no good. And you know ... I'm sorry, your honor. 15 years down the road, and I-I ...

Mr. Robinson: May I read this ...

Mr. Haeg: ... wanted to have a ... I wanted to have a beautiful life with my wife and kids. We built a awesome guiding business. [crosstalk 00:09:41 1:39:41]-

AAG Peterson: Objection. This is not a question.

Mr. Haeg: The state of Alaska came in, and asked me to kill wolves for 'em and gave me a permit, and told me where to kill them...

Judge Morse: Please stop.

Mr. HAEG: ... and I've lost everything because not only did they lie about things-

Judge Morse: Please stop. Please stop.

Mr. Haeg: Okay.

Judge Morse: This is not helpful.

Mr. Haeg: I'm sorry.

Mr. Robinson: I would just like to...

Judge Morse: I'm trying to help you.

Mr. Robinson: Ok...

Mr. Haeg: Could you ... Would you look at this? Please. Right here and now? [1:40:02]

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Mr. Robinson: Page 10.

Judge Morse: Line 11 through-

Mr. Robinson: Line 17.

Judge Morse: Page 11, line three.

Mr. Robinson: No, line 17 on page 10 through, uh, lines two, one and two on page 11.

Judge Morse: Okay.

Mr. Haeg: And I want it on the record that Scot [Leaders 00:00:27 1:40:27] amended the information long before trial curing the defect.

Judge Morse: Whatever he did-

Mr. Robinson: No, he did not.

Mr. Haeg: Yes, he did.

Judge Morse: Whatever he did is already on record.

Mr. Robinson: I don't recall him doing it did it until the, until the judge allowed him to do it at trial.

Judge Morse: Stop, both of you. Mr. Haeg, go back to your table.

Mr. Haeg: Oh.

Judge Morse: Ask your next question, I've read it.

Mr. Haeg: Is it true during your deposition, is it true you testified during your deposition that my only defense at trial and on appeal was the lack of subject matter jurisdiction?

Mr. Robinson: No, I did not, because you were charged with other things as well. What I told you-

Mr. Haeg: Can I-

Mr. Robinson: Uh, and I will tell you-

Mr. Haeg: Can I approach and get my [crosstalk 00:01:24]-

Mr. Robinson: Hold it. What I told you, David-

Judge Morse: Let him, let him answer the question.

Mr. Robinson: What I told you David was "Yes, if we win this motion all the charges are gone because the staff, because the court lacked subject matter jurisdiction." Yes.

Judge Morse: Do you want to show him something that you think contradicts that answer?

Mr. Haeg: Yeah, if I could. Can I?

Judge Morse: Certainly.

Mr. Haeg: Okay. Um, page 135, line 4 through 16, and I guess can you read that, and I guess have Your Honor read it also after he's done?

Mr. Robinson: What's the page again, Mr. Haeg?

Mr. Haeg: 135.

Mr. Robinson: Four through 16?

Mr. Haeg: Correct.

Mr. Robinson: Okay, and what's your question?

Mr. Haeg: Is it true that you, uh, told me to rely on the subject matter jurisdiction and ... Gosh, I'd have to go look at my question. Do you remember what I asked?

Judge Morse: I think you are accusing him of telling you that the subject matter jurisdiction defense was so powerful you should do nothing whatsoever-

Mr. Haeg: Okay, and-

Judge Morse: Else. Is that what you're accusing him of doing?

Mr. Haeg: Yes. And I-

Judge Morse: And he's-

Mr. Haeg: I wanted-

Judge Morse: Okay.

Mr. Haeg: Him to read-

Judge Morse: Uh, just hang on. Uh-

Mr. Haeg: Whatever, four through 16, and if you read it out loud that might help.

Judge Morse: But he denies that.

Mr. Haeg: Okay.

Judge Morse: So do you have something in this deposition that contradicts that?

Mr. Haeg: Yes. And can I read it right now-

Judge Morse: Just give it-

Mr. Haeg: Or can you read it?

Judge Morse: Just give it to me, I'll read it.

Mr. Haeg: I'd like it read into the record.

Judge Morse: I, I will read it into the record.

Mr. Haeg: Okay.

Judge Morse: Okay, 135 starting at line four. Question: I'm just wanting ... Oh, sometimes it's hard to get the stuff by asking a question. So you, "Is it true that you told me you recommended going to trial and not putting on evidence?" So hang on here a second. So Mr. Haeg, you're the questioner here in this deposition? So this question is by Mr. Haeg. "Okay, I'm just wanting ... Oh, sometimes it's hard to get this stuff by asking a question. So you, is it true that you told me that you recommended going to trial and not putting on evidence?" Answer, "After you decided that

we, that we were going to go to trial and not pursue the plea agreement enforcement, then I said, you know, there's no need putting on evidence and what we needed to do was to establish this defect." Question, "Okay. In other words, you thought we should just rely totally on the defect and not actually try to win the case on the merits?" Answer "Correct."

Mr. Haeg: Yeah. And so what I want established, and sorry that I'm talking now, is that he told me that this defect was so great we shouldn't even put up any other defense.

Judge Morse: Did you put on a defense?

Mr. Haeg: Yes, because I demanded it.

Judge Morse: Okay.

Mr. Haeg: And, but what I'm getting at is all the stuff that should have helped me, like them using my statement against me-

Judge Morse: Go on.

Mr. Haeg: The map being falsified, none of that came up. It was all a song and dance, and it was all sham, and my attorneys were in on it.

Judge Morse: They were in on it?

Mr. Haeg: Yes.

Judge Morse: Who were they in on it with?

Mr. Haeg: The State of Alaska.

Judge Morse: Why do you think that?

Mr. Haeg: Because when you look at the totality of all the evidence that was falsified, all the evidence that's destroyed, and my attorney that I paid, I think about 50 thousand dollars to, admitting he's using a defense for me at trial and on appeal that he's now admitted he knew at the time was no good.

Mr. Robinson: I never admitted it was no good.

Mr. Haeg: I think that that's wrong.

Judge Morse: Your next question? You have a list?

Mr. Haeg: I was going to ask some, I don't know, this might not be allowed. Mr. Robinson, how can you testify that my only defense at trial and on appeal was the lack of subject matter jurisdiction and also tes- testify that you knew prior to trial this was not a defense?

Mr. Robinson: First of all, it isn't true that I knew prior to trial that it wasn't a defense.

Mr. Haeg: You admitted that-

Mr. Robinson: No, I didn't.

Mr. Haeg: Scot Leaders cured the defect.

Mr. Robinson: After the motion was denied, and that was after we'd gone to court, not before.

Mr. Haeg: You admitted that the defect was cured.

Mr. Robinson: After the judge denied it, wh- which sort of proves my point (laughs). If, if-

Judge Morse: Ask the next question.

Mr. Haeg: Okay. Is this perjury by inconsistent statements?

Mr. Robinson: Is what perjury?

Mr. Haeg: You testifying that this is my only defense at trial, and then also testifying during the same deposition that you knew it had been cured before trial?

Mr. Robinson: First of all, I didn't testify in my deposition that I knew it was cured before trial, I said the motion was denied and the judge amended the complaint or the information at the time, so that's at the time-

Mr. Haeg: And Scot Leaders ... And the, the state asked "Did Scot Leaders amend the complaint and cure this defect?" And you said "Yes."

Mr. Robinson: The judge allowed the state to amend the complaint after she denied the motion to dismiss.

Judge Morse: Ask, ask the-

Mr. Haeg: But still, you admitted that the-

Judge Morse: Mr. Haeg.

Mr. Haeg: Was cured.

Judge Morse: Mr. Haeg, Mr. Haeg, you're kind of wasting your time. You've made your point.

Mr. Haeg: Okay. Okay.

Judge Morse: So, unless you want this all just to-

Mr. Haeg: Okay. I'm, I'm sorry.

Judge Morse: Okay. I don't want you to be sorry, I want to make sure that you get an opportunity to tell me what you think is important, and sometimes you-

Mr. Haeg: I'm trying.

Judge Morse: Sometimes you get a little over focused on details.

Mr. Haeg: Okay.

Judge Morse: So I want you to move on to another important argument.

Mr. Haeg: And so I should move on from this subject matter jurisdiction thing in your opinion?

Judge Morse: Yeah. As far as I can tell, he filed the motion, it got denied and it was appealed. Right? And-

Mr. Haeg: He filed a motion, it was denied, the s- the prosecutor swore to the information-

Judge Morse: All-

Mr. Haeg: And he admitted that cured the defect.

Judge Morse: All, all of this is part of the existing record.

Mr. Haeg: Okay.

Judge Morse: So the purpose of this hearing is to give you a chance to put on stuff that's not part of the existing record.

Mr. Haeg: Okay.

Judge Morse: So you shouldn't focus on redoing what's already in the existing record.

Mr. Haeg: Well-

Judge Morse: So-

Mr. Haeg: And, and I agree, Your Honor.

Judge Morse: So move-

Mr. Haeg: The problem is the courts below-

Judge Morse: So move on.

Mr. Haeg: The courts above and below you haven't looked at this stuff, and that's why I'm so-

Judge Morse: So, I can't solve that problem for you.

Mr. Haeg: Okay. Well, I believe-

Judge Morse: What I can solve-

Mr. Haeg: A grand jury will at some point. I believe a grand jury of the citizens of this state-

Judge Morse: Mr. Haeg-

Mr. Haeg: Will eventually have-

Judge Morse: Mr. Haeg-

Mr. Haeg: Judges, and prosecutors, and troopers, and defense attorneys come in and say "How is this going ..."

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Mr. Haeg: Going on in our courtrooms-

Judge Morse: Mr. Haeg.

Mr. Haeg: Right under our noses. But that's-

Judge Morse: Mr. Haeg.

Mr. Haeg: I'll go to the next question.

Mr. Haeg: Is it true that you saw-

Judge Morse: You're using up your time.

Mr. Haeg: Okay. Um. Is it true that you saw Judge Murphy riding around with Trooper Gibbons during my trial?

Mr. Robinson: I heard that. I didn't see it.

Mr. Haeg: Would you have ever stated this?

Mr. Robinson: I don't remember if I did or not.

Mr. Haeg: Okay.

Mr. Robinson: That I saw them together? In the car?

Mr. Haeg: Is it true that you saw Judge Murphy riding around with Trooper Gibbons during my trial?

Mr. Robinson: I heard that.

Mr. Haeg: You would've never said it?

Mr. Robinson: I said I heard that, yeah.

Mr. Haeg: You would've never said that you seen, personally seen-

Mr. Robinson: I don't know what I would've never said. I just said that I heard that. Now, if you can show me where I said I saw that, then show it to me.

Judge Morse: What, when, did ... When did you hear that she was riding with the trooper? I mean, was that during trial that you heard it or was it months later or?

Mr. Robinson: It was ... So long ago, Judge, it's kinda hard to say when exactly it occurred. But I heard it.

Judge Morse: Well, let me ask you this. Was, was the allegation that Murphy was riding with the trooper, was that raised during trial.

Mr. Robinson: No.

Judge Morse: No. Okay.

Mr. Haeg: Okay. Um.

Judge Morse: But you don't ... You certainly never saw it and you're not sure when you heard these allegations?

Mr. Robinson: Right. I mean, I know I heard the allegations-

Judge Morse: I understand that.

Mr. Robinson: ... but I don't recall seeing-

Judge Morse: But you're not sure when you heard them.

Mr. Haeg: Okay. Can I admit a phone conversation between Chuck Robinson and David Haeg, made on 2-4-11? And can I hand this to him and have him read it and you look at it?

Judge Morse: If it's got ... If it's a prior inconsistent statement to what he just said, sure.

Mr. Haeg: Yeah. I guess, have him read it and then if you'll be kind enough to read it into the record.

AAG Peterson: I'll object to that procedure.

Judge Morse: What's the objection?

AAG Peterson: That the judge doesn't get to just read documents that the petitioner hands him into the record. That's not how-

Judge Morse: How would you prefer that he do it?

AAG Peterson: He can ask questions of the witness and if they're inconsistent then he can impeach him with that. But he has to state what it is and where it came from. And I'm guessing this is another transcript that he created.

Judge Morse: Okay.

AAG Peterson: So, I want that as part of the record.

Judge Morse: You ... Now it is.

AAG Peterson: Well, I don't know if that's true, yet. He'll have to say that.

Judge Morse: What is this thing?

Mr. Haeg: It is a recording of a tape recorded conversation with Mr. Robinson.

Mr. Robinson: Yeah. What I said was ... mm-hmm (affirmative).

Mr. Robinson: What I said was, and you brought up this other woman from the other department who was investigating some judicial complaint-

AAG Peterson: I'm sorry, I can't hear, what?

Mr. Robinson: All right. This was in regard to a call, he called me about, wanted to know whether a Marla [Greenstein 00:02:52] had ever contacted me about Judge Murphy. And what I said was ... Okay, let's get it from the beginning so we have full context.

Mr. Haeg: Okay.

Mr. Robinson: Ah.

AAG Peterson: Wait, hold, hold on. Do you remember saying whatever's written on that paper?

Mr. Robinson: No.

AAG Peterson: Okay, where did that paper come from?

Judge Morse: Don't know yet.

AAG Peterson: You can't just read something that the defendant hands him as though they're his own words.

Judge Morse: He can read anything he wants to refresh recollection.

Mr. Robinson: Yeah. Refresh my memory.

AAG Peterson: Sure, and then ask him another question based upon it. But he can't just read-

Judge Morse: Well we're not there yet.

Mr. Robinson: Right.

Judge Morse: So, your objection's denied. [1:53:30]

Mr. Robinson: So, now I've read it.

Mr. Haeg: Do you agree that that's a true and accurate-

Mr. Robinson: No, I don't know how accurate this is because I didn't do the transcript.

Mr. Haeg: Okay.

Mr. Robinson: And I didn't even know I was being recorded, but, at the time. But ... So, I can't vouch for the accuracy of this document because I don't know anything about it's background.

Mr. Haeg: Well does it ... Does it equate to what you remember?

Mr. Robinson: I remember you calling me. I was in Washington DC at the time. My mother had just passed away. And I remember you calling me-

Judge Morse: So, what's your question?

Mr. Haeg: My question is, is this an accurate representation of a conversation we had?

Judge Morse: And his answer was, he doesn't know.

Mr. Haeg: Okay.

Judge Morse: So, whether it's accurate or not, ask him the basic question about what is this-

Mr. Haeg: Okay. Did you ... Did you ever, ah ... Is it true that you seen Trooper Gibbons and Judge Murphy running around in the Trooper car?

Mr. Robinson: My best recollection is that I heard it. And if you read that statement very closely, if I said I saw it, I also said I could be wrong. Isn't that true?

Mr. Haeg: Mm-hmm (affirmative).

Mr. Robinson: Okay.

Mr. Haeg: Okay. Can you ... How do I go about this? It also says, I said, "Do you remember it happening during my trial?" And Mr. Robinson replies, "I saw it." And I said, "trial or sentencing?" And Robinson said, "I saw it during the trial, I believe." And that's ... And he does say, "I could be wrong you know all these days kind of all blend together."

AAG Peterson: Objection. That's not a question. That should all be stricken.

Mr. Haeg: Anyway. I don't know what to do. Your Honor, I ... I don't know what to do with this stuff.

Judge Morse: You think he's got a prior inconsistent statement, okay?

Mr. Haeg: Yes.

Judge Morse: Got it.

Mr. Haeg: Okay. And there is a recording of this that we could provide.

Mr. Haeg: Is it true, the reason you didn't protest Judge Murphy riding around with Trooper Gibbons, was that you didn't think it was your job to protest Judge Murphy riding around with Trooper Gibbons?

Mr. Robinson: That's not true.

Judge Morse: Next question.

Mr. Haeg: Is-

Judge Morse: He said it's not true.

Mr. Haeg: Okay. I'd like to admit some notes that I took with Mr. Robinson, um, during a 1-14-18 meeting, or, let's see. Page 51 of 1-14-18 meeting. So, what refutes that is page 51 of 1-14-18 meeting and notes of 1-9-18 meeting.

Judge Morse: These are notes that you made?

Mr. Haeg: Yes.

Judge Morse: No, you can't do that.

Mr. Haeg: Huh?

Judge Morse: You can't do that.

Mr. Haeg: I gave him a copy of the notes that I made at the time.

Judge Morse: Doesn't matter whether [inaudible 00:06:36].

Mr. Haeg: When we had, did ... Okay, Mr. Robinson, did we have a meeting on January 14 of 2018 and a meeting on January 9th of 2018? And I think, I think ... I believe both of them, Dave [Brummel 00:06:57 1:56:56], a friend of mine, Dave Brummel, was with. So it would have been me and Dave Brummel-

Mr. Robinson: I recall meeting you, with you a couple times in January of 2018. One was at, ah, a coffee and waffle restaurant in [Soldotna 00:07:12 1:57:09]. And the other one was at my house.

Mr. Haeg: Yeah.

Mr. Haeg: And can I approach and show you notes and see if you recognize them? And I believe-

Judge Morse: You can ask ... You can

Mr. Haeg: And did I give you a copy of notes I made during those meetings?

Mr. Robinson: You may have. I don't have any of those notes but you may have.

Mr. Haeg: Okay.

Judge Morse: You can show him-

Mr. Haeg: Can I approach and show you these notes? And see-

Judge Morse: You can show him something and ask him if it refreshes his recollection.

Mr. Haeg: Okay.

Judge Morse: If he says yes, then you ask him the question.

Mr. Haeg: Okay.

Judge Morse: Not what the notes say, not the contents of the notes, but the ... What's the question you're trying to ask him?

Mr. Haeg: I'm trying to refute that he-

Judge Morse: What's the question that you're trying to, originally ask him?

Mr. Haeg: I originally asked is it true that he didn't think it was his job to protest Judge Murphy riding around with Trooper Gibbons.

Mr. Haeg: He said that's not true.

Judge Morse: Okay. And so what-

Mr. Haeg: And I'm ... I have a note here that I made while he was sitting there watching me do it. That ... And I gave him copies of the notes.

Mr. Haeg: Does that refresh your memory?

Mr. Robinson: No. It's doesn't. It doesn't refresh my memory that I ever told you that it wasn't my job to do one thing or the other. And I don't understand why, how that's written in there. I don't know. I'm just saying I can't-

Judge Morse: It doesn't refresh his recollection so move on to another question.

Mr. Haeg: Okay. And I think I have a recording that [refutes 00:08:49 1:58:47] this that he made, but I, I'm a little ...

Judge Morse: How much longer do you think you have with Mr. Robinson?

Mr. Haeg: Um. Probably a while. I don't know, maybe-

Judge Morse: I don't know what that means.

Mr. Haeg: Maybe an hour?

Judge Morse: Okay. Because we're done at 1:30. For today.

Mr. Haeg: Okay.

Judge Morse: So, my-

Mr. Haeg: Well I'll try, I'll just keep ... I'll try to go as fast as I can here. Um.

Judge Morse: Just hang on. Hang on. So, it is likely that you won't be done by 1:30 so you want Mr. Robinson to be here tomorrow morning?

Mr. Haeg: Correct.

Judge Morse: Okay. What's your schedule tomorrow morning?

Mr. Robinson: I had planned to be at home tomorrow morning but, ah, if Mr. Haeg wants me to testify tomorrow, then I would request that he pay for my expenses of staying ...

Mr. Robinson: ... for the night including a room and some food.

Judge Morse: Are you going to do that, Mr. Haeg?

Mr. Haeg: What was that?

Judge Morse: Because this is taking so long, he will have to spend the night, and he's suggesting that since you subpoenaed him, you should pay him.

Mr. Haeg: I have no problem with that, Your Honor.

Judge Morse: Okay.

Mr. Haeg: Does he want the money now or later?

Judge Morse: You guys work out where he's going to stay and you pay for his room-

Mr. Haeg: Okay.

Judge Morse: ... and then it will be tomorrow morning.

Mr. Haeg: Okay.

Judge Morse: So you can keep going. We're going to stop at 1:30. When we ... if you're not done, you'll-

Mr. Haeg: Pick up where we left off, okay.

Judge Morse: ... Mr. Robinson will be here 8:30 tomorrow and we'll keep going, and the state's going to have an opportunity to cross-examine. Then, besides Mr. Robinson, just so that I can get a sense, you said Mr. Zeller will be testifying?

Mr. Haeg: Yep, and I, I actually had some others I wanted-

Judge Morse: Okay, and who else?

Mr. Haeg: Uh, my wife, Tom [Stepnosky 00:00:48], Drew Hildebrand and Dale [Dolifka 00:00:52].

Judge Morse: Okay. So I don't know what any of those people are going to say, you do.

Mr. Haeg: I know, and the case is going longer than I thought, so-

Judge Morse: So-

Mr. Haeg: Okay, so I'll hurry along.

Judge Morse: ... so, focus-

Mr. Haeg: Um-

Judge Morse: Just Mr. Haeg, wait. Just let me try to help. It is possible you're not going to be able to get all those witnesses on tomorrow. So my advice to you is you decide who are the most important ones, right?

Mr. Haeg: Okay.

Judge Morse: And then you have those individuals be here at nine o'clock so that they're here to start. Don't ... if, if, if you, if you don't have time for all of them, don't start with your least important witnesses-

Mr. Haeg: Well-

Judge Morse: ... start with your most-

Mr. Haeg: ... I would've started with Mr. Robinson, but he wasn't here-

Judge Morse: Yes, but be-,

Mr. Haeg: ... and Cole was one of the-

Judge Morse: Now what?

Mr. Haeg: ... kind of more not necessary. So anyway, I'm just saying-

Judge Morse: I-, my-

Mr. Haeg: ... that that tripped me up.

Judge Morse: ... my point simply is, I want you to identify your most important witnesses and u-, and put them next after Mr. Robinson, so you-

Mr. Haeg: I understand.

Judge Morse: ... get the imp-, you got that?

Mr. Haeg: I, I do understand. I-

Judge Morse: Good. Good.

Mr. Haeg: Loud and clear. I-

Judge Morse: Good.

Mr. Haeg: ... I also want it on the record that I wanted two weeks-

Judge Morse: I-, now you're-,

Mr. Haeg: ... for this evidentiary hearing-

Judge Morse: ... wasting your time.

Mr. Haeg: ... and I got 10 hours.

Judge Morse: Now you're burning up your clock.

Mr. Haeg: Okay.

Judge Morse: Go ahead. Burn up-

Mr. Haeg: I have a-

Judge Morse: If that's what you want.

Mr. Haeg: I have a, another recording that I'd like to show Mr. Robinson to see if it refreshes his memory-

Judge Morse: You may do that.

Mr. Haeg: ... about ... huh?

Judge Morse: You may do that.

Mr. Haeg: Okay.

Judge Morse: You ask him the simple question. Does this refresh your recollection?

Mr. Haeg: Okay, this is a ... This is a-

Judge Morse: Don't talk about it. Show it to him.

Mr. Haeg: Can you read from there to there? To see if that refreshes your relec-, recollection.

Judge Morse: What's the question you want to ask him that you're concerned with the-, you-, I don't want you to talk about what's, is, is in that-

Mr. Haeg: Um-

Judge Morse: ... what's question?

Mr. Haeg: Whether it's true he in fact told, stated that it was not his job to protest Judge Murphy running around with Trooper Gibbons during-

Judge Morse: Why do you think this important?

Mr. Haeg: ... my trial? Because the Court of Appeals remanded it. And they said not only do I have to prove that they ran around together during my trial, I also have to prove that Mr. Robinson was told about it, and Mr. Robinson didn't have a valid reason for not protesting. And I think him telling me, that it's not his job to protest ... Well, if it's not his job to protest, Your Honor, whose job is it? When I paid him \$50,000.

Judge Morse: Let me help you out here.

Mr. Haeg: Huh?

Judge Morse: Let me help you out. Let me help you out here.

Mr. Haeg: Okay.

Judge Morse: The first part is, there's three parts to this. A, she drove around with the trooper. Okay, you got to prove that. Secondly, that somebody told Robinson at the time, that Murphy's driving around with the trooper, or that he saw it. Okay?

Mr. Haeg: And I brought into evidence that says that he thinks, or thought during trial.

Judge Morse: Okay. All right. So-

Mr. Haeg: And now I-

Judge Morse: So what's your question?

Mr. Haeg: The question is, is it true, did this refresh your memory that you didn't believe that it was your job to protest Judge Murphy riding around with Trooper Gibbons?

Mr. Robinson: Okay. I'm not sure that this addresses that issue, David.

Judge Morse: So, the answer would be no.

Mr. Haeg: Okay. Well ... And I, you want to look at this or not? Is it true you thought Judge Murphy was a law enforcement type judge, and not the independent judiciary type I was supposed to have?

Mr. Robinson: I don't know what you mean by "supposed to have". I've, I've had several opinions about judges in my 38 years of practicing law.

Mr. Haeg: Okay. What's your opinion of Judge Murphy?

Mr. Robinson: At the time that she had your trial?

Mr. Haeg: Yeah.

Mr. Robinson: I had the opinion that Judge Murphy was a judge that could be prone to agree more with prosecutors than defendants, lawyers.

Mr. Haeg: Okay. Um, two ... And so, is it true that you thought Judge Murphy was a law enforcement type judge and not the independent judiciary type I was supposed to have?

Mr. Robinson: I thought that Judge Murphy, like other judges (laughs) in our system, may have shown more inclination to side with law enforcement than with criminal defense. [00:06:09 2:06:08].

Mr. Haeg: Okay. Um, and I'm just going to sh-, and it, just to make it a little clearer, I'd like to show him his deposition, and I'd like you to write this down, Your Honor. Deposition page 204. Line number 14 through 17. And can I ...

Mr. Robinson: Page again?

Mr. Haeg: It's that one, whatever it is.

Judge Morse: 204.

Mr. Haeg: 204. 14 through 17.

Mr. Robinson: Okay.

Mr. Haeg: And I guess can Your Honor read this into the record, please?

Mr. Robinson: What's the question?

Judge Morse: What's the question?

Mr. Haeg: The question is, is it true that Judge Murphy was a law enforcement type judge and not the independent judiciary type you're supposed to have?

Judge Morse: And the answer was..-

Mr. Robinson: [inaudible 00:07:11].

Mr. Haeg: And is ... a pa-, it, Mr. Robinson's answer under oath was, "That was my opinion of her."

Mr. Robinson: Oh.

Judge Morse: Okay. [2:07:19]

Mr. Robinson: It was thinking at the time, isn't that what it said? Mr. Haeg, a correction on the deposition. Didn't it say that was my thinking at the time, or that was my opinion that the time?

Judge Morse: At the time of the deposition?

Mr. Haeg: It doesn't say ... it says, "That was my opinion of her." Period.

Mr. Robinson: Oh, okay.

Mr. Haeg: And then I said, "So it's likely you said that?" And you answered, "It's likely." Period.

Judge Morse: Your next question?

Mr. Haeg: Is it true that Judge Murphy made conflicting decisions at the request of the state, to take away the defense that my wolf control permit would have given me?

Mr. Robinson: I'm not sure I quite understand that question, David, could you make it a little more ...

Mr. Haeg: Is it true that you filed a motion that I could not be charged as a guide. I could only be charged under the Wolf Control Program-

Mr. Robinson: Correct.

Mr. Haeg: ... and she, the state, said, ah, "This is a factual question that has to go to the jury." And she's not going to rule on it. It's going to go to the jury and then a week later, the state files a protection order saying, "Because this is now a ... " And, the, to get the judge to testify that way, they said, the state said, "Judge, you can't rule on this. You can't rule on this. It's a factual issue. It has to go to a jury." A week later the state-

Judge Morse: This is-

Mr. Haeg: ... changes it-

Judge Morse: ... this is all part of the record, right?

Mr. Haeg: Yeah. But I'm just, I want it in here-

Judge Morse: What's your point?

Mr. Haeg: ... because the public doesn't know the record, and this case-

Judge Morse: Your, your, your-

Mr. Haeg: ... is going to be decided with-

Judge Morse: ... your clock is running, Mr. Haeg.

Mr. Haeg: Okay. I understand. But anyway, a week later, the state filed a protection order saying that, or asking for a protection order that said, "Because this is a legal issue, we want a protection order ordering them not to bring up that he should've been charged under the Wolf Control Program and not as a guide." Do you remember Judge Murphy making those two conflicting decisions?

Mr. Robinson: I remember making a point in your case that you had a license or permission to allow you to trap. Not hunt. And that you should've been charged with a trapping violation and violation of your permit. But the judge didn't allow that.

Mr. Haeg: And, in fact she said it-

Mr. Robinson: Instead the state, or, well-

Mr. Haeg: ... had to go to the jury.

Mr. Robinson: ... the state did argue that it was a factual question so the jury should determine it...

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Mr. Robinson: Then the states didn't know it's a legal issue and they shouldn't determine it, but anyway.

Mr. Haeg: And then she granted that, so what I'm saying is how can she rule that it's both a legal issue and a factual issue to side against me both times?

Mr. Robinson: Are you asking me or are you asking the judge?

Mr. Haeg: Anybody.

Mr. Robinson: Oh, I don't know.

Mr. Haeg: The public.

Mr. Robinson: David, I don't know. I brought it up on appeal, that's all I know.

Mr. Haeg: Okay, I'm just gonna read out of your deposition, and tell me if this is true.

Judge Morse: Mr. Haeg, is this something that you think is important to the ruling I'm gonna make, or the court of appeals? Or is this something you want to tell your supporters? Because if it's something you want-

Mr. Haeg: It shows-

Judge Morse: If it's something you-

Mr. Haeg: It shows that Judge Murphy was biased against me.

Judge Morse: Yes, but all of this is already in the record, so you're wasting your time here.

Mr. Haeg: Okay. Well, I'll move on here.

Judge Morse: Okay. Focus on things that aren't in the record. That you're using this hearing to develop.

Mr. Haeg: Ok. Is it true that the Alaska Commission on Judicial Conduct Investigator Marla [Greenstein 00:00:55] never contacted you during the investigation of Judge Murphy riding around with Trooper Gibbins during my trial?

Mr. Robinson: I can say that I was never contacted by her.

Mr. Haeg: Okay, so ... um and I guess I, I'm not allowed to testify now. But there's a certified document. Have you, have you seen a certified document from Marla Greenstein stating that in fact she had contacted you?

Mr. Robinson: I can't remember whether it was at my house, or at the coffee-

Mr. Haeg: It was at your ... Where you broke your hip and you were in the recovery room at the hospital.

Mr. Robinson: Oh right. You did see me at the hospital. I remember that now. I didn't remember that before, but I remember-

Mr. Haeg: And I was there with Senator-

Mr. Robinson: And I remember you showed me some stuff at the hospital, or at the house, or at the coffee shop, I'm not sure now which one it was. But that apparently somebody said they had contacted me about that issue.

Judge Morse: I mean the bottom line is that Groenstein, or uh, Greenstein, or whatever her name is, Marla never contacted you regarding the Murphy Trooper allegation? Okay.

Mr. Haeg: And then she wrote a certified ... And is it true that when you seen that certified document she, you agreed that that was proof of perjury by Marla Greenstein?

Mr. Robinson: Well I didn't agree that it was any proof of perjury, but that's what you were claiming. I'm just saying that she didn't-

Mr. Haeg: So you would have never agreed that that was perjury? In a certified document?

Mr. Robinson: I don't make up perjury decisions, you know whether or not she made a falsehood or not false statement, or true or nota true statement, that's another question.

Mr. Haeg: But in fact her statement that she contacted you was not true.

Mr. Robinson: She never contacted me.

Mr. Haeg: Okay. I'm sorry that I'm so disorganized here.

Mr. Haeg: Sorry, can I just try-

Judge Morse: I don't know what you're doing but I'm-

Mr. Haeg: Okay, does this recollect your ... Can you read this and tell me if this is a true-

Mr. Robinson: What is it then?

Mr. Haeg: It is a response, a certified response by Marla Greenstein to the Alaska Bar Association, and in it she says, "In Mr. Haeg's matter, I interviewed Mr. Haeg's attorney Arthur Robinson." Is that a true statement Mr. Robinson?

Mr. Robinson: I, I was never interviewed by her.

Mr. Haeg: So this, so this document made under certified as true is false, the document, correct?

Mr. Robinson: It says, "This letter con- constitutes the true and correct statement of the facts to my best knowledge and belief." Doesn't say it was signed under perjury, but um-

Mr. Haeg: Okay, but where she says this-

Judge Morse: Mr. Haeg-

Mr. Haeg: And I'd like to admit this into evidence.

Judge Morse: You've, you've made the point that Mr. Robinson has testified that she never spoke to him.

Mr. Haeg: Well I want you to please look at this so that you know what-

Judge Morse: I ...

Mr. Haeg: Can I admit this into evidence?

Judge Morse: Sure.

Mr. Haeg: And I'd like to just state this is a-

AAG Peterson: For what purpose? I'll, I'll object-

Mr. Haeg: To prove-

AAG Peterson: Because it's irrelevant-

Mr. Haeg: Okay.

AAG Peterson: So what's the purpose of this? I have no idea.

Mr. Haeg: This is the proof that there was a cover up, by the Alaska Commission on Judicial Conduct, that my judge was chauffeured by the main witness against me during my trial, and I as an American citizen has a constitutional right to an unbiased judge. And not only was my judge running around full time with the main witness against me-

Judge Morse: Mr. Haeg, let me help you out here.

Mr. Haeg: The only person that investigates judges in this state, falsified an official investigation, and not only did she do that, when I filled a bar complaint, she then falsified a certified document to cover up her corrupt investigation. And I want it on the record.

AAG Peterson: It's irrelevant, and it shouldn't be admitted.

Judge Morse: It's admitted.

Mr. Haeg: It proves there was a coverup!

Judge Morse: Mr. HAEG! I'm admitting it.

Mr. Haeg: Okay, thank you, Your Honor.

Judge Morse: Do you have any witness that says he or she saw Judge Murphy in the trooper car?

Mr. Haeg: Yes, a whole slew of them.

Judge Morse: Okay.

Mr. Haeg: All over.

Judge Morse: Alright.

Judge Morse: See Mr. Haeg-

Mr. Haeg: Mr. Robinson, is it true-

Judge Morse: Mr. Haeg, let me help you here. If you have witnesses who saw Judge Murphy in the trooper car, that's important information.

Mr. Haeg: That's all on the record, there's affidavits. Like you said, it's all on the record. There are affidavit, after affidavit, after affidavit-

Judge Morse: Where? Where are they? Where, where are-

Mr. Haeg: "We personally witnessed Judge Murphy riding around."

Judge Morse: Just-

Mr. Haeg: Tony Zellers, Tom Stepnosky, Drew Hildibrand-

Judge Morse: Mr. Haeg-

Mr. Haeg: Wendall Jones, who's now dead, a former trooper-

Judge Morse: Mr. Haeg, Mr. Haeg. Rather than spend time convincing me that Groenstein, that Greenstein made some sort of false allegation, it would be more helpful to your case if you put the witnesses on who saw Judge Murphy driving around with the trooper.

Mr. Haeg: Okay.

Judge Morse: That's the important part. Not that the Judicial Conduct Commission is a fraudulent entity, not that Marla's a lying person-

Mr. Haeg: But you see, Your Honor-

Judge Morse: What's important-

Mr. Haeg: But you-

Judge Morse: For your case in this hearing is for you to prove that in fact Judge Murphy drove around with the trooper. So if you have witnesses of that, those are more important witnesses.

Mr. Haeg: What I believe is more important-

Judge Morse: But your, but-

Mr. Haeg: For the citizens of this state to know that the only investigator of judges for the past 30 years, and that's investigator of you-

Judge Morse: Mr. Haeg-

Mr. Haeg: And every other judge in this state-

Judge Morse: Mr. Haeg-

Mr. Haeg: Is falsifying investigations-

Judge Morse: Mr. Haeg.

Mr. Haeg: To cover up for corrupt judges.

Judge Morse: Mr. Haeg, I think that's an important point for you to make.

Mr. Haeg: Okay-

Judge Morse: But not-

Mr. Haeg: You think I've made it well enough?

Judge Morse: Yes, but you're wasting your time.

Mr. Haeg: Okay.

Judge Morse: You can make that allegation outside to the public. You can do it all you want-

Mr. Haeg: Okay.

Judge Morse: I encourage you to do that. But what you're wasting your time on, is the proof you need to prove, which is in fact that Murphy actually drove with the troopers. So if you have witnesses who saw that-

Mr. Haeg: Okay. Well-

Judge Morse: You should bring them in, because if you get to 1:30 tomorrow and you say, "Geez Judge, I don't have time to put my witnesses on who saw Judge Murphy." I'm gonna say then why were you talking about Marla so damn much?

Mr. Haeg: Okay. All those witnesses have already sworn out affidavits and they're in the court record.

Judge Morse: You do what you think is best.

Mr. Haeg: Okay. Is it true Mr. Robinson that in Alaska there is quote, a quote, "Good boy network." Unquote, of prosecutors, cops, judges, and magistrate who protect their own?

Mr. Robinson: That's probably true throughout the whole country.

Mr. Haeg: Okay, so you, you agree that it's true here in this state also?

Mr. Robinson: Well, I'm of the opinion, and I'm not the only one, that there are certain cliques that exist in all professions, all industries. And that the legal profession is probably not exempt from it.

Mr. Haeg: Okay. Is it true the reason you could not pursue the plea agreement Brent Cole made was because you were not part of that deal?

Mr. Robinson: No. That's not the reason.

Mr. Haeg: Um, I have a recording, a transcription of a recording refuting that, and I'd like to admit it. Have Mr. Robinson look at it.

Judge Morse: Well, you could ask him if it refreshes his recollection, and ask him that question.

Mr. Haeg: Okay.

Judge Morse: But you can't just put the conversation in without laying a foundation and having somebody testify about who, who participated in the conversation.

Mr. Haeg: And this is a transcription of a recording made with Chuck Robinson on January 5th of 2006, let's see if this refreshes your recollection, the highlighted part.

Judge Morse: And the question is what?

Mr. Haeg: I forget, um-

Judge Morse: Not, not ...

Mr. Haeg: Is it true he didn't enforce ... Is it true he told me he could not enforce the plea agreement Brent Cole had made because he was not part of that deal?

Mr. Robinson: When was this made?

Mr. Haeg: January ... It's right at the bottom, January 5th of 2006.

Mr. Robinson: And where was it made?

Mr. Haeg: In your office.

Mr. Robinson: And ... Well I'm not sure I understand-

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Mr. Robinson: What your question is. This doesn't seem to go to your question.

Mr. Haeg: My question was, is it true that you couldn't enforce the plea agreement I made with Brent Cole because you were not part of that deal?

Mr. Robinson: Well, that's sort of taken out of context, Mr. Haeg, if you look over to there, right there.

Mr. Haeg: Okay. Um. Anyway. So, you're-

Mr. Robinson: No, no, no. Not anyway.

Mr. Haeg: Okay. So what to you ... What's your answer?

Mr. Robinson: Well, see, I can't answer that question the way you asked it because it's not in the context of what's in the document.

Mr. Haeg: Is it true that, ah, I stated, "Remind me again why we didn't pursue the deal Brent Cole had because I've been thinking about that and thinking about that and thinking about that and is it true?" You responded, "You're asking me why you, meaning me, didn't pursue that deal?"

Mr. Robinson: No. Meaning you.

Mr. Haeg: Yeah.

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Mr. Robinson: If that's me.

Mr. Haeg: Okay. And then I say ... You say, "You're asking me why you didn't pursue that deal?" I say, "Why we, me and you, didn't pursue the deal Brent Cole had." And then you jump in, "We." And I say, "You and I. Why didn't you and I?" And you said quote, "I wasn't part of that deal," unquote.

Mr. Robinson: Yeah. Then you gotta ...

Mr. Haeg: Okay. Read it.

Mr. Robinson: I'm not sure the court wanted me to read it but-

Mr. Haeg: Okay.

Mr. Robinson: Should I read it?

Judge Morse: I don't know what you're getting at.

Mr. Haeg: What I'm getting at, is Mr. Robinson, when I asked him-

Judge Morse: Ask him a simple question. Why didn't you enforce the Cole deal?

Mr. Haeg: Yeah, why didn't you enforce the Cole deal?

Mr. Robinson: I think I already answered that. I gave you an option. You chose to go to trial. Number two, it wasn't really clear from speaking to Brent Cole that there was a deal. And I mention that in here too.

Mr. Haeg: Isn't it true ... Isn't it true, though, at the time you said you couldn't enforce it because you were not part of that deal.

Mr. Robinson: No. The question is why didn't you enforce it, with Brent Cole?

Mr. Haeg: I'm not an attorney.

Mr. Robinson: I-

Mr. Haeg: And I tried to enforce it with Cole. I think that's abundantly clear.

Mr. Robinson: Okay, well-

Judge Morse: [00:02:50] Move on to you next question.

Mr. Robinson: But my point was, my point, my point-

Mr. Haeg: Do you want that, or?

Mr. Robinson: Well, my point ... No, I'd like to answer the question. My point to you is at the time, Mr. Haeg, was that the deal that you were talking about was something that you and Brent Cole were trying to put together. Not, me, you and anybody else. All right?

Mr. Haeg: Okay. So, it's true that you couldn't enforce any deal that me, Brent Cole, and Scot Leaders put together.

AAG Peterson: That's asked and answered several times.

Mr. Haeg: Okay. Well-

Mr. Robinson: Hey, wait a minute.

Mr. Haeg: Can I-

Mr. Robinson: I don't want you to go away without reading this part.

Mr. Haeg: Can you read it?

Mr. Robinson: Yeah. What I told you was, was it was fuzzy as to whether or not Scot Leaders had agreed to the deal that you and Brent tried to give to him. Based on what Brent said and what Scot said, so both you were the one in the deal with Brent, not me.

Mr. Haeg: Yeah, exactly. We had a deal and when we came to you, you said no matter what, how enforceable the deal was, you couldn't do it because you weren't part of the deal.

Mr. Robinson: No, that's no how that is, Mr. Haeg.

Judge Morse: Move on to another topic.

Mr. Robinson: Okay.

Mr. Haeg: Is it true, you told me that everything I did with Cole was quote, water under the bridge, unquote.

Mr. Robinson: With regards to what, Mr. Haeg?

Mr. Haeg: Statements, plea deal, everything. Not doing anything. Basically selling me out to the State.

Judge Morse: Who sold you out to the State?

Mr. Haeg: Brent Cole.

Mr. Robinson: I never told you Brent Cole sold you ...

Mr. Haeg: And Mr. Robinson, and Mr. Osterman.

Mr. Robinson: I never told you that Brent Cole sold you out to the State and water was under the bridge.

Mr. Haeg: Okay. Well-

Mr. Robinson: If that's what you're trying to-

Mr. Haeg: Okay. So you would have never said that everything with Brent Cole was quote, water under the bridge, unquote.

Mr. Robinson: When you decided to go to trial, it didn't matter to me that you and Brent had some disagreement about a plea deal that Mr. Leaders was not gonna agree to. I put it to you, do you want to try to make it a plea agreement?

Mr. Haeg: Okay.

Mr. Robinson: Or you wanna go to trial? You decide to go to trial.

Mr. Haeg: Is it true, you have stated that you assumed that I was relying on something when I gave up a whole year's income and gave prosecutor Leaders and Trooper Gibbons a five hour interview?

Mr. Robinson: I'm, I'm not following that question, Mr. Haeg.

Mr. Haeg: Is it true, that you assumed that I was relying on something to quit guiding for a year, and to give the, the government a statement.

Mr. Robinson: I'm not sure what you were assuming. But you said that you had a-

Mr. Haeg: No, is it true that you assumed I was relying on something?

Mr. Robinson: Well, I assume you were relying on some kind of-

Mr. Haeg: Okay.

Mr. Robinson: ... discussions or talks but I never saw anything in writing that said you'd done anything.

Mr. Haeg: I know. But didn't we tell you that Brent Cole never put anything in writing?

Mr. Robinson: Yeah, but what I'm saying is that (laughs) you're asking me-

Mr. Haeg: Okay.

Mr. Robinson: ... something that I can't really verify one way or the other.

Mr. Haeg: Okay.

Mr. Haeg: Is it true an attorney lying directly to his client may not be ineffective assistance to counsel?

Mr. Robinson: Lying about what? That the sky is blue?

Mr. Haeg: And my next thing was would you have ever said this while you and I were discussing whether Brent Cole lied to me about my agreement?

Mr. Robinson: Repeat the question once again, Mr. Haeg.

Mr. Haeg: Is it true, I'm gonna combine these two questions. Is it true that Brent Cole lying to me about my plea agreement was not ineffective assistance to counsel?

Mr. Robinson: I don't remember telling you anything like that, but it-

Mr. Haeg: Well I have a, a transcription that proves that, um, and I guess, ah ... Is it true that I told you that Cole said he could not do anything that would quote, piss Leaders off, unquote. Because he had to be able to make deals with Leaders in the future.

Mr. Robinson: Well, it's true you told me that. But I don't know whether or not in fact-

Mr. Haeg: That happened.

Mr. Robinson: Yeah.

Mr. Haeg: Okay, I see. Ywp.

Mr. Haeg: Is it true that you never thought of an ineffective assistance of counsel claim against Brent Cole?

Mr. Robinson: I didn't have, in my opinion, enough evidence at the time that we decided to go to trial, to sue Brent Cole for ineffective assistance of counsel when both Scot Leaders and he was standing with no deal.

Mr. Haeg: Okay. Is it true that when I asked you if you could file an ineffective assistance of counsel claim against Cole, you responded, I never paid you for an ineffective assistance claim against Brent Cole?

Mr. Robinson: Well, that's true. You didn't hire me for ineffective assistance claim against Brent Cole. You hired me to defend you in a criminal case.

Mr. Haeg: Is it true you can claim ineffective assistance of counsel on appeal?

Mr. Robinson: You can always claim on appeal, anything you want to claim on appeal.

Mr. Haeg: Okay. So, you could have actually brought up ineffective assistance of counsel when you filed my appellate points?

Mr. Robinson: Well, now the question is whether or not there was reasonable basis for doing so and I didn't think there was a reasonable basis because there was no agreement between Scot and ...

Leaders, and, and between Scot Leaders and Brent Cole that there was ever an agreement, David.

Mr. Haeg: Okay. Is it true that your private investigator, Joe Malatesta did not find that there was as enforceable plea agreement?

Mr. Robinson: I, in addition to Mr. Malatesta, investigated your claim about this agreement. Mr. Malatesta also spoke to Mr. Cole and from my understanding of his report to me, Mr. Cole again reiterated that Scot Leaders changed his mind, there was no deal.

Mr. Haeg: So, you would've never had anything from Mr. Malatesta leading you to believe that you should try to enforce the plea agreement?

Mr. Robinson: I don't remember having anything.

Mr. Haeg: Um. I'd like to admit a, a, uh, copy of private investigator Joseph Malatesta giving Mr. Robinson a written note that says, don't forget to remember to motion on the DA backing out of the original offer.

Mr. Robinson: Well, backing out means there wasn't a deal. Apparently. (laughs)

Mr. Robinson: I don't understand your point.

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Mr. Haeg: Shit. I don't know, I had-

Judge Morse: Mr. Haeg, let me make a suggestion. You seem to be a little disorganized right now, probably because it's been a long day and you're tired. Um, would this be a good time to stop, and we'll start up again tomorrow at 8:30?

Mr. Haeg: Uh, I'd like to get in as much as I can. I found it right here-

Judge Morse: Alright, go ahead.

Mr. Haeg: And so-

AAG Peterson: Uh yeah, I'm going object, object to, uh to hearsay.

Judge Morse: I don't know what this is, so I-

AAG Peterson: Oh, I thought that was the letter from his private investigator that he was just-

Mr. Haeg: It is. It's a note from-

AAG Peterson: Yeah, that's hearsay.

Mr. Haeg: His private investigator to Mr. Robinson. Dated January 25th 2005. And I'd like you to read the, I think couple pages in, there's a highlighted section.

Judge Morse: This is a letter to whom?

Mr. Haeg: To Mr. Robinson, from Mr. Robinson's private investigator.

Mr. Robinson: It's work product. It's work product, from Mr. Malitesta to me.

AAG Peterson: Okay.

Mr. Robinson: It's fairly long, David, I'm-

Mr. Haeg: Yeah.

Mr. Robinson: You know-

Mr. Haeg: Well, can you look at-

Mr. Robinson: Well, I can, I can say that this appears to be a work product-

Mr. Haeg: Can you go to the last page please? Not ... And that's the billing statement, the very last page. But the last page of the ... Right there. Can you read that into the record?

Judge Morse: No, not yet.

Mr. Haeg: Okay.

Judge Morse: You can ask him if that refreshes his recollection, what's the-

Mr. Haeg: Okay, does that refresh your mind?

Mr. Robinson: Well, I haven't read it yet.

Mr. Haeg: Okay.

Mr. Robinson: I, I gotta read it (laughs) to determine whether it refreshes my memory, right?

Mr. Robinson: Okay, and what's your question?

Mr. Haeg: Question was did you ever res- or, I forget. Anyway, you had said that you had your investigator investigate and he didn't find anything showing there was a plea agreement. And I asked would there have ever been anything from your investigator ... I said so you would have never received anything from your investigator indicating that he thought there was a plea agreement?

Mr. Robinson: I didn't interpret it to mean that Mr. Maletesta had found in fact there was a plea agreement. What he says here, it says, "Don't forget to remember to motion on the DA backing out of the original offer." But then Brent Cole said there was no deal, so-

Mr. Haeg: Okay, but-

Mr. Robinson: Where was that original offer though.

Mr. Haeg: But the private investigator wrote you ... Your private investigator wrote you a note stating, "Don't." And it says, "Note to attorney, don't forget to remember to motion on the DA backing out on the original offer." And I'd like to admit this as evidence if I can?

AAG Peterson: I'll renew my objection.

Mr. Haeg: No?

Judge Morse: Well actually wait a minute. The ... You want to put that in merely for the fact that the prosecutor, that the investigator-

Mr. Haeg: Wrote him a note.

Judge Morse: Gave ... Made some, made some ... "Please remember this."-

Mr. Haeg: Yup.

Judge Morse: Okay, what's your objection to that?

AAG Peterson: Well, I objected to hearsay, but I guess if it's not entered for the truth, it's just being shown to show that he wrote the note, then I think it's irrelevant so I'll object to relevance because he just said that he then followed up and-

Judge Morse: It's admissible. Mark it. Hearsay objections overruled. I don't know whether it's relevant until I get the whole ball of wax.

AAG Peterson: Well, if there's something else in there other than that statement, then I need to look at it. There might be a lot of other things-

Judge Morse: You can look at it if you want, all I'm, all I'm admitting it for is the little part that he just talked about-

AAG Peterson: Okay.

Judge Morse: The "Please remember." Regarding the, "To enforce the deal." That, that statement.

AAG Peterson: Okay.

Mr. Haeg: Is it true that it's common sense that if you make a deal that involves having your client give a statement that eventually is going to be used against him, you should get it in writing?

Mr. Robinson: From whom?

Mr. Haeg: Is it true that you-

Mr. Robinson: Well, wait, wait, get it in writing from whom?

Mr. Haeg: It's something that you said. I assumed what you meant is Brent Cole should have got something in writing from Scot Leders, Trooper Gibbins, about what I might get for talking to them. What they could do with the statement. Anything. And I think that's what you were talking about. Because I believe ... And so the question again is, is it true that it's common sense that if Brent Cole made a deal that involved David Haeg giving a statement, that is eventuality going to be used against David Haeg, Brent Cole should've got it in writing?

Mr. Robinson: There are certain things that should be in writing when, when deals are made. And there are other things that are not in writing that still become part of the deal when they go to court and memorialize it on the record.

Mr. Haeg: Is that one of them? Your client going and giving a statement. Is that one of them that should be put in writing?

Mr. Robinson: That the clients going to give a statement? Or the writing itself? Or the statement itself?

Mr. Haeg: I don't know, it says, "That involves your client, that involves giving your client a statement that eventually is going to be used against him." And so you were talking about the deal. You were saying that the deal, whatever was going to happen, with me going in and talking to Trooper Gibbins and, and-

Judge Morse: Let me help you out. If there was uh an agreement regarding Mr. Haeg giving a statement, should it have been ... with the prosecutor, should it have been put in writing?

Mr. Robinson: Is that your question Mr. Haeg?

Mr. Haeg: Yes.

Mr. Robinson: I would want it to be in writing, simply so there wouldn't be any misunderstanding later what there was agreed to.

Mr. Haeg: Yeah, especially maybe 15 years later?

Mr. Robinson: No, I would've been more interested in what would've happened between the time the statement was made, and when it was gonna be used, not 15 years later.

Mr. Haeg: Okay, so it would be common sense that you'd get that in writing?

Mr. Robinson: Well, I'm not sure that I could characterize it as common sense, but it would make sense that if it's such an important statement, I would like to have it in writing, and I would like for my client to have it in writing.

Mr. Haeg: Okay.

Judge Morse: But, but it is also true that you can give a statement to the police without there being an agreement.

Mr. Robinson: Yeah.

Judge Morse: But if there is an agreement about what can and cannot happen with the statement given by the witness, um that should be put in writing. Okay I-

Mr. Haeg: Okay.

Judge Morse: I'm with you there.

Mr. Haeg: Was my statement used against me?

Mr. Robinson: Was your statement used against you after you testified and while you were testifying?

Mr. Haeg: Was my statement used against me, in the informations forcing me to trial?

Mr. Robinson: In the information or the trial? I'm not sure which statement you're talking about.

Mr. Haeg: The ... It's called the charging information, it is the charging document from the prosecutor. Did Scot Leaders put my statement in there to force me to trial?

Mr. Robinson: He put parts of it in there, yes.

Mr. Haeg: Okay, so that's a yes. Was my statement used against me at trial in this map right here? When I'm the one that put these marks on this map, and they used it against me at trial. Is that my statement being used against me at trial?

Judge Morse: Uh the answer to that question is obviously yes-

Mr. Robinson: Yeah.

Judge Morse: But again, let me point out to you, all of that is part of the record-

Mr. Haeg: Obviously yes, let me write this down real quick. Obviously yes.

Judge Morse: But Mr. Haeg all of that is ... what happened at trial is part of the trial record. So-

Mr. Haeg: But see, the court of appeals doesn't want to deal with it. And this means my trial is invalid. And I know it, and Your Honor knows it, Chuck Robinson knows it.

Judge Morse: Mr. Haeg.

Mr. Haeg: Probably all these law enforcement officers know it also. And that's why David Haeg is so upset, is because I have the proof that I was given an illegal trial. Everybody around me knew it except me, and it took me 15 years to figure it out! That's why I'm upset.

Judge Morse: We're going to stop now. And again, let me f- Let me advise you to try to prioritize what you believe is the most important information that is not currently in the record. And that's the witnesses, that's what ... You want your witnesses to focus on the new information that you don't yet have in the record. Alright?

Mr. Haeg: Okay.

Judge Morse: See you tomorrow morning. Have a good afternoon.

Mr. Haeg: Oh, and thank you for being as forthright as you have been Your Honor.

Judge Morse: That's ... No one has ever called me forthright before Mr. Haeg. I appreciate that.

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Clerk: The court of the State of Alaska is now in session. The Honorable William Morse presiding.

Judge Morse: Be, be seated, please. We're on the record in uh 3KN-10-01295, council for the state and Mr. Haeg are present. We don't have Mr., uh, Robinson yet. How is-

Mr. Haeg: He's out in the hall.

Judge Morse: Oh, okay.

Mr. Haeg: Should I call him?

Judge Morse: Sure.

Mr. Haeg: Can somebody call, Chuck?

Speaker 4: Chuck?

Mr. Haeg: Yeah.

Judge Morse: Good morning.

Mr. Robinson: Good morning, Judge.

Judge Morse: Uh, Mr. Robinson, would you just state your name for the record. You're still under oath, however.

Mr. Robinson: Yes. Arthur Robinson.

Judge Morse: All right. Mr. Haeg, you may proceed.

Mr. Haeg: Okay. Uh, did I demand that you subpoena Cole to my sentencing in McGrath?

Mr. Robinson: Yes.

Mr. Haeg: Did you do so?

Mr. Robinson: No.

Mr. Haeg: You didn't ... never subpoenaed him?

Mr. Robinson: No, I didn't. I mean I, I may have subpoenaed him and then released him. I'm not ... I can't remember it now.

Mr. Haeg: Okay. [crosstalk 00:02:05]

Mr. Robinson: Anyway-

Mr. Haeg: Well, there, there was a subpoena issued-

Mr. Robinson: Yeah.

Mr. Haeg: ... and received-

Mr. Robinson: [crosstalk 00:02:07] Yeah. It's, it's been so long ago, I just can't-

Mr. Haeg: Okay.

Mr. Robinson: ... completely recall now.

Mr. Haeg: So, I demanded you subpoena Cole and you subpoenaed him. Um, is it true that Cole failed to show up in McGrath in response to your subpoena?

Mr. Robinson: Yes.

Mr. Haeg: Huh?

Mr. Robinson: Yes.

Mr. Haeg: So-

Mr. Robinson: He didn't show up.

Mr. Haeg: Okay. Yeah. When I asked at the time, did you tell me nothing could be done about Cole failing to show up as subpoenaed?

Mr. Robinson: I don't re- ... I don't think I told you nothing could be done. But that it was a issue between the court and, and, and, and uh, Brent Cole, because the subpoena comes from the court.

Mr. Haeg: So it was your opinion that you shouldn't have asked the court to order him to appear. It was the court's responsibility on its own to make him appear?

Mr. Robinson: Sure.

Mr. Haeg: So, you're telling me [crosstalk 00:03:02]

Mr. Robinson: It's a court order. It's not an attorney order.

Mr. Haeg: Okay. So you could not have asked the court to sub-, to order him-

Mr. Robinson: I could have but I don't know whether I was obligated completely to do so.

Mr. Haeg: Okay. So you didn't do so because you thought the court should have done so?

Mr. Robinson: Could have done so.

Mr. Haeg: And why didn't the court?

Mr. Robinson: You'd have to ask Judge Murphy.

Mr. Haeg: Okay. Is it true that you never called Cole to testify at my sentencing because his testimony wasn't relevant to my guilt?

Mr. Robinson: I'm not ... As I said earlier, Mr. Haeg, I can't remember all the conversations I had with you over a decade ago. Um, whether his testimony was relevant to your sentencing or not, I'm not sure.

Mr. Haeg: Okay. I'd like to admit an, uh, a transcription of a 2-1-06 phone call with Robinson in which he specifically stated that he did not call Cole to testify at my sentencing because his testimony wasn't relevant to my guilt.

Judge Morse: Mr. Haeg, what...

AAG PETERSON: Objection...

Judge Morse: what, what's the testimony that you think Mr. Cole would have provided?

Mr. Haeg: That I had given up a, a year of guiding in reliance on the prosecutor of the state promising to give me credit for it.

Judge Morse: And did that assertion get made at the sentencing here?

Mr. Haeg: No, it did not.

Judge Morse: And what, why? You were there. You, you were the one who certainly knew what you did or didn't do and what you relied on or not. Why didn't you, yourself make that argument or provide that testimony? I mean there were sources other than Cole.

Mr. Haeg: My sent- ... I was sentenced at almost 2 in the morning, after like, whatever it was. I forget how many hours it was. I was so beat down, wore out, and Mr. Robinson even said after 10 p.m., because he's a diabetic, he has stated that he was barely there by 10 p.m., and I was sentenced at 2 a.m. after, after-

Judge Morse: When did-

Mr. Haeg: ... going through I don't know ... It started at what? 10 in the morning, at 2 a.m. the next day when it's still going on, me as a defendant, I was not there. I maybe was there in body, but I wasn't there in mind.

Judge Morse: Well you were there in mind and fresh at 10:00 in the morning, or I mean ... I, I understand what you're saying about-

Mr. Haeg: I was not allowed to testify until at ... very nearly midnight.

Judge Morse: Did you testify?

Mr. Haeg: Yes.

Judge Morse: But for some reason you chose not to bring up the topic of your reliance?

Mr. Haeg: I was so wore out. I said on the record I'm so wore out and tired and beat, I don't even know what's going on. That is on the record. I said, "I'm so wore out, beat. I don't know what the hell's going on." That is on the record. At nearly midnight.

Judge Morse: Okay.

Mr. Haeg: The, the crucial thing is, is I ordered that man to subpoena Mr. Cole. He did. Mr. Cole did not show up, and I had given Mr. Robinson written questions to ask Mr. Cole about the plea agreement-

Judge Morse: Okay.

Mr. Haeg: ... about me giving up a year of guiding-

Judge Morse: Okay. Okay. Ask your question.

Mr. Haeg: Okay. Um, so I would like to admit this as proof that Mr. Robinson stated-

Judge Morse: You're going to have to lay some sort of foundation for whatever that is.

Mr. Haeg: It is a phone call between me and Mr. Robinson ... the transcription of a phone call made on 2, February 1st of 2006. And so I don't know, uh, should I give it to Mr. Robinson or can I just admit it?

Judge Morse: You have to lay a foundation with what it is.

Mr. Haeg: I just said it's a ... it's a phone call between me and Mr. Robinson in which Mr. Robinson says he never called Cole to testify at my sentencing because his testimony wasn't relevant to my guilt.

Judge Morse: And was it?

Mr. Haeg: My next question for Mr. Robinson was going to be: Why would you state this when I'd already been found guilty and was being sentenced?

Judge Morse: Okay. Ask him that question?

Mr. Haeg: Mr. Robinson, why did you state that you didn't call Cole to my sentencing because his testimony wasn't relevant to my guilt when I had already been found guilty and was being sentenced?

Mr. Robinson: Well, I mean, if I said that, the point was that if you were going to call Cole to talk about a plea agreement that never existed, what does that have to do with whether or not you took the wolves or didn't take the wolves in an area that was not permitted?

Mr. Haeg: It was about me getting credit for a year that I gave up that the state promised they would give me credit for and Cole told me that. And me and my wife almost went bankrupt and we had two baby daughters and I never got credit for that year, and Mr. Cole, during his deposition, I think you have this, said Mr. Robinson should have made that argument at my sentencing that I should get credit for that year. Mr. Cole has stated that in one of the documents and I'll find it here, but I, I don't know if I have it right now, because I didn't know this was going to come up. Mr. Cole said Mr. Robinson should have made this argument at my sentencing. Mr. Robinson didn't. I wanted Cole there to have the word from the horse's mouth, so I subpoenaed him. We bought him an airline ticket. We bought him a hotel room. He never showed up and then I was told nothing could be done about it. I got taken for a ride. So that's the issue there. I'll move on.

Mr. Haeg: After Cole received his subpoena did he call you and tell you he did not intend on being available to testify?

Mr. Robinson: I don't know. I ...

Mr. Haeg: Okay. I would like to admit a, a letter from Cole to Robinson 8, 25, 05 which states this.

AAG Peterson: Objection, hearsay.

Mr. Haeg: It's, it's in writing, signed by Brent Cole.

AAG Peterson: Yeah. Out of court statement's hearsay.

Mr. Haeg: [crosstalk 00:09:30] It says, "As I discussed ... As I discussed with you in an earlier telephone conversation, I was not intending to be available." And it ... Well, the first part it says, "I am in receipt of your letter, letter from Au-, from your office dated August 22nd, 2005-"

Judge Morse: So what ... Just ... He's made a hearsay objection, okay?

Mr. Haeg: Okay.

Judge Morse: So hearsay means it's somebody's statement made outside of court. So that letter would typically be hearsay, possibly.

Mr. Haeg: Can Robinson-

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Mr. Haeg: Verify it.

Judge Morse: It's not a matter of whether it's, uh ... the, there's any dispute about it getting written. Wh-, wh-, what, what do you want me to do with that information?

Mr. Haeg: I want it to prove that Cole affirmatively stated when he got the subpoena that he was affirmatively stating he was not going to obey it.

AAG Peterson: So, he wants to show an out-of-court statement to prove the truth of the matter. So there's hearsay. There's also no foundation. It's also irrelevant.

Mr. Haeg: It's a letter signed by Brent Cole to Chuck Robinson. And the, the significance of this is Mr. Robinson never gave me this letter or told me that he received it a month before Cole was supposed to testify. And so I was led to believe all along that Cole was going to be there.

Judge Morse: I will allow the letter to show that Mr. Robinson had knowledge of Mr. Cole's purported unwillingness, reluctance, refusal to appear. It goes to Robinson's state of mind.

AAG Peterson: Okay so...

Judge Morse: You can-

AAG Peterson: There's still no foundation.

Judge Morse: I'll mark it as an next exhibited to admit it.

Mr. Haeg: Okay. Thank you. Is it true you filed in court a written protest that Leaders violated evidence rule 410, specifically that he violated evidence rule 410, when he recited my plea negotiations statement to support the charges against me in all three charging informations?

Mr. Robinson: I-I really can't answer that question Mr. Haeg, because it's been so long.

Mr. Haeg: Okay. Well, I would like to-

Mr. Robinson: I know-I know that the issue came up as to whether or not-

Mr. Haeg: I'd like to admit-

Mr. Robinson: Anything you said in the plea negotiation can be used against you.

Mr. Haeg: I'd like to admit a...a uh...

Judge Morse: Mr.-Mr. Haeg-

Mr. Haeg: Document Mr. Robinson submitted to the court-

Judge Morse: Mr. Haeg remember what I talked about yesterday? If this is already in the record, if- if he submitted this, as you claim he did, to the sentencing judge, it-you're...you're wasting your time- your valuable time because that's already part of the record.

Mr. Haeg: Okay, well I just-is it true that, you know, that in the record-

Judge Morse: He did what you wanted him to do.

Mr. Haeg: You complained about Scot Leaders using my statement in a thing, and you certified on it that you delivered it to him, to Scot Leaders, by courier and fax on the 6th day May 2005, and you included an affidavit by me saying, you know, David Haeg protests you using these statements, and, I guess, can I just show Mr. Robinson to see if this refreshes his memory?

Judge Morse: You can but again, what-what-what-help me out so I understand where you're going. Why is this important since it's already-why is it important for you to emphasize this again since it's already part of the sentencing record? That he in fact may-

Mr. Haeg: It-it proves that Scot Leaders was notified that he was using my statement in violation of evidence rule 410 and he never took my statement out of the charging information that I went to trial on. And that means the whole charging information is invalid because rule 410 says 'No statements that were made during plea negotiations can be used in any civil, administrative, or legal proceedings'.

Judge Morse: I know what the rule says.

Mr. Haeg: And so, Mr. Leaders was on notice and he didn't do anything about it. And what makes it even worse, far worse, is when I filed the Bar complaint against Mr. Leaders, in a certified written

response, he stated that he never used my statement in any charging information and he says if he had somebody would have protested. So, not only do the charging informations show that he used my statement, Robinson protested, gave it to him and then-and in violation of all that- in knowledge of all that happening, Mr. Leaders still wrote a certified document that he never used my statement-

Judge Morse: Mr. Leaders is not on trial here. I don't know whether he perjured himself. I don't know whether he should be disbarred. But even if he should, that's not happening as a result of this hearing.

Mr. Haeg: Okay, well I just wanted-

Judge Morse: What's happening as a result of this hearing

Mr. Haeg: Okay.

Judge Morse: Is that, your on an evidentiary hearing to see whether or not you can prove ineffective assistance of council. And right now you're telling me that your lawyer did what you wanted him to do. That he filed an objection, which a-I don't know what Judge Murphy did with it, but if she made a legal error and let that stuff in the recourse is to appeal that. Was that a point on appeal?

Mr. Haeg: Yes, it was.

Judge Morse: Okay

Mr. Haeg: And they didn't do anything. They didn't even address it.

Judge Morse: I can't do anything about that.

Mr. Haeg: Well, well see-

Judge Morse: The court of appeals-I don't know why they rejected that argument, I have no idea but I can't-

Mr. Haeg: Yeah. Neither do I and that's why I'm- I'm upset is that I don't believe they could.

Judge Morse: I know you're upset.

Mr. Haeg: I don't think legally they could have-have, you know, do it.

Judge Morse: I don't authority to over rule the court-of-appeals.

Mr. Haeg: Okay, well, can I, your honor-

Judge Morse: If you want to spend all you're time re-litigating what already been litigated-

Mr. Haeg: I'm almost done. I have, like two more questions for Mr. Robinson.

Judge Morse: You can-I'll let you do it, sir, but I'm pointing out to you that you have precious little time and you are beating a dead horse.

Mr. Haeg: Okay. Can I admit these into evidence, please?

Judge Morse: What are they?

Mr. Haeg: It's, ah, Robinson's protest in the record-

Judge Morse: Yes, you may.

Mr. Haeg: And then it's Leaders' certified Bar response in which he says-

Judge Morse: Yes, you may.

Mr. Haeg: Huh?

Judge Morse: Yes.

Mr. Haeg: Okay. Thanks.

AAG Peterson: Alright, and just for the record objection, they're duplicative of things already in the record, there's no foundation for those documents, they're irrelevant to this proceeding, among other things, hearsay.

Judge Morse: Those are over ruled. Well, I-I don't know whether they're relevant. I-I-I don't think they're relevant but I want them to be part of the record. Even though they-some of it already is.

Mr. Haeg: Did you ever file a motion to suppress my statement?

Mr. Robinson: I didn't move to suppress- I didn't make a motion to suppress evidence in your case, as I recall.

Mr. Haeg: Why didn't you move to suppress my statement when you protested that Mr. Leaders was using it?

Mr. Robinson: That is a suppressing motion.

Mr. Haeg: Okay.

Mr. Robinson: There's a difference between- I think what you were getting at is whether I moved to suppress evidence based on a search. I didn't. However, I did protest them using your statement in the informations that were used to charge you.

Mr. Haeg: But that- But it did not say it was a motion to suppress.

Mr. Robinson: So if- It doesn't have to be a motion to suppress.

Mr. Haeg: Okay.

Mr. Robinson: I'm just saying the ultimate result would be that if the court agreed with me they would not been able to use your statements and they would've been suppressed for the purpose of the information. Now you have to also remember Mr. Wil- Mr. Haeg, that once you testified in court, then those statements come in.

Mr. Haeg: Okay. Did you protest the use of my statement against me at trial?

Mr. Robinson: Yeah.

Mr. Haeg: The map that I had put all the wolf kill locations on, did you protest them using that map against me?

Mr. Robinson: I didn't know that there was a reason to protest it.

Mr. Haeg: Okay.

Mr. Robinson: Because at that time I didn't know that-

Mr. Haeg: Because you- Because they hadn't give you a copy in discovery?

Mr. Robinson: Yeah, I didn't know there was another map out there.

Mr. Haeg: Okay. Did I ever ask you to include Leaders use of my statement in my points of appeal? So did I ever ask you, "Hey, Chuck, do you think we should.."

Mr. Robinson: I think the point of appeal was made, that that error was made on the part of the judge by not granting that motion.

Mr. Haeg: Nope, it was not, and I'd like- that is in the record. That's Robinson's points of appeal. I'd like to just say in the record, he never did appeal that. Um, I would also, uh, okay.

AAG Peterson: Judge this is not a question

Judge Morse: Also, so I'm clear. I'm not clear..

Mr. Haeg: Okay. Um

Judge Morse: Just hang on. Mr. Haeg wait...

Mr. Haeg: Ok.

Judge Morse: What is it that you think should have been appealed but was not?

Mr. Haeg: The use of my statement in the charging information ...

Judge Morse: Okay.

Mr. Haeg: ...dri - forcing me to trial, and, and the use-

Judge Morse: The the statement- You mean the statement-

Mr. Haeg: And the use of the map. My statement at trial.

Judge Morse: The statement you gave to the troopers back in April-May.

Mr. Haeg: Correct. Yeah.

Judge Morse: Okay.

Mr. Haeg: Okay. Did I ever ask you to include Leaders use of my statement in my points of appeal?

Mr. Robinson: No. Not that I-

Mr. Haeg: I'd like to admit-

Mr. Robinson: Not that I recall.

Mr. Haeg: Okay, I'd like to admit a... a, uh... an email to Mr. Robinson dated October 17, 2015, in which I say, "Chuck, here's some stuff about the appeal." Down at the bottom it says, "Also, should we again point out the information uses much of my statement made in plea negotiations?" Robinson responds, uh, the same day, "Thanks for your thoughts and research." And I'd like to admit that into evidence.

Judge Morse: It's admitted.

Mr. Haeg: And I actually have Robinson's points of appeal. Should I-

Judge Morse: If you wanna repeat what's already in the record, sure. Go ahead.

Mr. Haeg: Um, okay.

Mr. Haeg: And that's it for Mr. Robinson. For me.

Judge Morse: Okay.

AAG Peterson: May I approach the witness?

Judge Morse: You may.

AAG Peterson: Mr. Robinson, I have a copy of a court-of-appeals, unpublished opinion from 2000... from 2008, and this is the appeal that went up to the court of appeals. It says, "The defendant primarily argued that the prosecutor violated Alaska rules of evidence 410." Is that right?

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AAG Peterson: Right there, I highlighted it. Sorry I can blow up make it bigger, but.

Mr. Robinson: Yeah, I'm not sure I got the right, I mean [inaudible 00:00:15] glasses here but. Yeah, I see it now. 410.

AAG Peterson: That is what it says?

Mr. Robinson: Yeah.

AAG Peterson: So the Court of Appeals did take up that issues that he just said, "The Court of Appeals didn't take up."

Mr. Robinson: Yes.

AAG Peterson: Okay.

AAG Peterson: Alright, so let's talk about the testimony yesterday. There was some discussion about a deal, whether one existed or not. And that's been the subject of a lot of discussion here. Hasn't it? Alright, so I'm going to pull up the deposition.

AAG Peterson: May I approach?

AAG Peterson: Alright, this is a copy of the deposition page 112.

Judge Morse: Who's deposition?

AAG Peterson: Mr. Robinson's deposition.

Mr. Robinson: Yeah, raise it so I can read it better.

AAG Peterson: It says right here - go ahead and read that and then I'll ask you a question about it.

Mr. Robinson: Did you get it all?

AAG Peterson: Sure, I can blow it up.

Mr. Robinson: I think these lens power (laughs)

AAG Peterson: Alright, go ahead and read that.

Mr. Robinson: Yeah, I see that. My answer? Uh huh...

pm1yud00 (Completed 02/12/19)
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AAG Peterson: Alright, so you were asked if there was a deal on the table before you came into the case. Or if there was a deal at the time you came into the case. And what did you say?

Mr. Robinson: It wasn't very clear to me that there - there was a deal that was agreed to by all parties.

AAG Peterson: Okay. And at that time, did you know that there had been a-a the frame work of a deal had been worked out but then Mr. Haeg actually introduced a new term to swap the planes that were - the plane that was agreed on to be forfeit. Did you know that that had happened?

Mr. Robinson: Repeat that again Mr. ...

AAG Peterson: At the time you were deposed, did you know that before you came into this case, Mr. Cole and the prosecutor had worked out a deal, and after they worked out that deal, Mr. Haeg came back and said "Actually, I want a different deal." "I want to swa - I want to forfeit a different plane then the one that was used in the offense."

Mr. Robinson: No, I didn't know that.

AAG Peterson: You didn't know that? Okay.

AAG Peterson: And, I think you testified yesterday that you gave Mr. Haeg the option - you told him that you could try to work out another deal with the prosecutor or it could go to trial. And what did he want to do?

Mr. Robinson: Well, it wasn't a matter of working out another deal. What I told Mr. Haeg was that if he wanted to enforce the deal that he thought he had, we could pursue that or go to trial.

AAG Peterson: Okay, and what did he choose to do?

Mr. Robinson: Go to trial.

AAG Peterson: Okay.

AAG Peterson: Alright. And there was also a question put to you yesterday about why you didn't pursue an ineffective assistant of council claim against Mr. Cole. You remember that?

Mr. Robinson: Yeah, I remember that question.

AAG Peterson: Okay.

AAG Peterson: So, did you - did you know at any time during this litigation that the deal that Mr. Cole had initially worked out for Mr. Haeg introduced a new term into the deal - was that Mr. Haeg would have been back to guiding in the Fall of 2005, less than one year of a full suspension because he guided in the Spring of 2004?

Mr. Robinson: I'm trying to think back, Mr. Peterson, as to whether that issue came up or not.

Mr. Robinson: Um, I knew that sometime during my representation with Mr. Haeg that he mention that he had given up or agreed to give up hunting for a certain period of time. For like a year, I think.

Mr. Robinson: But, I'm not sure that we ever talked about it other than he said he'd agreed to do it. Um, whether or not the state was obligated to go forward with it and I mean as far as the reliance questions concerned - there was no deal. I'm not sure ...

AAG Peterson: Right.

Mr. Robinson: ... what the deal was about.

AAG Peterson: Well, I'm just asking you now if - if - if you knew that, that there had been an initial framework of a deal whereby he would have been back to guiding in the Fall of 2005?

Mr. Robinson: I knew that Mr. Haeg said that he had voluntarily given up for a year. Now when - when that would have ...

AAG Peterson: Okay.

Mr. Robinson: ... gone back in to effect - it's this too far in th-the past...

AAG Peterson: Fair enough.

Mr. Robinson: ... for me to remember the exact time. But there was some understanding on his part that he would be back to guiding.

AAG Peterson: Okay. And how long did you practice criminal defense law in Alaska?

Mr. Robinson: Well I came to Alaska in 1972 as an intern second year law student from UCLA working for the Public Defender Agency. I did that for six months, uh, I went back and, uh, in my third year before I graduated I came back to Alaska and worked in the DA's office for another interim period. Then when I graduated from UCLA, I came back and became an Assistant District Attorney in Anchorage. And I did that until 1976.

Mr. Robinson: And then from 1976 until I retired I - I had a contract with The Office of Public Advocacy to do criminal work. And I did quite a few criminal cases like that. I had in addition to those criminal cases, I also had a couple three murders, um, assaults, etc. - I mean I - I did a lot of ...

AAG Peterson: Okay.

Mr. Robinson: ... criminal work.

AAG Peterson: So you have a lot of experience in criminal practice in Alaska? Criminal law practice in Alaska?

Mr. Robinson: Yes.

AAG Peterson: Uh, were you familiar with wildlife guide sentencing around the early mid 2000s?

Mr. Robinson: I had done - I can't - you know, I can't remember the exact number of wildlife cases that I did but I had done some wildlife cases before I took Mr. Haeg's case.

AAG Peterson: Alright.

AAG Peterson: So, ...

Mr. Robinson: Both Federal and State by the way.

AAG Peterson: Okay.

AAG Peterson: Would that, in your view, um, if Mr. Haeg would have been back to guiding by the fall of 2005 with just a one year guide license suspension, would that have been a very favorable deal for him, in your view?

Mr. Robinson: Given what the maximum sentence could be for that, sure that would have been a good deal.

AAG Peterson: A lifetime guide license revocation is the maximum sentence for a guide committing a same day airborne right?

Mr. Robinson: That's the potential exposure, yeah.

AAG Peterson: Three years to a lifetime suspension.

Mr. Robinson: Right.

AAG Peterson: Alright.

AAG Peterson: Alright. So there was some talk about, uh, the judge and the trooper.

AAG Peterson: You didn't see Judge Murphy in a truck with the trooper did you?

Mr. Robinson: Yeah, that question came up yesterday. And the first time somebody asked me that was Mr. Haeg, in 2011. Several years after his case was over.

AAG Peterson: What year was the trial?

Mr. Robinson: I think it was 2005, 2006 somewhere in that period.

Mr. Robinson: Um, you know I thought about this last night. I know I heard about it. I know I said I may have seen it but I could be wrong. And I'm still at that position. I - I - you know I saw the trooper and the judge in many circumstances during that whole time. I just can't clearly say that I saw him chauffeur her around.

AAG Peterson: And you said the first time you heard about it was in 2011?

Mr. Robinson: First time somebody asked me whether I saw it or not?

AAG Peterson: Okay.

Mr. Robinson: Yeah.

AAG Peterson: Um, You're aware that there were more than one trooper in McGrath at the time? I assume.

Mr. Robinson: Uh, I - I didn't know there was more than one trooper. Other than Gibbens at the time. I didn't see any other - as far as I can recall, I didn't see any other law enforcement person from the State Trooper's office at trial. Or in the courthouse - other than Trooper Gibbens.

AAG Peterson: Okay.

Mr. Robinson: Now there may have been somebody else. I didn't see.

AAG Peterson: And, what about a Public Safety Technician? Do you recall seeing a Public Safety Tech around?

AAG Peterson: Someone else who works for DPS but isn't a uniform trooper?

Mr. Robinson: No, Like I said the only person that I saw, that I thought was a law enforcement official at the time that I was ...

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Mr. Robinson: In the courthouse, or what was set up to be a courthouse, um was [Trooper Gibbens 00:00:06 30:04].

AAG Peterson: Okay.

Mr. Robinson: Now, now that's not to say there was no other person around I'm just saying that ...

AAG Peterson: Right, no I understand what you're saying.

Mr. Robinson: ... that's what I recall so.

AAG Peterson: So, if someone one would have told you during trial that the judge was spending a significant amount of time alone with a state's witness. That's something that you would've brought up in your practice?

Mr. Robinson: During the trial I probably would have brought it up. If, if it had been made a big issue, yeah. But, maybe I didn't think it was such a big issue at the time, knowing how rural Alaska works.

AAG Peterson: And that's important, so how rural Alaska works. Um, is McGrath a, well this trial was in McGrath, right?

Mr. Robinson: Rural McGrath-

AAG Peterson: Rural McGrath, okay um, is that a big city?

Mr. Robinson: I think that, it's just a little more than a village.

AAG Peterson: Alright, uh are there taxi cabs in McGrath?

Mr. Robinson: I don't know, I didn't, I didn't call for one, but I don't know whether they're taxis in McGrath or not. I walked pretty much the whole time I was in McGrath.

AAG Peterson: Okay.

Mr. Robinson: Or bicycle, I think ...

AAG Peterson: So ..

Mr. Robinson: I think there was a bike around, I might have taken a bike...

AAG Peterson: ... let's, let's say that uh one of the defendants friends tells you during trial that he's seen the trooper driving the judge back and forth from court and eating lunch together. Is that something you would bring up, during trial?

Mr. Robinson: I don't ...

AAG Peterson: In your practice-

Mr. Robinson: If I had heard about the lunch together, maybe, but I don't remember hearing about lunches together. I did hear that they was seen in the same car driving around, but I don't recall being told that they were having lunch together.

AAG Peterson: Then okay, and just to clarify I'm just asking you, what your practice would be in this scenario. And...

Mr. Robinson: Had I been made aware that they were dining together, then I would've protested that, but I, I don't ...

AAG Peterson: ... yeah, yeah and I'm certainly not suggesting that they were. I'm, um, in any event it was not brought to your attention or your testimony now is that you don't recall it being brought to your attention. Is was not a significant issue, that was brought to your attention.

Mr. Robinson: Not the lunch part no. I didn't, I don't recall being told that they were having lunch together.

AAG Peterson: Okay let's forget about lunch, driving together. You said that that first time you were asked about that was in 2011 ...

Mr. Robinson: I heard about the driving.

AAG Peterson: ... it was some six years after the trial, or five six years.

Mr. Robinson: No not, no, you misunderstood what I said. As I recall the first time somebody asked me if I saw it, was in 2011.

AAG Peterson: Right.

Mr. Robinson: By Mr. Haeg [32:52] as far as hearing about it I heard about it while we were in McGrath, but I didn't give it a whole lot of significance understanding how rural things work in McGrath. And getting around, and stuff.

Mr. Robinson: In fact, it kind of reminded me of a situation that me, and Paul Davis, and ex-judge Singleton had back in 1974. When the three of us drove in the middle of winter to cover court calendars, in Glenallen and Valdez. And the three of us rode together, but they ... and the only thing we really talked about was the flattening of Judge Singleton's tires in McGrath when it was 65 degrees below zero, and over night the tires were flattened on the bottom.

Mr. Robinson: But during the whole time that we rode together, which was several days. We never talked about any cases, engaged in any topics that were related to the court calendar.

AAG Peterson: Alright.

Mr. Robinson: So in other words, having that experience, I didn't ... I don't know it just didn't occur to me that, that alone was a big deal. Now had I known about the lunch.

AAG Peterson: Well again, I was using that as an example, to see ... to ask you about what your practice would have been in a situation like that.

Judge Morse: But let, let me make sure I've got the summary right. Your recollection is that, someone told you during trial that Murphy was in a vehicle with the trooper.

Mr. Robinson: Right.

Judge Morse: Um, you never saw that at all during the trial.

Mr. Robinson: I don't recall it now.

Judge Morse: And that didn't, that, that, that whoever told you that, whatever that information that was. Didn't trigger any sort of concern, uh because in part, because of, of your your experience previously driving around rural Alaska with the DA the judge on circuit if you will.

Mr. Robinson: Correct.

Judge Morse: And, and uh, there was no suggestion of any interaction between the judge and the trooper beyond this, this rumor of driving from ... I what to court. That's basically it?

Mr. Robinson: Right.

Judge Morse: Okay.

AAG Peterson: And do you know if that was during trial or sentencing, that you heard this rumor?

Mr. Robinson: Boy it's been so long ago Mr. Peterson. I can't remember whether I heard it while we were doing, while it was before, or after, or during sentencing back then. I, I heard it while we were in McGrath, before everything was over, but I can't tell you whether it was during the trial portion or the sentencing.

AAG Peterson: Okay.

Mr. Haeg: Excuse me, I have something that ...

AAG Peterson: All right let's move on to-

Mr. Haeg: ... refutes what's happening here, do I have chance to, when do I do that I guess.

Judge Morse: Do what?

Mr. Haeg: Mr. Robinson ...

AAG Peterson: No, no he doesn't get to this.

Judge Morse: Just let him speak for a second so I can understand what's he's trying to do and then I will rule on his possible objection, okay. Now what are you trying to do?

Mr. Haeg: There's the letter that I already submitted I believe.

Judge Morse: You can ask him further questions, after he's done with his questioning.

Mr. Haeg: Okay.

Judge Morse: Okay.

Mr. Haeg: Okay, so I wait-

Judge Morse: Wait until he's entirely done.

Mr. Haeg: Okay, okay.

Judge Morse: And then you'll get another chance to ask questions.

Mr. Haeg: Okay thanks.

AAG Peterson: Alright, um have you, have you ever raised an objection like that during trial? Say hey you know there was talk that, or at sentencing for that matter that um that the judge was talking to a witness. Have you ever raised an objection like that during any trial or sentencing?

Mr. Robinson: Not that I can remember.

AAG Peterson: Okay, okay.

AAG Peterson: (silence)

AAG Peterson: And you have a great deal of experience in uh in this type of practice as we've already talked about, in your experience if the judge says, "Yeah that didn't happen." Uh what kind of relief would be granted if you did bring it up?

Mr. Robinson: Well if, if Judge Murphy said, if I'd brought it up and Judge Murphy said it didn't happen. Then I guess we'd have to have an evidentiary hearing with another judge to determine whether or not it happened. I mean, I ...

AAG Peterson: Well the judge could do that, or the judge could say, "It didn't happen."

Mr. Robinson: Yeah if he could say ...

AAG Peterson: We're moving on.

Mr. Robinson: ... it didn't happen.

AAG Peterson: Right.

Mr. Robinson: Then, and then I would be stuck with what to do about a denial of the rumor. Um but I guess to resolve the question of whether it did or didn't happen. They'd have to have some third party make that decision because the judge is just making an assertion that somebody else has to decide whether it's true or not.

AAG Peterson: And so if it would've been brought up to you as something that was significant, you would've gone through that. Is that right?

Mr. Robinson: Yes.

AAG Peterson: Okay, alright, so there was some talk about subject-matter jurisdiction, um the signing the swearing of the uh affidavit for a complaint right.

Mr. Robinson: Right.

AAG Peterson: And then that was cured when the prosecutor filed an information instead.

Mr. Robinson: Well in the opinion of the court, the district court it was cured. In my opinion it wasn't cured. Because in my opinion it shouldn't have been amended.

AAG Peterson: Okay, and that was all made, that was, all that argument was made after Mr. Haeg had decided to go to trial. Is that right?

Mr. Robinson: Oh yeah.

AAG Peterson: Okay, and you, you filed a motion to dismiss. I, I don't know if that was clear yesterday. You did file a motion to dismiss the charging document based upon that procedural failing.

Mr. Robinson: Yes.

AAG Peterson: And, and and the state simply amended the information at that point?

Mr. Robinson: Well they argued that they didn't have to swear on the... as I recall [Scot Leader 00:09:02 39:03] argued that it wasn't a requirement. That ...

AAG Peterson: Okay.

Mr. Robinson: ... these allegations be sworn to.

AAG Peterson: But that wasn't your defense at trial, was it? I mean you had a defense at trial.

Mr. Robinson: Yeah, I had ...

AAG Peterson: That was other than that.

Mr. Robinson: ... I had other defenses. I mean one of em was that I thought that instead of, David being charged with illegal guiding, he should've been charged with illegal trapping, because the permit that he got from the state was not a hunting license permit, but a trapping license permit. And I did make request that the court instruct the jury that he should be held liable if, or guilty at all under the regime that was set up for the trapping permit.

AAG Peterson: Okay, so you had a, actually relatively technical legal argument about why he should be convicted of a lesser offense. Is that right?

Mr. Robinson: Yep. [39:58]

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Mr. Robinson: In addition, the facts showed that David wasn't guiding. He and Mr. Zeller were out trying to take wolves. He wasn't trying take a wolf for the benefit of giving that wolf to a guiding client. As I recall, they sold the pelts for a few hundred dollars or something. Uh, so it wasn't really a guiding-

AAG Peterson: Mm-hmm (affirmative).

Mr. Robinson: ... operation in my opinion. I thought he was just out illegally trapping at, at most.

AAG Peterson: All right, so, may I approach?

Judge Morse: Yes.

AAG Peterson: Okay, I've got a copy of the 2004, 2005 Alaska Fish and Game Laws and Regulations. This is Chapter 54 from Title 8 720. So go ahead and read uh, page A-8 first and I'll ask a question about it.

Mr. Robinson: I'm gonna have to hold it up pretty close to read it.

Judge Morse: This is AS08.54.720A8-

AAG Peterson: A-8

Mr. Robinson: This is statute...

Judge Morse: Ok...

AAG Peterson: That's 2004, 2005

Judge Morse: Go ahead.

Mr. Robinson: That's the statue, you know that right?

AAG PETERSON: A statue, right.

Mr. Robinson: 1 through 8?

AAG Peterson: NO, A-8.

Mr. Robinson: Oh, A-8.

Mr. Robinson: Okay.

AAG Peterson: Alright.

Mr. Robinson: Wait a minute, 8, uh wait a minute.

Mr. Robinson: Okay. [41:467]

AAG Peterson: And then also A-15 which is right here. Same title and chapter.

Mr. Robinson: Mm-hmm (affirmative)

AAG Peterson: So, your argument at trial was that they should convict him instead of a trapping offense, which would have been-

Mr. Robinson: No, instead of a hunting offense. My argument at trial was that-

AAG Peterson: Yeah

Mr. Robinson: Instead of being convicted of a hunting offense, he should be convicted of the trapping offense because he wasn't airborne hunting.

AAG Peterson: Right and what 54-7-20 covers guides activities generally, right?

Mr. Robinson: When they're guiding.

AAG Peterson: Well it says it is unlawful for a guide, for a person licensed under this chapter, and this is the chapter that licenses guides right?

Mr. Robinson: Mm-hmm (affirmative)

AAG Peterson: To commit a wildlife offense, a violation of a state game statue regulation that what A-8 says right?

Mr. Robinson: Yeah.

AAG Peterson: And A-15 says a person licensed under this chapter can knowingly violate a game statue or regulation prohibiting, uh, same day airborne.

Mr. Robinson: Right. Which is what the state was [crosstalk 00:03:02]

AAG Peterson: So your argument is

Mr. Robinson: But the argument in this case, you have to remember Mr. Leaders, and the state's position in this case was that, precisely was laid out in 15. That Mr. Haeg was out hunting airborne a day ahead of time.

AAG Peterson: Right.

Mr. Robinson: In other words, as I understood the airborne statue is that you can search for game, you just can't shoot them on the same that you search for them with an airplane. My argument was that Mr. Haeg was not going out hunting for-

AAG Peterson: Sure

Mr. Robinson: Wolves for the purpose of his guiding business. He wasn't same day airborne for the purpose of hunting.

AAG Peterson: Right.

Mr. Robinson: He was same day airborne for the purpose of trapping.

AAG Peterson: Understand.

Mr. Robinson: And that was the defense, now.

AAG Peterson: And that – that’s a pretty good defense to these charges, isn't it?

Mr. Robinson: I thought so.

AAG Peterson: That – that’s the best one that you could come up with?

Mr. Robinson: That's what I thought I could come up with.

AAG Peterson: Have you thought of a better one since then in the last decade?

Mr. Robinson: No. You have to also remember that Mr. Haeg was charged with some other offenses too, that were unrelated to the wolves.

AAG PETERSON: Right - right. Falsifying the sealing certificate, and so forth. But, I was just, to talk about your defense at trial that-

Mr. Robinson: Well, I thought that given the fact that the state's theory of Mr. Haeg's guilt was that he was same day airborne hunting, and that's what they argued. And my position was, well it isn't hunting, its trapping.

AAG Peterson: Sure and that - that was your defense. That

Mr. Robinson: And the regime.

AAG Peterson: As I said, that's a pretty good defense.

Mr. Robinson: And the regime that he was given the permit under, which was another statue, authorized of giving a trapping permit, not a hunting permit.

AAG Peterson: Alright. And in addition to that, on cross examination of the State Trooper Gibbens, um, you got him to admit that he was mistaken on direct, didn't you?

Mr. Robinson: I got him to admit that he was mistaken as to the unit in which the-

AAG Peterson: The sub unit?

Mr. Robinson: The wolves were taken.

AAG Peterson: Right he said 19-C but in fact it was 19-D

Mr. Robinson: Right.

AAG Peterson: And he said, "yes, I misspoke." So you were alert and aware during cross-examination. You got a state's primary witness to admit that they made a mistake.

Mr. Robinson: Right.

AAG Peterson: Alright. So there's a copy of a map that was talked about yesterday. Is this, Mr. Haeg, is this the same map?

Mr. Haeg: Yep.

AAG Peterson: Alright. May I approach?

Judge Morse: Mm-hmm (affirmative)

AAG Peterson: And can I have this map to show the witness?

Mr. Haeg: Sure.

AAG Peterson: So this is, uh, the same map that Mr. Haeg was asking you about yesterday.

Mr. Robinson: Yes.

AAG Peterson: It appears to be, um, a map of the McGrath area and has some highlighting and some markings on it. Um, I think you said yesterday there was nothing significant about the map at trial view?

Mr. Robinson: There was no indication to me at the time that the state put up the exhibits showing where the alleged crime took place that that was false. In other words, there wasn't anything other than the misstatement of the unit, C and D, there wasn't anything other than that that showed me that that was a fabricated exhibit that we were using at trial.

AAG Peterson: Okay. And you see here down at the bottom, in the middle, it says "A-B-C-D-E-Z" along the kill sites. Its got it listed out here, right?

Mr. Robinson: On that map, but I'm not sure that that's a plaintiff exhibit. In other words, I've never seen a plaintiff exhibit that lists these things underneath.

AAG Peterson: Okay, well I'm showing you this and that's what it says here, right?

Mr. Robinson: Right.

AAG Peterson: Okay. And its clearly marked 19-C, 19-D here?

Mr. Robinson: Right.

AAG Peterson: Now, at trial do you recall a state's witness, thank you, talking about marking a map with the kill sites?

Mr. Robinson: Mr. Peterson there was so many witnesses that day, I just, I just can't recall.

AAG Peterson: I'll ask you a more specific question. Do you recall Mr. Zellers talking about marking the map, where on the map the wolves were killed using letters, "A-B-C-D-E and Z"?

Mr. Robinson: What I recall about Mr. Zellers' testimony is that he testified at trial that these wolves were not taken in the area where they should have been. That's, that's the upshot of what I recall Mr. Zeller testifying. Specifically that, you know.

AAG Peterson: So if a witness for that state would have said, "these letters correspond with the kill sites," during trial, on a map. And those letters correspond with what is being shown on that map. Would that give you cause to believe that the map has somehow been altered or that you should object to the use of that map?

Mr. Robinson: No.

AAG Peterson: Okay. Um, maps are publicly available, right?

Mr. Robinson: Yes.

AAG Peterson: Anybody can go to the USGS and get a copy of a map, even in 2004 or 5, 6, 7, 8.

Mr. Robinson: That's my understanding.

AAG Peterson: And you can't go to USGS anymore because they close down, but for that part of it, but you can print them off the internet now. Um, and surely you've been in trial and the prosecutor shows up with a map that's publicly available. The court can take judicial notice of maps, right?

Mr. Robinson: Right.

AAG Peterson: Okay. And certainly a map of the area is something that you would have had access to in the discovery.

Mr. Robinson: Right.

AAG Peterson: The permit actually has a copy of the map on it, right?

Mr. Robinson: Yeah.

AAG Peterson: And you had a copy of that?

Mr. Robinson: Well-

AAG Peterson: And Mr. Haeg had a copy of that, right?

Mr. Robinson: The permit map was a map showing the general area and then the area that was open for trapping.

AAG Peterson: Right. And this is a blown up version of that, right?

Mr. Robinson: I can't remember (laughs) whether it's a blown up version or not.

AAG Peterson: Okay, right. Fair enough.

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AAG Peterson: Any reason to believe, well that's fine move on. Um, now you recall yesterday Mr. Haeg said that he believes the map was corruptly altered to show that the wolves were killed in his guide use area, but didn't the trooper say during your cross examination at that trial that the wolves were not killed in Mr. Haeg's guide use area.

Mr. Robinson: Well after I brought out the fact that he was, that he was wrong.

AAG Peterson: Right.

Mr. Robinson: About where the wolves were taken, uh, you know, then he once he admitted that he had to say that apparently they were not taken in Mr. Haeg's guiding area.

AAG Peterson: Right he said, "You're right, I misspoke. It was 19D not 19C." Right?

Mr. Robinson: Right.

AAG Peterson: Not in Mr. Haeg's guide use area.

Mr. Robinson: Not Mr. Haeg's guiding area. Right.

AAG Peterson: And in fact Mr. Haeg also took the stand at trial and admitted that he killed the wolves outside the wolf control area as well, right?

Mr. Robinson: Yes, he admitted that he had taken the wolves outside the area he was permitted to do so.

AAG Peterson: And his co-defendant, who had plead-

Mr. Robinson: And Mr. Zeller-

AAG Peterson: Who was testifying for the state also testified at the trial, right?

Mr. Robinson: Mr. Zeller said the same thing that they- As I understand Dave was flying a plane, Mr. Zeller was using a rifle, and Mr. Zeller was the one that shot the wolves while Mr. Haeg was flying over. That's the way I understood it happened.

AAG Peterson: So regardless of what any map shows, states witness that was there said they killed, they being the defendant and that witness, killed the wolves outside of the wolf control area and your own client, the defendant took the stand and said the same thing. Right?

Mr. Robinson: Yeah.

AAG Peterson: Okay. Now do you have any idea where the subunit lines for the guide use area 19 um, the game management unit 19.

Mr. Robinson: No.

AAG Peterson: Area were in 2004?

Mr. Robinson: No. I mean other than what I looked at and researched for the purpose of the trial I wasn't aware of those guiding units, or hunting units, or whatever you want to call 'em.

AAG Peterson: Okay.

Mr. Robinson: Before then. In fact I had never been to McGrath even before then.

AAG Peterson: And, Mr. Haeg was a guide.

Mr. Robinson: Yeah.

AAG Peterson: Right? He killed the wolves illegally, whether it was trapping or hunting or whatever the argument was, right?

Mr. Robinson: The jury found he killed them without permission.

AAG Peterson: Okay. Alright. Nothing further.

Judge Morse: Mr. Haeg, you have additional questions?

Mr. Haeg: Okay, um, I'd like to show Mr. Robinson the transcribed, but I think it's maybe already been admitted, if I may?

Judge Morse: Sure.

Mr. Haeg: What it says is they know...

Judge Morse: No wait, show him what you want to show him.

Mr. Haeg: Okay. You said now you just heard, is it true that you just heard that the chauffeuring took place, but in fact didn't you say specifically say I know, but while we were there I saw it.

Mr. Robinson: Yeah I said that, but I also said I saw during trial, I believe, I could be wrong.

Mr. Haeg: Okay.

Mr. Robinson: I also said that.

Mr. Haeg: Okay, but, but after you said that-

Mr. Robinson: I could be wrong.

Mr. Haeg: You said, "But while we were there, I saw it."

Mr. Robinson: And whether I said.

AAG Peterson: Objection, he's trying to mischaracterize. The witness just said. That is completely inappropriate. He-

Mr. Robinson: I also said-

AAG Peterson: It's inappropriate.

Mr. Robinson: I believe, but I could be wrong.

Mr. Haeg: Okay, can I admit this into evidence?

Mr. Robinson: I thought it was admitted yesterday?

Mr. Haeg: I may have already done it, but, sorry.

Judge Morse: Is this already in?

Mr. Haeg: I don't know for sure.

Judge Morse: Do you have an objection to a prior inconsistent statement coming in?

AAG Peterson: I'd like to see it.

Judge Morse: Sure. You may.

Judge Morse: Show that to him, please.

AAG Peterson: Okay, yes, I do object, because it doesn't have his complete statement, also it's a transcribed phone call, that made by who knows who, so there's no foundation, it's hearsay, he's got the witness on the stand, he can ask him about it, and the witness... it's not a prior inconsistent statement because the witness just said he said it, and he also said more.

AAG Peterson: So, therefore, it isn't a prior inconsistent statement.

AAG Peterson: It's a transcription-

Judge Morse: I understand-

AAG Peterson: -and no idea where it came from.

Judge Morse: -and I'm thinking about what you just said. You're waving your hands and rolling your eyes, don't help.

AAG Peterson: Okay.

Judge Morse: You're a grown up. You're an experienced lawyer. I get it, you're frustrated. Act professionally, I'm sure you can.

Judge Morse: Now, your hearsay is overruled. The foundation, you Mr. Haeg, you have to show some sort of foundation with the, this is just a piece of paper with some words on it. No one has any idea where this came from.

Mr. Haeg: It's a, it's a conversation that I had with Mr. Robinson, when I believe he, you said your mom had died in Washington D.C., and I actually have a thumb drive with the actual audio, that we can provide the court and the state.

Mr. Haeg: I don't know if I have it right now. I'm not, I'm a one man band, and I, I don't know how to do all this.

Judge Morse: You're gonna have to put on some sort of testimony about what that is. Either your testimony, someone else's testimony, but Mr. Rob-

Mr. Haeg: Okay.

Judge Morse: -inson's testimony about what this thing is.

Mr. Haeg: Okay.

Judge Morse: So, you can either ask him.

Mr. Haeg: Okay.

Judge Morse: I don't know whether he knows.

Mr. Haeg: Does that, in your best recollection, is that a true version of what happened?

Judge Morse: Well start with this. Ask him if he had a conversation at some point in time.

Mr. Haeg: Okay, did you have a conversation with me at some point in time about Judge Murphy and Trooper Gibbens?

Mr. Robinson: At some point in time, yes.

Mr. Haeg: Okay.

Mr. Robinson: That particular time, if you want to know about 2011, is that the time you-

Mr. Haeg: Yes.

Mr. Robinson: -want to know about?

Mr. Robinson: I do recall, that I was in Washington D.C., I had been there since October, because my mother was dying from cancer. I stayed there to help take care of some personal stuff after she passed away in January, and I remember you calling me, but then the, you, 10 days two weeks or so, after she passed. It could have been sooner, it could have been later.

Mr. Robinson: So, I do recall you talking to me, you know, on the phone.

Mr. Haeg: Okay.

Mr. Robinson: I didn't know it was recorded, but I do remember you talking to me.

Mr. Haeg: Okay, and, um, I don't know what to do right now.

Mr. Robinson: But I can tell you, right now, that as I recall the issue of seeing or not seeing the trooper, I would have said the same thing if that's what I said. I would say it again today. Not certain that I saw it, I could be wrong.

Mr. Haeg: But, then you, you, after that you said, but I know I seen it while I was there.

Mr. Robinson: No. After the trial, in 2011, when you talked to me on the phone, if that's the transcript on what we talked about, what I said is that I saw it, I believe, but I could be wrong. I mean, and I still feel that way. I'm not sure today. That I saw it.

Judge Morse: Let me see it. Let me see the piece of paper.

Judge Morse: I don't think this is a prior inconsistent statement. I think this is a consistent statement, which is that he might have seen it during trial, doesn't, wasn't sure. So, I'm not going to admit it.

Judge Morse: His testimony about what he saw, or didn't see, and remembered is certainly admissible, but that statement isn't.

Mr. Haeg: Okay, um, if I have a tape recording of this, is there any way that I can-

Judge Morse: No.

Mr. Haeg: -get it in?

Judge Morse: It's not a matter of whether it's recorded or not. So, but, give that to the clerk, have her mark it as an exhibit. It's not admitted, but it's marked.

Mr. Haeg: Okay. And, so she-

Judge Morse: It's not part of the record, but if I'm making a legal error in excluding it, we'll know what you wanted to be in the record.

Mr. Haeg: Okay. Um, and Mr. Robinson, you just testified that, that, uh, prosecutor Leaders swearing the, or filing a new information with us, a sworn affidavit did not cure the defect, it was still valid. Is that what you said?

Mr. Robinson: Here, here's my point is, I asked the court to get rid of this, of the charges against you, because they were not sworn to, as I understand, the requirement for making criminal accusations that give the court jurisdiction to adjudicate them.

Mr. Robinson: Mr. Leaders argued that it didn't need to be sworn.

Mr. Robinson: Judge Murphy agreed.

Mr. Robinson: But, [laughs] which I still don't understand. If it didn't need to be sworn, then it didn't need to be amended an affidavit of both. But the court allowed Mr. Leaders to do that. Now of the court says, well go ahead and amend it, and give us the oath, and that's what he did, and that was uh considered to cure the defect.

Mr. Robinson: Now, my opinion was, that it didn't cure the defect because it should've been sworn to, in the beginning. But, that's just-

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Mr. Robinson: my legal opinion, but the court did cure it for the purpose of adjudicating the charges against you at court.

Mr. Haeg: Okay, I'd just like to put on the record that Robinson's deposition page 10 and 11, State asked if ... when Mr. Robinson or Mr. Leaders amended the information if that cured the defect, and Mr. Robinson answered yes.

Mr. Robinson: And it did for the purpose of your trial because had it not cured the defect he wouldn't have been able to proceed for adjudication. So for purposes of your trial, the court allowed the State to cure the defect by amending the complaint under oath.

Mr. Haeg: Okay, well, that's all I have for Mr. Robinson.

Judge Morse: No other questions for him?

Mr. Haeg: No other questions.

Judge Morse: Any recross?

AAG Peterson: No, your honor.

Judge Morse: Mr. Robinson, you're excused.

Mr. Robinson: Thank you Your Honor.

Judge Morse: Have a safe journey back to-

Mr. Robinson: I sure will.

Judge Morse: ... the peninsula.

Mr. Haeg: Can I go grab the next witness?

Judge Morse: Certainly.

Mr. Robinson: My warriors won last night even though I missed the game. (laughs)

Judge Morse: Don't rub it in.

Mr. Robinson: (laughs)

Judge Morse: Your witness's name, please?

Mr. Haeg: Uh, Tony Zellers.

Judge Morse: Mr. Zellers, can you take the stand?

Clerk: And, sir, if you'd remain standing and raise your right hand. Do you solemnly swear from the testimony you will give now before this court will be the truth, the whole truth, and nothing but the truth?

Mr. Zellers: Yes.

Clerk: Thank you. You may be seated. For the record, please state your name, spelling both first and last name.

Mr. Zellers: Tony Zellers. T-O-N-Y, Z-E-L-L-E-R-S.

Clerk: Thank you.

Judge Morse: You may proceed.

Mr. Haeg: Were you a, a trial witness for the State against me?

Mr. Zellers: Yes.

Mr. Haeg: On or about June 23, 2004, did you, Prosecutor Scot Leaders, and Trooper Brett Gibbens have a meeting?

Mr. Zellers: Yes, we did.

Judge Morse: I'm sorry, what was the date again?

Mr. Haeg: June ... On or about June 23, 2004.

Judge Morse: You mean between the Leaders, Gibbens, and Mr. Zellers?

Mr. Haeg: Correct.

Judge Morse: Okay.

Mr. Zellers: Along with my attorney and I think Trooper Doeer was there, too.

Mr. Haeg: Did Leaders and Gibbens tape record this meeting?

Mr. Zellers: Yes.

Mr. Haeg: Uh, is this ... Can I approach and have him look at this, see if it's an accurate transcript of the meeting?

Judge Morse: Yeah.

Mr. Haeg: Does this look like an accurate transcription of that meeting?

Mr. Zellers: This looks like the meeting.

Mr. Haeg: Okay, um ... During this meeting did Leaders and Gibbens show you an aeronautical map?

Mr. Zellers: Yes, they did.

Mr. Haeg: Um, can I approach and see if you agree that this is a copy of what you were shown?

Judge Morse: Sure.

Mr. Zellers: This is a copy. The only thing that's slightly different is the, the green line on it.

Mr. Haeg: Okay. Um ...

Judge Morse: So that's exhibit 25?

Mr. Haeg: Yes, trial exhibit 25.

Judge Morse: No, no-

Mr. Haeg: Did Leaders and Gibbens-

Judge Morse: Hang on, hang on just a second. When ... did ... that thing has, for example, indications of where wolves were killed?

Mr. Zellers: Yes, your honor.

Judge Morse: So when they showed you this map, did the map ... was it exactly the way it is there with the wolf kills on there?

Mr. Zellers: Yes, it was.

Judge Morse: Okay. But the only thing that was not on there, and correct me if I'm wrong, is the, the colored highlight of, uh, some kind-

Mr. Zellers: Yes.

Judge Morse: ... of a boundary unit. That was not there?

Mr. Zellers: The boundary unit was drawn on there, but it wasn't highlighted.

Judge Morse: The highlight wasn't there.

Mr. Zellers: Right.

Judge Morse: Okay. Go ahead.

Mr. Haeg: Did Prosecutor Leaders and Trooper Gibbens tell you that I had marked the wolf kill locations on that ... on this map when they interviewed me during my plea negotiations with them?

Mr. Zellers: Yes, they did.

Mr. Haeg: Did you prove to Prosecutor Leaders and Trooper Gibbens that that map had false hand drawn game management unit boundaries on it?

Mr. Zellers: Yes, I did.

Mr. Haeg: Did you use the Alaska Department of Fish and Game game management unit's physical description to do this?

Mr. Zellers: Uh, I'm pretty sure I did use the, the, uh, written description of the game management units.

Mr. Haeg: Okay. Is this description published in all Alaska hunting regulations?

Mr. Zellers: Yes, it is.

Mr. Haeg: Can you point out to-

Judge Morse: Just ... hang on, let me just ask a question to make sure I understand what you just said. Um, you, you were shown this map, and the map had preexisting unit boundary lines marked on it, right?

Mr. Zellers: Yes.

Judge Morse: Okay. And you looked at those lines and said that they were in error?

Mr. Zellers: I looked at the lines, and, and said they were in error. There was a discussion between Trooper Gibbens and myself about he wanted to say the wolf kills were in 19C. I said, "No, they were in 19D." And I quoted the boundary line and how this was wrong to him.

Judge Morse: Oh, so you told him at the time that the boundary lines shown on the map were inaccurately drawn?

Mr. Zellers: Yes.

Judge Morse: Okay. Go ahead.

Mr. Haeg: Can you point out to the court or me what boundary was falsified and where the correct boundary should have been?

Mr. Zellers: Um, using the map here, 19C area doesn't have what I'll just call is this toe area that encompass and circles these wolfs kills down here. So, um, 19C's western boundary is where the, the Babel flows into the ... into the Swift, and then everything down stream on the Swift is actually 19D, and upstream is 19C. All the wolfs kills were downstream of that point.

Mr. Haeg: Okay. Do the false boundaries-

Judge Morse: Okay, down, down stream of Swift is 19D as in David?

Mr. Zellers: 19D is downstream of where the Babel River flows into the Swift River.

Mr. Haeg: And the North Fork.

Mr. Zellers: And the North Fork, yes, runs into the Swift.

Judge Morse: Go ahead.

Mr. Haeg: Did the false boundaries on that map corruptly make it seem as if the wolves were killed in my game management unit 19C guide area instead of being killed in game management unit 19D?

Mr. Zellers: Yes.

Mr. Haeg: As far as you know, was I ever allowed to guide in 19D?

Mr. Zellers: No, as far as I know you were never allowed to guide.

Mr. Haeg: Okay. Um, did Prosecutor Leaders, Trooper Gibbens, and you discuss how I was not allowed to guide in 19D but was allowed to guide in 19C?

Mr. Zellers: Yes, we had that discussion.

Mr. Haeg: Okay. Did Prosecutor Leaders, Trooper Gibbens, and you discuss how my killing wolves in 19D would not benefit my guide business?

Mr. Zellers: Yes, we had, uh ... I had the discussion with the Trooper that because these were killed outside your guide units they were not directly related to your guide.

Mr. Haeg: Did Prosecutor Leaders, Trooper Gibbens, and you discuss how my killing wolves in 19C would benefit my guide business?

Mr. Zellers: Yes.

Mr. Haeg: Was the wolf control pro ... program actually taking place in 19C or 19D?

Mr. Zellers: Uh, as I recall there was nothing in 19C, but there were parts of 19D that had, um ...[1:08:49]

Mr. Haeg: Okay. Um, during this meeting, did you point out to Prosecutor Leaders and Trooper Gibbens that their search warrant affidavits also falsified the wolf kill locations to my 19C guide area?

Mr. Zellers: Yes, the affidavits listed the wolf kills in 19C, and I pointed out to them that that was incorrect information.

Mr. Haeg: And you may not know this, but did, did Prosecutor Leaders and Trooper Gibbens tell my jury that I killed the wolves in 19C area to benefit my guide business?

Mr. Zellers: I can't testify to what or the reason why the testified that, but Trooper Gibbens did testify under direct from Prosecutor Leaders that the wolves were killed in 19C. He later had to recant that under cross examination and say-

Mr. Haeg: Um-

Mr. Zellers: ...and say there were killed in 19D.

Mr. Haeg: But do you ever remember reading any transcripts of having ...

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Mr. Haeg: ... and have an idea that Scot Leader is the prosecutor, said that I was killing wolves in my guide area to benefit my guide business.

Mr. Zellers: Yes.

Mr. Haeg: Okay. Basically that was the states case against me to my jury is that I was killing wolves in my guide area to benefit my guide business?

Mr. Zellers: Yes.

Mr. Haeg: Did prosecutor Leaders and Trooper Gibbens use the map, upon which I placed the wolf kill locations during plea negotiations, against me at trial?

Mr. Zellers: Yes.

Mr. Haeg: Did prosecutor Leaders and Trooper Gibbens know the map had been falsified to support their case against me when they presented it to my jury as the reason to convict me?

Mr. Zellers: Yes.

Mr. Haeg: Did prosecutor Leaders and Trooper Gibbens know the wolves were killed in "19D" when they testified to my jury the wolves were killed in "19C"?

Mr. Zellers: Yes. As I stated, the Trooper had to recant under cross.

Mr. Haeg: And, and because of your meeting with him, he knew before he ever testified, the first testimony, that what he was saying was perjury?

Mr. Zellers: Yes.

Mr. Haeg: I'd like you to read an affidavit that you had, uh, made out on July 21st of 2010, if I may.

Mr. Haeg: Can I approach, and have you read this into the record? [1:11:33]

Mr. Zellers: This is the affidavit ...

AAG Peterson: Yeah, I'm going to object, he can't just read his own affidavit into the record. If the petitioner wants to ask the witness questions about what's in it he can do that, and if it's relevant than ...

Mr. Haeg: Okay.

AAG Peterson: Some of it might come in, but ...

Judge Morse: Ask him questions. It doesn't matter what he wrote – it doesn't matter whether he wrote it in the affidavit, just ask the basic question you want him to testify about.

Mr. Haeg: Okay, okay.

Mr. Haeg: Were you a state witness during my trial in McGrath?

Mr. Zellers: Yes.

Mr. Haeg: Did you also attend my sentencing McGrath on 9/29/05 and 9/30/05?

Mr. Zellers: Yes.

Mr. Haeg: On these days were you present at both trial and sentencing? Were you present in court every hour that court was in session?

Mr. Zellers: After I was called as a witness I was present, in, in, court. Prior to being called as a witness I was held at the Trooper office until going up, your Honor.

Mr. Haeg: Okay. Um, on 7/28/05 and 9/29/05 did you personally observe Judge Margaret Murphy being shuttled in a white Trooper Pickup Truck driven by Brett Gibbens?

Mr. Zellers: Yes.

Mr. Haeg: Did you observe them leave, you, did you observe them, or did you observe Judge Margaret Murphy leaving and returning with Trooper Gibbens in the same truck during breaks, lunch, and dinner? And finally leave with Trooper Gibbens when court was finished for the day?

Mr. Zellers: Yes.

Mr. Haeg: Did nearly all the rides that you witnessed, were nearly all of them, did, did, did most of them happen before I was sentenced?

Mr. Zellers: Yes.

Mr. Haeg: And, just to be clear, um, a lot of um that you seen was during trial. Correct?

Mr. Zellers: Correct.

Mr. Haeg: Because you're a State witness. And you were at the ...

Mr. Zellers: Correct.

Mr. Haeg: Um, was Trooper Gibbens the primary witness against me at trial?

Mr. Zellers: Yes.

Mr. Haeg: At any point, ever, during both trial and sentencing did you ever see Judge Murphy arrive or depart the courthouse alone, or with anyone other than Trooper Gibbens?

Mr. Zellers: No.

Mr. Haeg: Uh, has anyone other than myself, ever contacted you about whether or not Trooper Gibbens gave Judge Murphy rides during my trial?

Mr. Zellers: No.

Mr. Haeg: Okay, and I, I think this is part of the record. But can I admit this into the record again, or just call it good?

Judge Morse: No, his testimony, is what's admitted.

Mr. Haeg: Okay.

Mr. Haeg: Um, were you, do you know if Chuck Robinson was aware of the rides Trooper Gibbens was giving Judge Murphy, during my trial?

Mr. Zellers: I was with Chuck when we would see them go in and out of the court room, so ...

Mr. Haeg: So you would assume that he seen what you seen?

Mr. Zellers: I would assume so, yeah. I can't testify to what he sees or remembers, but we were in, standing outside Chuck Robinson smoked cigarettes so during all the breaks and lunch breaks we would always go outside and gather. So, and then, right outside the courthouse door or the Iditarod building door, so ...

Mr. Haeg: Okay, and just for the record is McGrath like a Metropolis with lots of roads, or is it basically one little road between where we're staying and where the courthouse is?

Mr. Zellers: It's a Bush Village. So there's only one, couple little roads, so, around there.

Mr. Haeg: And so, it's very easy to see who's coming and going, is that true?

Mr. Zellers: Correct.

Mr. Haeg: Okay, that's all I have for Mr. Zellers.

Judge Morse: Cross.

AAG Peterson: Uh, Good Morning Mr. Zellers.

Mr. Zellers: Morning.

AAG Peterson: So where, what map did you mark?

Mr. Zellers: I did not mark map. I put maybe one mark on here because there was one wolf kill location on the Stoney River I was unsure of where Dave had marked it.

AAG Peterson: So, you marked that map?

Mr. Zellers: I didn't, like I said the wolf kills were already marked on here when the map was presented to me. So ...

Judge Morse: Sorry, did you, 25, the one in front of you, did you put anything on that map?

Mr. Zellers: I'm not sure if I actually put a mark on that map your Honor. What I was doing is, is, talking to Trooper Gibbens and I am not sure if Trooper Gibbens marked or not. I would ... you know I'm not even sure if that ones on this ...

AAG Peterson: Okay, all right, so. So the prosecutor asked you a question at trial, and said, so let me have you mark the Female, where, because the Female where you're marking, and I'll have you put one. Actually I'm sorry, in "A", and you said, yeah, it's gotta be right in this area roughly. And he said, and you marked that as an "A" and you said, correct.

AAG Peterson: Do you remember that?

AAG Peterson: Here, I'll show you the transcript.

Mr. Zellers: Sure, I'd appreciate it. You're talking at the trial?

AAG Peterson: At the trial.

Mr. Zellers: Oh, at the trial, um, I think I pointed, I didn't mark.

AAG Peterson: It starts right here, down to here.

Mr. Zellers: Yeah, that's not my handwriting, but uh ...

AAG Peterson: Okay. So at trial you testified that you marked it an "A", right?

AAG Peterson: You said you marked that as an "A", and you said correct.

Mr. Zellers: Yes. According to the transcript.

AAG Peterson: Okay.

AAG Peterson: Right here on the map, that Mr. Haeg has been talking about, plaintiffs 25 at trial, there is an "A" marked right there, right?

Mr. Zellers: Yes.

Mr. Zellers: Correct. But it is not my handwriting.

AAG Peterson: Okay. And you testified at trial that you marked that map, right?

Mr. Zellers: I testified at trial what I believe I was testifying to was that the "A" marks that location that we were discussing.

AAG Peterson: But the question was, let me have you mark the Female, where you killed the Female with an "A".

AAG Peterson: You said, yeah it's gotta be right in this area roughly.

AAG Peterson: And Mr. Leader said, and you've marked that as an "A", and you said ...

Mr. Zellers: Yes.

AAG Peterson: Correct. Okay. That was at trial when your memory was fresh, right? Over a decade ago.

Mr. Zellers: Yes.

AAG Peterson: Okay.

AAG Peterson: With respect to "C", do you recall being asked if you marked "C" on that map?

Mr. Zellers: I'm sure you have the transcript.

AAG Peterson: I can approach, may I approach?

Judge Morse: You may continue too.

AAG Peterson: Okay, go ahead and read the top three lines.

Mr. Zellers: Yep.

AAG Peterson: Get it. So the question was, you marked that with a "C", and your answer?

Mr. Zellers: Yes.

AAG Peterson: Okay.

AAG Peterson: While I'm up here, right in the region here mark them with an "A" and "B".

Mr. Zellers: So it says, we've marked.

AAG Peterson: Yeah, the prosecutor said that to you, and your answer was ...

Mr. Zellers: I said yes, we've ...

AAG Peterson: So you marked that with a "C", correct?

Mr. Zellers: Correct.

AAG Peterson: Okay. I'm sorry that was "C".

Mr. Zellers: Yes.

AAG Peterson: Uh ... "B" was ...

Mr. Zellers: The next one down was we've

AAG Peterson: Okay, in your, you and ...

Mr. Zellers: The State.

AAG Peterson: The Prosecutor.

Judge Morse: I'm sorry, what was the one that you two jointly marked?

Mr. Zellers: Uh, I believe he was talking about "D".

Judge Morse: "B" as in boy?

Mr. Zellers: No.

AAG Peterson: This is all in the trial transcript.

Mr. Zellers: No, Delta.

Judge Morse: Sorry.

Mr. Zellers: Delta.

Judge Morse: Delta, I'm sorry.

AAG Peterson: Okay.

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AAG Peterson: So, we covered that. Let's see ... I actually have another question for you. Uh, do you recall testifying about the Game Management Area expanding?

Mr. Zellers: I don't recall talking about a Game Management Unit expanding. I think we're talking about the Wolf Control Zone expanding.

AAG Peterson: Oh, the Wolf Control Management Area expanding, right.

Mr. Zellers: Yes.

AAG Peterson: The Management Area.

Mr. Zellers: Yes.

AAG Peterson: And wh- how would it have expanded?

Mr. Zellers: Well, initially the, the, the map that was initially shown to me had the North boundary of the Wolf Control Zone just as a straight line, and it, uh, it expanded to include the contours of, of that mountain range way up North, which was at the Northern boundary. So when I was asked if this was the, the Wolf Control Area that [1:21:07] we went out to do during that time it's like "No, it expanded to include that area up there." So-

AAG Peterson: Okay. Did that map, Plaintiff's 25 at trial reflect that change?

Mr. Zellers: Um, if I recall, um, that was brought up to the judge that this map was not an accurate reflection of that, um, by the state, if I recall correctly, and, and they clarified that the Northern Boundary, uh, was not accurate on, on this map.

AAG Peterson: Okay. So the discrepancy in the map was actually addressed on the record?

Mr. Zellers: Yes.

AAG Peterson: Okay.

Mr. Zellers: I believe so.

AAG Peterson: All right. And it also doesn't matter whether the wolves were killed in subunit D, 19-D or 19-C for the crimes Mr. Haeg was charged with, you're aware of that, right?

Mr. Zellers: I'm, I'm not an expert on, on the law and those, those statutes.

AAG Peterson: Okay.

Mr. Zellers: I mean, so-

AAG Peterson: They were killed outside the Wolf Control Management Area, right?

Mr. Zellers: Yes.

AAG Peterson: Okay. Now, describe for us the Predator Control Program, what, what it was at that time?

Mr. Zellers: It's the, uh, to control and to work to get the moose population back up. Um, so certain pilots were allowed to, uh, shoot wolves from air within the control area that was defined.

AAG Peterson: Okay. Uh, are you familiar with where wolves might be found generally?

Mr. Zellers: Wolves can generally be found pretty much everywhere, yeah, so, in general.

AAG Peterson: Do they stay in one place for their entire life?

Mr. Zellers: No, they just, they have, they have a territory.

AAG Peterson: Do you know about how far they might range?

Mr. Zellers: Um, I think that depends on where you are. So, I mean, you know, we have the Mulder-Muldoon pack here in Anchorage that goes from Fort Rich to, all the way over to O'Malley. So ...

AAG Peterson: All right. So you testified at trial I believe that, that you knew it was illegal, you and Mr. Haeg knew it was illegal to kill wolves outside of that management area, right?

Mr. Zellers: Yes.

AAG Peterson: And you made a deal with the state to testify against Mr. Haeg at trial, right?

Mr. Zellers: Yes.

AAG Peterson: Okay. And you did show up at court, at trial and testified about where all the wolves were killed, didn't you?

Mr. Zellers: I, I testified for the state, yes.

AAG Peterson: And during that testimony did you agree that in fact the very first wolf that you killed under this Wolf Control Permit, the Predator Management Area, or was outside of the Predator Management Area, is that right?

Mr. Zellers: Yes.

AAG Peterson: And the second wolf was also outside of the predi- predator, uh, management area?

Mr. Zellers: Yes, I believe so.

AAG Peterson: Okay. In fact, you said it was, quote, "clearly outside of the boundaries," is that right?

AAG Peterson: Okay. And you also testified that by the time you had killed three wolves, you and Mr. Haeg, from the air, not a single one of those three wolves were taken inside the Management Area, right?

Mr. Zellers: As I recall, yes.

AAG Peterson: So what did you have to do after killing the wolves under this program?

Mr. Zellers: You had to take the wolves to McGrath to have them sealed, um, and tagged basically.

AAG Peterson: And was that done in this case?

Mr. Zellers: I believe some of the wolves were taken, um, I'm not su- um, I can't recall since this was 15 years ago if all of them were, were taken. I believe so, but, uh, um, I think they were logged in and tagged.

AAG Peterson: And you were required to give the location of where the wolves were killed, right?

Mr. Zellers: Yes.

AAG Peterson: And who did the sealing? Or I'm sorry, who, who filled out the sealing certificate?

Mr. Zellers: I think that was the biologist in-

AAG Peterson: And who filled out the paperwork, provided the information to the biologist?

Mr. Zellers: I, I can't recall who, who actually wrote it. I think, I think the paperwork was filled out in McGrath when we were in front of the biologist. I can't, I didn't necessarily fill out all the paperwork, so-

AAG Peterson: Okay. Did you discuss with Mr. Haeg falsifying the reports, the coordinates to make it appear as though the wolves were killed within the boundary?

Mr. Zellers: I'm sure we did.

AAG Peterson: Well, did you?

Mr. Zellers: I, as, uh, best I recall, I'm sure we did, yes.

AAG Peterson: Just a moment.

AAG Peterson: May I approach?

Judge Morse: You may.

AAG Peterson: All right. This is just another excerpt from your trial transcript, from his trial's transcript I should say. Go ahead and read that.

Mr. Zellers: Yes.

AAG Peterson: So did you discuss with Mr. Haeg falsifying the information to make it appear as though the wolves were taken legally?

Mr. Zellers: After refreshing, yes we did.

AAG Peterson: Okay. And you testified to that at trial?

Mr. Zellers: Yes, I did.

AAG Peterson: Do you recall if you flew inside the boundary of the Wolf Control Area to take a GPS coordinate or if you just made it up? And by you I mean you and Mr. Haeg.

Mr. Zellers: I don't necessarily recall. I mean, we could have probably marked a coordinate inside as we flew up to McGrath to say they were in this area.

AAG Peterson: Okay. And there were six wolves total that were taken outside the area, is that right?

Mr. Zellers: Um, as far as I recall, yes.

AAG Peterson: And, well you testified at trial to six being taken outside the area.

Mr. Zellers: As far as I can recall, yes.

AAG Peterson: Okay. And you testified, as we just covered, that Mr. Haeg falsified the sealing certificates.

Mr. Zellers: Yes.

AAG Peterson: And you were present for all these wolf kills, right?

Mr. Zellers: Yes.

AAG Peterson: All right. So Mr. Haeg asked you if Trooper [Gibbins 00:08:51 1:28:50] was the star witness? Uh, it sounds like you were the star witness at trial, weren't you?

Mr. Zellers: Uh, you're going to have to ask Prosecutor [Leaders 00:08:59] who his, his star witness was at the trial, but-

AAG Peterson: Well, you were present at-

Mr. Zellers: But I was definitely-

AAG Peterson: You were integral to the state's case, right?

Mr. Zellers: Um, I, yeah, I believe so.

AAG Peterson: I mean, you were there when the crimes were committed, you-

Mr. Zellers: Yeah.

AAG Peterson: You were involved with them, right?

Mr. Zellers: Yes.

AAG Peterson: And you cut a deal to testify against Mr. Haeg?

Mr. Zellers: Yes.

AAG Peterson: Okay.

AAG Peterson: All right, nothing further.

Mr. Haeg: Can I approach with some stuff?

Judge Morse: Sure.

Mr. Haeg: Okay. Mr. Zellers this is part of your, the transcription of a meeting you have, and can you ...

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Mr. Haeg: Read into the record this part here.

AAG Peterson: Objection, what is it?

Judge Morse: No, no, wait ... what, what, what are you trying to do? What's ...

Mr. Haeg: Um ...

Judge Morse: You can just ask him the straight question.

Mr. Haeg: Okay. Uh ... during your meeting with Scot Leaders and Trooper Gibbens, did the state's... uh ... say this is where the Stony River wolf killed, this is where the big batch of five killed? And Is it true that you asked them, did Dave tell you that's where he was killed? And it is true that the state told you Dave put that mark there, yes?

Mr. Zellers: Uh, yes, it is true and it's on 50 ... page 53 of the transcript.

Mr. Haeg: Okay. And now I want you to go over ... this is ina ... this is the official transcript of my trial. Uh ... and I'd like you to look at it, Mr. Leader ... er ... Zeller, sorry ... um ... is it true that Mr. Leaders

states that my trial that this is a map Trooper Gibbens has said you are the one that, right, that did this? And Trooper Gibbens says is it true that ... said that?

Mr. Zellers: Yeah, Trooper Gibbens acknowledged that he was the one who did that.

Judge Morse: Did what?

Mr. Haeg: K.

Judge Morse: Did what?

Mr. Haeg: Uh ... I don't know how to do this. Is it true that they were talkin' about a map, and they say, and then, it was used in an interview, one with Mr. Haeg which is not admissible because it was based on plea negotiations, and also, with Mr. Zellers, regarding where the wolves were taken. And so, based on this, along with this, is it beyond any doubt that I'm the one that put those kill locations on the map?

AAG Peterson: Objection. What is he reading from?

Mr. Zellers: Don't ... he's ...

Judge Morse: I have no idea.[crosstalk 00:01:44]

Mr. Haeg: The transcript of trial. It's the first days of trial ... um, it's page-

Judge Morse: What're ... what're you trying to get him to do?

Mr. Haeg: I'm trying to get ... uh ...

Judge Morse: Are you ... oh, just slow down for a second. Are you trying to figure a who put the wolf kill on the map?

Mr. Haeg: Yes.

Judge Morse: Ask him that simple question.

Mr. Haeg: Who put the wolf kill on the map according to these documents?

Judge Morse: Not according to anything, according-

Mr. Haeg: Okay.

Judge Morse: To him... does he know? Ask him, do you know who put the wolf kill markings on the map?

Mr. Haeg: Do you know who put the wolf kill locations on the map?

Mr. Zellers: Trooper Gibbens told me you put the wolf kills on the map ... locations.

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Mr. Haeg: Okay. Um ... and that was during your meeting with Trooper Gibbens? And, I guess, can you look at this and tell me-

Judge Morse: Don't, just, where ... where ... what's, what's the point you're trying to make so I understand the context?

Mr. Haeg: The point I'm trying to make [crosstalk 00:02:36]-

Judge Morse: You want to make sure that, that-

Mr. Haeg: Is this map, there's, there's recordings of the state troopers and prosecutor recording having me put the wolf kill locations on this map that was then used against me at trial.

Judge Morse: Okay.

AAG Peterson: And ... we need to back up, I need to object to it ... I couldn't tell what the purpose of that was, but if the purpose of saying that Gibbens told him that something else happened to prove that that happened? I'm objecting, that's hearsay.

Judge Morse: I ... I don't know what you're getting at.

Mr. Haeg: What I'm ... what I'm getting at is during the meeting-

Judge Morse: Just, just let me ... you want to show that you ...

Mr. Haeg: Put.

Judge Morse: Put the wolf kills on the map-

Mr. Haeg: Yeah.

Judge Morse: During your interview with the troopers in April or May?

Mr. Haeg: Correct.

Judge Morse: Is there any dispute about that? Just, just so I'm clear, I don't know what we're ...

AAG Peterson: You ... on that map specifically, the one that was used at trial?

Judge Morse: Yeah.

AAG Peterson: Well, Mr. Zellers just testified under oath that he testified at trial a long time ago when it was fresh in his memory that he put those there.

Judge Morse: He just said that ... um ... didn't you just tell us that Gibbens told you that the map ... the locations of wolf were put there by ...

AAG Peterson: And, and I objected to hearsay.

Mr. Zellers: Yes.

Judge Morse: Right.

Mr. Zellers: Yes.

Judge Morse: And did you put those little squares on there or not?

Mr. Zellers: No, I did not put any little squares on there.

Judge Morse: So that's what I'm ... that's what he's talking about.

AAG Peterson: No.

Judge Morse: The little squares.

AAG Peterson: The letters identify-

Judge Morse: I don't care about the letters.

AAG Peterson: Who ... that's what identifies the, the location.

Judge Morse: Well, no, there's two ... there's ... there are letters, which he put on, right? You put the letters on the map during trial, correct?

Mr. Zellers: Yes.

Judge Morse: And, the little rectangles-

Mr. Haeg: Those little squares I put on the map.

Judge Morse: Were on the map previously, correct?

Mr. Zellers: Correct.

Judge Morse: K ... and is there any dispute that the rectangles came from Mr. Haeg?

AAG Peterson: As to that exhibit specifically, it ... well, I'm not, I'm not a witness.

Judge Morse: But do you ... do you ob ... I'm trying to figure out whether we have a dispute here. Do you dispute that he claims Haeg says I put the little squares on the map?

AAG Peterson: Then he can take the stand and testify to that, Judge, I can't answer ... I, I can't answer that question, I'm not a witness. If he wants to try to prove that, he can take the stand and say that. Or point somewhere in the record where that's the case.

Mr. Haeg: And that's what I'm trying to do. The record says-

Judge Morse: Mr. Haeg.

Mr. Haeg: Okay.

Judge Morse: This is now your testimony time, ready? Did you put the rectangles on Trial Exhibit 25 during your interview with the troopers in April or May of 04?

Mr. Haeg: I did.

Judge Morse: And there were six of the little triangles?

Mr. Haeg: Yep.

Judge Morse: Correct. Okay, that's good. Now you've, you've ... that's all in the record. Move on to a different topic.

Mr. Haeg: Okay. And I'm sorry I'm not a lawyer-

Judge Morse: I understand that, it's very clear to me.

Mr. Haeg: Okay.

Judge Morse: Move on to your next topic.

Mr. Haeg: Um ... [00:05:34 1:35:38] and I think ... let me just look here real quick, but ...

Mr. Zellers: Your Honor, do you need this?

Judge Morse: Just leave it ... I don't know if he may use it-

Mr. Zellers: Just leave it, okay.

Judge Morse: Again, I don't know.

Mr. Zellers: Okay. Thank you.

Mr. Haeg: I think I'm done with Mr. Zellers.

Judge Morse: Okay. Mr. Zellers, you may ... oh, I'm sorry, do you have any other further questions?

AAG Peterson: No, Your Honor.

Judge Morse: You may step down.

Mr. Zellers: Thank you, Your Honor.

Mr. Haeg: And ... can I go up ... call the next witness?

Judge Morse: Sure.

Judge Morse: Sir, if you'd come forward up to the witness stand, please.

Clerk: Sir, if you'd remain standing and raise your right hand. Do you solemnly swear and affirm that the testimony you'll give now before this court will be the truth, the whole truth and nothing but the truth?

Mr. Dolifka: I do.

Clerk: Thank you. You may be seated, and for the record, please state your name, spelling both first and last name.

Mr. Dolifka: My name is Dale Dolifka ... D-A-L-E ... Dolifka is D-O-L-I-F-K-A.

Clerk: Thank you.

Judge Morse: You may proceed.

Mr. Haeg: Okay. Um ... just like to say thank you for coming, Mr. Dolifka. Uh ... after what happened in my case with Brent Cole and Chuck Robinson, did you start reading documents in my case and became so confused and concerned that you contacted Judge Hanson?

Mr. Dolifka: That's true.

Mr. Haeg: Um ... and what did you and Mr. Hanson talk about?

Mr. Dolifka: Well, your case ... I was very puzzled and I had total faith in him, he'd been my mentor as a superior court judge. He was appalled, he was disgusted, and he was confused, which left me-

Judge Morse: Now, now, wait-

AAG Peterson: Hey, objection.[crosstalk 00:07:58] What's going on?

Judge Morse: Slow down, buddy.

AAG Peterson: I'm gonna object to relevance, we'll start it there.

Judge Morse: What're, what're we doing here? What, what .. explain to me what you want Mr. Dolifka to say? the fact that he read some stuff, he wasn't happy, he talked to Judge Hanson?

Mr. Haeg: Yes, you had said-

Judge Morse: Okay. Judge Hanson's statements to him are not admissible.

Mr. Haeg: K ... um ... is it, uh ... is it true that Alaska's attorneys had banded together against me?

AAG Peterson: Objection, relevance.

Judge Morse: You're gonna have to do a little more than that, you did just simply ask him some opinion.

Mr. Haeg: Okay. Well-

Judge Morse: Wh-wh-what, you've gotta show a basis for opinion, you've gotta show ...

Mr. Haeg: Okay, I'm sorry ... are you an attorney licensed in this state?

Mr. Dolifka: Yes.

Mr. Haeg: Have you ... uh ... uh ... been involved with this case or familiar with this case?

Mr. Dolifka: Yes.

Judge Morse: How so?

Mr. Dolifka: Well, Mr. Haeg was my client. He had a corporation with an airplane in it. So you want me to say more? Or, that's ...

Judge Morse: Well, I don't ... that's not much. He-

Mr. Dolifka: Well, that's-

Judge Morse: That's got little to do with the ... I'm talk ... I see ... my assumption is that you know something about the prosecution. And I want to know, how, how, would, were you part of the prosecution? Were you attend a trial? Did you read the transcripts? You tell me what, what you seem to know about this. Where, where did you get your-

Mr. Dolifka: Well, I've read, I've read ... probably everything about the case. It starts out, I did a corporation for him, he put his airplane in it. Through the course of this case, they took his airplane.

Judge Morse: Okay.

Mr. Dolifka: Which ...

Mr. Dolifka: Appeared to me without due process.

Judge Morse: And ...

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Judge Morse: You want this man to testify what? About his opinion about due process?

Mr. Haeg: About the conduct of my attorneys in representing me.

Judge Morse: Well, you're going to have-

Mr. Haeg: And, and Your Honor, you-

Judge Morse: Just listen to me.

Mr. Haeg: Okay.

Judge Morse: I'm trying to help you so you don't-

Mr. Haeg: Okay.

Judge Morse: Wander off into the wilderness. I have a vague sense that you're trying to have this gentleman use his legal knowledge to opine about the quality of your representation.

Mr. Haeg: Somewhat, yeah.

Judge Morse: Is that where we're getting?

Mr. Haeg: Yeah, and, uh, I would like to point out that Your Honor in one ruling said that to prove what you're trying to prove you generally need the testimony of someone's that in the legal field, or an expert-

Judge Morse: Okay.

Mr. Haeg: Or whatnot.

Judge Morse: Okay, so now I'm understanding where you're coming from.

Mr. Haeg: Okay.

Judge Morse: So you want him to say I have evaluated Mr. [Cole 00:00:50] or Mr. Robinson or both?

Mr. Haeg: Both.

Judge Morse: Okay.

Mr. Haeg: Yeah.

Judge Morse: And you've evaluated their performance in some fashion and you're going to give me an, an opinion about whether they rendered effective assistance, is that what you wanted to do?

Mr. Haeg: Correct. Yeah.

Judge Morse: Then you're going to have to lay a foundation of what Mr. [Dolifka 00:01:07 1:41:07]] reviewed concerning the lawyers conduct.

Mr. Haeg: Okay. Uh-

Judge Morse: So, I sa- assume, and correct me if I'm wrong sir, you read the trial transcript?

Mr. Dolifka: Yes.

Judge Morse: Have you spoken to Mr. Cole?

Mr. Dolifka: I did early on, when ... Okay. Dave got charged, we all encouraged him to get good representation. Brent Cole was known as the-

Judge Morse: My question to you-

Mr. Dolifka: Okay.

Judge Morse: Is you apparently have made, and after the conclusion of Mr. Cole's representation, have done an investigation of some sort and have come to a conclusion about the quality of that representation, am I correct so far ?

Mr. Dolifka: Yes.

Judge Morse: Did you make your opinion about the quality of the representation during his representation or only after it was concluded?

Mr. Dolifka: Both.

Judge Morse: Okay. And what is the basis of your knowledge of what Mr. Cole did or did not do?

Mr. Dolifka: Well, what puzzled me was the plea agreement, which I thought that he had been charged with something, I thought there was a plea agreement, and then all of a sudden the plea agreement doesn't seem to be there. Come, the wheels come off, so then, um, [crosstalk 00:02:43 1:42:41]-

Judge Morse: So when did you, uh, how did you gather any information about a supposed plea agreement? Where did that come from?

Mr. Dolifka: Mr. [Haeg 00:02:49].

Judge Morse: And when did Mr. Haeg tell you about this?

Mr. Dolifka: I'm following this case, uh, from the time he got charged through. He would call me, I would visit with him, not as his attorney, probably more as his friend, and I-

Judge Morse: Okay.

Mr. Dolifka: Uh, uh, and so then-

Judge Morse: But during the course of Mr. Cole's representation you're talking to Mr. Haeg about his interactions with Cole?

Mr. Dolifka: He would call me, I wa- I, you, I wasn't charging him, I was just listening to his concerns and what he would say.

Judge Morse: Okay. So prior to Mr. Cole ending the representation did you speak with Mr. Cole about the, Mr. Haeg's assertion regarding a possible plea agreement?

Mr. Dolifka: I don't recall that.

Judge Morse: Did you gather any information about the supposed plea agreement from anyone other than Mr. Haeg?

Mr. Dolifka: At some point I called Mr. Robinson and said-

Judge Morse: No, that's, uh, [inaudible 00:03:48]-

Mr. Dolifka: Well, no, then I guess-

Judge Morse: I'm just-

Mr. Dolifka: No, didn't. No, I didn't.

Judge Morse: So you didn't talk to Cole about the plea agreement, is that correct?

Mr. Dolifka: I don't recall that I talked to him about the plea.

Judge Morse: And you didn't talk to Mr. [Leaders 00:03:57] did you?

Mr. Dolifka: No.

Judge Morse: So the only source of information about whether there was a plea agreement or the status of negotiations or any of that is entirely from Mr. Haeg?

Mr. Dolifka: That's probably true.

Judge Morse: Okay. All right. So, um, what is it? What is your opinion about the effectiveness of Mr. Cole's representat- ... Well, let me back up. Is your opi- the opinion you're, uh, about to give me, is that just basically concerning the quality of the plea negotiations and the quality of the deal? Is that, is that what your opinion's about?

Mr. Dolifka: My opinion of the quality of his representation, because I'm not a criminal attorney was when Mr. Robinson reviewed the conduct of Mr. Cole and told me, he was the one that really led me to believe that the plea agreement had, was not, something was m- amiss with that, and that was largely from Mr. Robinson.

Judge Morse: Did you make your own independent judgment about the quality of Cole's representation?

Mr. Dolifka: Well, only via what Mr. Robinson said, and he, because I said I'm not a criminal attorney, so Mr. Robinson and I, we, we basically practice law together in the same firm, we're both in Soldotna, I have the upmost respect for him, and so when he tells me there's something wrong, and he's a very, very good criminal attorney, then in, in light of that I formed a belief that something went, had, was amiss with that.

Judge Morse: So, but, but your, your opinion is simply based on two things. One, Mr. Haeg told you some body of information about the supposed plea negotiations and, uh, and deal, agreement, and secondly, you're hearing Mr. Robinson talk about what he thought about all of that?

Mr. Dolifka: Yes.

Judge Morse: Okay. Are you also here to give us an opinion about the quality of Mr. Robinson's representation?

Mr. Dolifka: Well, I, I guess I'm not allowed to talk about it, but I, I then after that I became more and more confused, and that's when I then, if I'm allowed to say, went to Judge Hanson-

Judge Morse: I'm trying to find out what you're here for. Are you here to give an op-

Mr. Dolifka: I don't know why I'm here.

Judge Morse: Do you have an opinion about the quality of Mr. Robinson's representation?

Mr. Dolifka: Yes, I have an, uh, an opinion.

AAG Peterson: And-

Judge Morse: And-

AAG Peterson: And just so I'm clear, this is a lay opinion, right?

Judge Morse: I, he, assume.

AAG Peterson: Because he just said he's not an expert in criminal law, so it can't be an expert opinion, based upon the perceived failings of what a criminal defense attorney-

Judge Morse: Well, that's not necessarily true, but I assume, let, let's just find out [inaudible 00:06:58]. Wh- what is your opinion? Y- you think that ... Well, let me back up. Do you think Mr. Cole gave ineffective assistance of council?

Mr. Dolifka: Based on what I've seen and what I'm allowed, I'm not a criminal attorney, I would say yes, it was ineffective council.

Judge Morse: In what, and, and in what manner? How, how, why was he ineffective?

Mr. Dolifka: Well, in, if, if, if I'm correct in what I understood happened there was a plea agreement of which Mr. Haeg agreed to plea. Then, uh, my understanding was then that the, the DA expanded on it and charged him beyond the scope of that plea agreement. It's something to that effect. Which I then visited with Mr. Robinson, and Mr. Robinson said "That's not right. I mean, that is, there's something inherently wrong with that." So even as a layperson without a law degree I could see that. I then went to Judge Hanson again, I'm confused, he's mentored me all these years, I'm trying to get unconfused, and he validated that something seemed amiss. I didn't need a law degree to see that something was amiss. So I'm not here as an expert witness, I'm not a criminal attorney, but, um, something seemed wrong. [1:48:10]

Judge Morse: Okay. Do you have an opinion about whether Mr. Robinson gave ineffective assistance of council to Mr. Haeg?

Mr. Dolifka: Well, what Mr. Robinson said he was going to do and what Robinson ended up doing did not match. He told me that he believed that-

Judge Morse: Let me ask-

AAG Peterson: Objection, hearsay.

Judge Morse: My question was do you have an opinion about the effectiveness of Mr. Robinson's representation, yes or no?

Mr. Dolifka: Yes.

Judge Morse: What is that opinion?

Mr. Dolifka: It was ineffective.

Judge Morse: How so?

Mr. Dolifka: Based on what he told me, his view of the settlement agreement, or the s- the agreement, and how it played out, it didn't match up.

Judge Morse: How was he ineffective?

Mr. Dolifka: Well, maybe he wasn't ineffective, maybe what he thought was going to happen and what did happen don't match, but what he told me he was going to do and what happened didn't match.

Judge Morse: What did he tell you he was going to do?

Mr. Dolifka: Well, I was under the impression he was going to go back, erase all that went on and get Haeg another trial or something to that effect. He was going to make right what appeared wrong.

Judge Morse: And because he failed that, he did not achieve that result you think he was ineffective?

Mr. Dolifka: Maybe he wasn't ineffective, it wa- just wasn't what-

Judge Morse: But-

Mr. Dolifka: He told originally was going to happen.

Judge Morse: But you just told me you thought he was ineffective, so how was he ineffective?

Mr. Dolifka: Well, I go back, when I look at what happened with the plea agreement, and my, just forget being a lawyer, just common sense, if I'm going to plead to something ...

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Mr. Dolifka: To me as a lay person, it just seemed like they changed the rules, so if they didn't, then he wasn't ineffective. If that's how it is, and the law says ...

Judge Morse: But you don't know what happened other than what Mr. Haeg told you?

Mr. Dolifka: I know what happened based on what Mr. Haeg told me and what Mr. Robinson told me.

Judge Morse: Do you have additional questions of Mr. Dolifka?

Mr. Haeg: Um, you also stated that you read the court transcripts, correct?

Mr. Dolifka: Yeah, I read a lot of things for this case.

Mr. Haeg: Okay, and then so it isn't true that you just had information from Mr. Cole and Mr. Robinson. You also had information on charges being changed and what not that are in the court record, correct?

Mr. Dolifka: Correct.

Mr. Haeg: And is it true that one of my concerns and I believe your concern is how it could be that I could go in and give a statement to law enforcement on my belief that I would be charged with minor crimes, and that being taken away from me and being charged with greater crimes and using my statement that I made for the smaller crimes to be used as justification for the larger crimes. Is that one ...

AAG Peterson: Objection, leading.

Mr. Haeg: Of the concerns that you had?

Judge Morse: Allowed. Go ahead. You can answer that.

Mr. Dolifka: Well, there's that. Um, you gotta remember, I sat in a courtroom just like this one other time with a judge, went through this same process, and it certainly appeared to me that that judge thought you had been ineffectively represented, so I guess I added that to it. Um, I went with you to the FBI. I mean, again, I'm just speaking as a lay person. I don't have to be a lawyer to read these things and believe that something was inherently wrong, so.

Mr. Haeg: Yeah, and it was.

Judge Morse: What is that? What was, what was wrong? What do you as a layperson think was wrong?

Mr. Dolifka: As simple as I can put it, if I am charged with something, and so maybe I misunderstood everything from the beginning. I thought he was charged with a lesser crime. I thought his attorney turned him over to the DA. The DA expands on whatever it was and he gets charged with the greater crime. If I'm wrong about that then I had it wrong. As a lay person I misunderstood the facts. When I came to court, I don't know how many years ago it was, setting just like this with another judge probing exactly as we are right now. She appeared to, and she certainly added to my concerns about it was as simple as that. If I'm charged with this ...

Judge Morse: Was this in front of Judge Joannides?

Mr. Dolifka: Yes.

Judge Morse: Okay. Mr. Haeg help me on this. What, why was anybody in front of Joannides? I mean I know that that happened. I just don't remember

Mr. Haeg: In my case I had concerns of Judge Murphy running around with Trooper Gibbens and that Judge Murphy went into the court record and removed out my evidence. On appeal, when I got to post conviction relief, Judge Murphy was assigned to conduct my post conviction relief. And I about had a heart attack because I'm like...

Judge Morse: Ok.

Mr. Haeg: ... how can the very person I'm claiming ...

Judge Morse: So how did Joannides get involved?

Mr. Haeg: When Judge Murphy denied my request to disqualify her for cause. She ruled on her own, she says nope I can be fair. There's an Alaska statute that says ...

Judge Morse: I understand. So she did the review of the recusal deny?

Mr. Haeg: She reviewed the recusal and during that proceeding many things kind of came to light.

Judge Morse: But that's – that's what Judge Joannides ...

Mr. Haeg: Correct.

Judge Morse: She held some sort of a hearing dealing with the...

Mr. Haeg: Yep.

Judge Morse: ... Murphy's denial of the recusal and the post conviction relief.

Mr. Haeg: Yep and - and that's where ...

Judge Morse: That's all I need to know.

Mr. Haeg: Okay. And Mr. Dolifka testified ...

Judge Morse: So, one other question.

Mr. Haeg: Okay.

Judge Morse: Did you appeal the Murphy recusal?

Mr. Haeg: Judge Joannides got rid of Judge Murphy ...

Judge Morse: Okay.

Mr. Haeg: And said on the record that quote, at a minimum, at a minimum there was the appearance of impropriety ...

Judge Morse: Okay so that's when ...

Mr. Haeg: By Judge Murphy at my trial.

Judge Morse: Got it. So then Bauman, who took over?

Mr. Haeg: Bauman.

Judge Morse: Okay. That's what I ...

Mr. Haeg: And so ...

Judge Morse: Okay.

Mr. Haeg: And so what we're getting at is there's ...

Judge Morse: Ask your question of him. You want him here for some reason.

Mr. Haeg: Okay. Um. Is it true Alaska's attorneys have banded together against me?

Mr. Dolifka: I don't know the answer to that.

Mr. Haeg: Would you have said this?

Mr. Dolifka: I might have.

Mr. Haeg: Okay, so it's possible that you would have said that?

Mr. Dolifka: Well I guess the only way I know to answer your question is I listen to you for hours and hours and hours, cause I was worried about you. I find out in the court hearing with Joannides that you have been taping me this whole time and you chose to cherry pick what you wanted and left the rest, so ... My wife and I felt very betrayed by you because we were trying to befriend you. I was worried about your mental health. I would be asleep late at night. I would get a phone call. My wife would get me up and I would listen to you. I probably said a lot of things to you Dave out of just trying to be a good friend. So now I've sat here again, this case will never end. I'm just here as a lay person. More as your friend. I'm ...

Mr. Haeg: Okay.

Mr. Dolifka: I got it. I'm not a criminal lawyer, I've said that many times. But I don't have to be a criminal lawyer to know that something inherently was wrong with this case and in front of Judge Joannides I sat right here and she told me that. She said at the very least there is something a miss. So, I have all these things add up. I'm not talking about as a lawyer. I'm talking about as a person. Just a lay person. A farm boy that raises cows and ... So here I am again. It just adds more and more to the confusion. But I said a lot of things to you just ... I was half asleep some of the times and you're taping me. So I feel very estranged from you but it also doesn't take away from the fact that I still believe you got a raw deal. It doesn't change any of that.

Mr. Haeg: Yeah. And is it your opinion ...

Judge Morse: Ask your next question.

Mr. Haeg: Is it your opinion that it may be why I'm so upset and frustrated is that it's now fifteen years and we're still dealing with the same things that were identified very early on ...

AAG Peterson: I'll object. Whether his opinion – whether Mr. HAEG said ... It's irrelevant.

Judge Morse: Ask a different question.

Mr. Haeg: Okay. I'm gonna ask you this question. In your opinion looking at the seizure of my airplane did I get due process with seizure of my airplane?

Mr. Dolifka: As a lay person, no.

Mr. Haeg: Okay.

JUDGE Morse: What does that mean? What – what do you mean by any of that?

Mr. Haeg: The warrants....

Mr. Dolifka: Well. Okay, no you did not get due process.

Mr. HAEG: Ok.

JUDGE Morse: What do you mean by that? How how – what what was the violation of due process? [1:57:45]

Mr. Dolifka: As I understood it they basically just one day went and got his airplane. I don't, maybe I misunderstood. I ...

JUDGE Morse: That's all you know? They got his airplane and therefore his due process was violated?

Mr. Dolifka: Well I read stuff that would led me to believe that. I don't ...

JUDGE Morse: Well you have...

Mr. Haeg: Is it, Did you read things ...

JUDGE Morse: Stop. Help me out here. You've made this assertion, I think he had due process, he didn't get due process. Why not?

Mr. Dolifka: My memory is there wasn't a hearing, there wasn't anything. His airplane was in a corporation. Unless I missed something. My view was ...

JUDGE Morse: What do you understand happened that you think was improper?

Mr. Dolifka: They just went and got his airplane.

JUDGE Morse: They just went and got his airplane?

Mr. Dolifka: Yeah.

JUDGE Morse: That's all you know, as far as you know that was improper? That's the basis of your opinion?

Mr. Dolifka: Well there was, yeah. Let's just leave it at that. Yep.

Judge Morse: Okay go ahead, your next question.

Mr. Haeg: Is it true that when they seized my airplane which I used for my business they were required to give me a prompt post seizure hearing?

Mr. Haeg: Is that your understanding as a...?

Mr. Dolifka: Yes, that was my understanding.

Mr. Haeg: Okay. And is that one of your concerns is that they seized the life blood of my ability to provide for my family and never gave me the due process of a prompt post seizure hearing?

Mr. Dolifka: Yes.

Mr. Haeg: Did you ever read in the court documents and find out from Mr. Robinson or Mr. Cole that the warrants, the affidavits used in the warrants to seize my airplane had been falsified, that all the evidence locations had been falsified to my guide area?

Mr. Dolifka: Well when I talked with Robinson about representing you I think the issues about the airplane were probably the most egregious. That's how I remember it.

Mr. Haeg: Okay. Did you ever hear that even the warrants, not only did they not give me a prompt post seizure hearing, but there was actually an error in the warrants they actually used to seize it. So in other words not only did they not give me hearing they also used false warrants to do so?

AAG Peterson: Objection the question was, did he hear that? That's not relevant.

Mr. Haeg: Is it your understanding that occurred?

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AAG Peterson: (sighs) That's not relevant. Objection.

Judge Morse: W - what difference does it make whether he heard it or not?

Mr. Haeg: Is that ... could that be ... could that be part of the reason I didn't get due process? Is that they used false warrants?

Mr. Dolifka: The only way I know to answer that ... is that Mr. Robinson lead me to believe that based on him as a criminal attorney, you have been denied due process regarding your airplane.

Mr. Haeg: Okay. And so, that was from ... Mr. Robinson?

Mr. Dolifka: Yes.

Mr. Haeg: Ok. Did you ... is it true that ... after I fired Mr. Robinson, is it true that you knew I hired an attorney by the name of Mark Osterman?

Mr. Dolifka: Well, I didn't know you did that till much later. I ... I had nothing whatsoever to do with you hiring Mark Osterman.

Mr. Haeg: Okay. Did you ever ... uh, read any transcripts of my conversations with Mr. Osterman?

Mr. Dolifka: I think by that time. I ... just started disengaging from ... I, I don't remember anything with Osterman.

Mr. Haeg: Is it true that kinda what happened with Mr. Osterman was what you ... were maybe afraid of if I hired a third attorney inside the state?

Mr. Dolifka: I, I don't remember. I ...by the time...

Mr. Haeg: Okay then, and ... and again, um, this may help me feel better about this and ... uh, I want it on the record that I feel horrible about what I'm doing with Mr. Dolifka here, but I, I believe-

Judge Morse: Then don't do it.

Mr. Haeg: That this ... that this, it requires the state, our state, the integrity of our judicial system in the state compels me to do this. And that's-

Judge Morse:: Mr. Haeg-

Mr. Haeg: So, um-

Judge Morse: I don't know where you're going.

Mr. Haeg: Well, anyway, um-

Judge Morse: What do you want this man to testify about. Ask him a question.

Mr. Haeg: Okay. Uh. Is it true uh, and, and this may help me, again. You've admitted that you testified to ... to Judge Joannides, is that correct?

Mr. Dolifka: Yes. [2:02:34]

Mr. Haeg: And that was true testimony that you gave at that time?
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Mr. Dolifka: The best I remember. Yes.

Mr. Haeg: Okay. And so I'd like it on the ... if I can, on the record that on August 25th, 2010, that he testified in-

Judge Morse: It's in the record. That-

Mr. Haeg: Okay.

Judge Morse: Remember that part?

Mr. Haeg: Okay.

Judge Morse: It's in the record already.

Mr. Haeg: Okay. And, I apologize. I don't know how this is supposed to go, or how I do this. Um.

Judge Morse: Well, let me explain it to you again, if it's already in the record, you don't need to go over it-

Mr. Haeg: Okay.

Judge Morse: ... to get it in the record.

Mr. Haeg: Um.

Judge Morse: It's there already.

Mr. Haeg: Is it true, Mr. Dolifka, that one of the concerns you had ... is that, and you may have already answered this, is that when Cole had me give a statement, my statement was used to uh, I believe you used the words "increase the charges against me exponentially"?

AAG Peterson: Objection, relevance. What he thinks of what happened is not relevant. He's established he's not ... in ... even, he doesn't even know anything about criminal law. So it's not relevant.

Judge Morse: Isn't that th ... true, Sir? Isn't that objection accurate?

Mr. Haeg: I ... I guess. Um, can I ask you this, Mist ... eh, is it true, Mr. Dolifka, that in ... you have been a criminal defense attorney at one point?

Mr. Dolifka: I did misdemeanors for the Teamsters ... DUI's ... I didn't ... I did not do felonies.

Mr. Haeg: Okay. Is it true, in your opinion, that never has there been a case in history that cries out more for outside intervention, because I've been to all the major players.

Mr. Dolifka: I don't ... I don't ... I can't answer that.

Mr. Haeg: Okay. And I'd just like it state that he testified to that on-

Judge Morse: Ask your next question.

Mr. Haeg: August 25th. Is it true, I sold my soul for a deal and then Cole sold me down the river?

Mr. Dolifka: I don't know.

Mr. Haeg: Okay. Um, other than an outright payoff of a judge or jury, it's hard to imagine anyone being sold down the river more?

AAG Peterson: Objection, that's not a question.

Judge Morse: Sustained. Ask your next question.

Mr. Haeg: Is it true ... with my plea agreement that my end of the bargain was not met. It was heads I win, tails you lose?

AAG Peterson: Objection. No personal knowledge from this witness, relevance.

Judge Morse: Sustained. Next question.

Mr. Haeg: Okay. Um, is it true that you believe that the fruit of the poisonous tree started with the warrants that were used to seize evidence in my case?

AAG Peterson: Objection, he's already testified that he's not an expert in this field, and not qualified to give an opinion on the question.

Judge Morse: Sustained. Next question.

Mr. Haeg: Is it true ... that once you poison something like this, it's like a house without a foundation?

Judge Morse: Next question.

Mr. Haeg: Um, Mr. Dolifka, is it true that one of the seminal issues in your belief is how did this case go on when a lot, lot of it was built on a lie in a sworn affidavit?

AAG Peterson: Objection, calls for speculation, relevance.

Judge Morse: Over ... eh, sustained. Next question.

Mr. Haeg: Is it true, Mr. Dolifka, that if my attorney did right by me, the DA would take it out on them in other cases?

AAG Peterson: Objections, calls for speculation.

Judge Morse: I don't want you to speculate, but you can answer the question.

Mr. Dolifka: I w ... I don't ... that's not necessarily true.

Mr. Haeg: Okay, I'd just like to point out that he testified to that on page 56 of the ... uh, the testimony given with Judge [Joannides 00:06:50].

Mr. Dolifka: My memory of that is actually that you told me that's what Cole told you and that that was a reiteration of that. You're ... again, I think you're cherry picking from probably hours and hours and hours of our visit. You're taking out of context what I said. I ...

Mr. Haeg: Okay, I ... I'd-

Mr. Dolifka: I ... I'm not I'm not going to say that a DA is going to take out on a criminal lawyer just ... just inherently do that. That's not, if I said that I didn't mean it like that-

Mr. Haeg: W ... In my case, in my case did that appear like it ... may have happened or would have happened?

Mr. Dolifka: My memory is that you told me that Cole said that if he did it that way, that that his specialty was fish and game cases, and that if he did your case a certain way that they would take it out on him and others. That's my memory.

Mr. Haeg: Okay.

Judge Morse: And that's Mr. Haeg telling you what Mr. Cole said?

Mr. Dolifka: Yes.

Mr. Haeg: Okay.

Judge Morse: Your next question.

Mr. Haeg: Is it true I had a series of situations in which everyone was doing things to protect everyone rather than me because there was a price to pay?

AAG Peterson: From this... ah, objection, this-

Judge Morse: Oh, ah, sustained.

AAG Peterson: ... witness has no personal knowledge and it's irrelevant.

Judge Morse: Sustained. Next question.

Mr. Haeg: Does my case have shades of Selma in the '60s where judges, sheriffs-

Judge Morse: Next ... next question-

Mr. Haeg: ... and even assigned lawyers are all in cahoots together?

Mr. Haeg: Is it true that corruption is the reason I have still not resolved my legal problems?

Mr. Dolifka: I don't know if it's corrupt ... I d - I wouldn't say it's corruption, it's just seemed like a lot of ... I - I just don't understand it. I'd just leave it at that.

Mr. Haeg: Okay. Um, and I'd like to point out that he testified to this, page 59 and 60 when on August 25th, 2010.

Mr. Haeg: Is it true that when my case came up on appeal, the court was sitting there looking at a pile of dung. And, if they did right by me and reveal, you have the attorneys going down, you have the judges going down, and you have the troopers going down?

Mr. Dolifka: I don't ... I don't know how to answer that question. It's-

Mr. Haeg: Would you ever ... would you have ever stated that? That, had they done the right ... had the appellate court done the right thing-

Mr. Dolifka: You know-

Mr. Haeg: Judges.

Mr. Dolifka: I might have said something like that. You - you're just, again, you're cherry picking. I w - I said a lot of things to you, just ... it - in - in emotional time I was trying to ... And a lot of stuff I think you're saying is you would say it and I might have just agreed. I don't-

Mr. Haeg: Okay.

Mr. Dolifka: You have hours and hours and hours of taped testimony of me when I'm half asleep. I'm trying ... you're crying ... I'm trying to be a good friend. I'm worried that you're going to do something stupid to yourself.

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Mr. Dolifka: So, I don't know what you're gonna find, I might have said Dave.

Mr. Haeg: Okay, so um, is it true and this is it, I mean this will be the last question I have for ... is it ... and I can show you it um-

Judge Morse: Ask.

Mr. Haeg: Is it true that you wrote a letter at some point about what you thought happ ... you know, to ... it starts out to may, whom it may c, concern?

Mr. Dolifka: I did write something to the effect that ... again and to this day, sitting here again, I still am confused about so many parts of this case, and I wrote something to that effect, um.

Mr. Haeg: Okay, and I'll, I'll just find it here.

Mr. Haeg: And I guess I can just have you testify, um. Is it true, okay, and, and this basically, sums all this up. Is it true you are concerned about the quote "outrageous process" unquote, with which the State of Alaska has prosecuted me.

Mr. Dolifka: I was concerned about it, um.

Judge Morse: Your next question.

Mr. Haeg: Ok um. Okay, that's, that's it, and.

Judge Morse: Do you have any, any cross examination?

AAG Peterson: Yes.

AAG Peterson: I do, um. Yeah. So, Mr. a, [Dolifka 00:01:47 2:11:45], you, you just said, there was a question about the outrageous process with which Mr. [Haeg 00:01:55] was prosecuted, what was outrageous about it?

Mr. Dolifka: Well, you gotta remember my state of mind during this whole process, that was a very dark time on the Kenai Peninsula. And, a lot of my concern with Haegs' cases was a concern for, everything that was going on down there, and I know that's irrelevant, but that would answer that question. It was not just David Haeg's case.

AAG Peterson: Okay, so with respect to his case specifically, there was nothing that was outrageous about the prosecution? It's just generally, what you say, was happening made you feel that way. Is that right?

Mr. Dolifka: I think a lot of us, in the Kenai Peninsula, during that era, felt that our judicial system down there was becoming unmoored um- [2:12:37]

AAG Peterson: Okay that's not really my question-

Mr. Dolifka: Well, okay then-

Judge Morse: Well you asked it, and he answered it.

AAG Peterson: Well, no the question I asked was, it wasn't specifically with respect to Mr. Haegs' case right?

Judge Morse: Go ahead.

AAG Peterson: I didn't ask for a colloquy about the judicial system generally.

Mr. Dolifka: I had concern about the judicial system in general-

AAG Peterson: But not specifically about Mr. Haegs-

Mr. Dolifka: Well it included Haegs, so it's-

AAG Peterson: So, any case, the pros, any prosecution was outrageous on the Kenai Peninsula at that time-

Mr. Dolifka: Not any, some.

AAG Peterson: Some, how many?

Mr. Dolifka: Well, in, you gotta remember, I served on a grand jury during this era which-

AAG Peterson: We're not gonna get into that.

Mr. Dolifka: Okay, well then I can't answer your question. I was concerned about the whole, the, the system at the time; not every single case, some cases, and his case was one of them.

AAG Peterson: Okay. So-

Mr. Dolifka: And that's simply-

AAG Peterson: When did you testify that it is your lay opinion that Mr. Cole was ineffective? I wanna ask you about that. Mr. Haeg was charged with being a guide and taking wildlife on the same day that he was airborne, right?

Mr. Dolifka: Well if he was okay, I, I don't, I don't remember. I just-

AAG Peterson: You've reviewed everything-

Mr. Dolifka: I've reviewed it, it's been many years ago, so I'm ...

AAG Peterson: Okay, let's say that's the case.

Mr. Dolifka: Okay let's say that's the case.

AAG Peterson: Alright, and the potential penalty for that offense is a three year to lifetime guide license revocation. Are you aware of that?

Mr. Dolifka: Well I am now, I guess, if you say so.

AAG Peterson: Okay, so if Mr. Cole worked out a deal, whereby Mr. Haeg would be back to guiding, within one year of the prosecution, less than a year of the date of conviction; even though the minimum for a guide taking wildlife same day airborne is a three year guide license suspension; would you say that would be a very good deal for a big game guide?

Mr. Dolifka: I, I don't know if it would or wouldn't. That would be for-

AAG Peterson: You don't know.

Mr. Dolifka: That would be for a criminal attorney to decide.

AAG Peterson: Okay. (laugh). Um, you don't, you, you can't form a lay opinion on that? If the minimum is three years to a lifetime revocation, putting someone out of business; whether a one year guide license revocation would be a good deal? You can't form a lay opinion about that?

Mr. Dolifka: No.

AAG Peterson: Okay. Alright. And you said that his plane was taken without due process. Um, you aware that his plane was seized pursuant to a warrant?

Mr. Dolifka: I'm basing the airplane ... what I say about due process regarding the airplane, on what Mr. Robinson told me.

AAG Peterson: Okay.

Mr. Dolifka: So, again, I'm a lay person; I don't know. But a criminal attorney that I trust, told me he was denied due process regarding his airplane.

AAG Peterson: So that, so just so I'm clear on this, it's your lay opinion that his plane was taken without due process.

Mr. Dolifka: My lay opinion, based on what an a criminal attorney that I trust told me.

AAG Peterson: Okay, are you aware of the language in AS 16.05.-

Mr. Dolifka: No.

AAG Peterson: 195-

Mr. Dolifka: No, no I'm not aware of that.

AAG Peterson: You're not.

Mr. Dolifka: No; as a, as a lay person I'm not aware.

AAG Peterson: That's what talks about seizure and forfeiture of equipment used in big guide game offenses.

Mr. Dolifka: Nope.

AAG Peterson: Are you aware of the language in 16.05.190, which talks about the seizure?

Mr. Dolifka: I, I don't know that statute.

AAG Peterson: Okay, are you aware that people and entities whose instrumentality's are seized pursuant to a warrant are able to petition the court for a prompt, post seizure hearing? That they have that ability, in Alaska; are you aware of that?

Mr. Dolifka: Well that's the part I was told, was amiss. Something about that part of it he ... that's where the proc, due process was amiss.

AAG Peterson: So he was ... you are aware that that is due process that is available to everyone whose property is seized, right?

Mr. Dolifka: That's my understanding.

AAG Peterson: Okay. Are you aware that instead of petitioning to get the property back, it was decided to work out a deal, whereby he would only be, he being the defendant, would only work, would only be suspended for one year; which is one third of the minimum for the crimes for which he was culpable?

Mr. Dolifka: I'm not, I'm not aware of that.

AAG Peterson: And for the crimes of which he could've had a lifetime revocation.

Mr. Dolifka: I'm not aware of that part.

AAG Peterson: You're not aware of that.

Mr. Dolifka: Nope.

AAG Peterson: Okay. Nothing further.

Judge Morse: Do you have any follow-up questions?

Mr. Haeg: Um, I'll try one. If Cole made, as the state said offered me something that seemed kind of attractive ... I, I guess let me ask you this. Did it ever come out that I gave up guiding for a whole year for this plea agreement also? Not only did I give a statement, but I gave up a year of guiding?

Mr. Dolifka: I don't, I don't remember any of the specifics that, by now.

Mr. Haeg: Okay. Um, if Mr. Cole as the state said, had come to me with some deal, but we asked Mr. Cole if the state could break that deal, keep what we had given them, and then make a new deal, no matter how good the deal was originally; that would not be something you should do. Because, even though it was attractive you know-

AAG Peterson: Objection.

Mr. Haeg: But the attorney said it couldn't be enforced, that the state could continue to break the deal and get more, is that, would that, in your opinion as a lay person seem-

AAG Peterson: Objection, relevance.

Judge Morse: You can answer, if you can.

Mr. Dolifka: Well you, you lost me with the complexity of your question. I just, I, I, I, I don't follow. Ask it again, I don't get it.

Mr. Haeg: If Mr. Cole came to me with a deal that seemed attractive, but told me he couldn't enforce it if I went for it; even though it was attractive wouldn't it be crazy to do it, because they could take it away after you paid for it?

AAG Peterson: Objection, assumes facts not in evidence; false speculation, and it's irrelevant.

Judge Morse: You can, you can answer if you understand it, to your understanding.

Mr. Dolifka: Well if it was exactly like that, that would make no sense. That you would plea to something that might be taken away from you.

Mr. Haeg: Yes, so even though you may have something that you wanted, but they, they said there's nothing to keep them from taking it back; after you maybe gave another statement or gave your house up, or another airplane, or your first born child; no matter how attractive it was, you would not go for it? Because there would be no guarantee that you would get it.

Mr. Dolifka: Well let me try to make this as simple as ... I, I, I'm running out of ways to answer your questions. Let me make it as simple as I can. The wheels came off, my understanding you've, basically come to an end of your relationship with Cole.

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Mr. Dolifka: Talked to Robinson. Inquired of Robinson about what you're talking about. He led me to believe that that agreement was amiss and that he was going to rectify it. I really don't have any more to say than that. I relied on Mr. Robinson telling me that what had happened with your agreement was amiss, and he was going to quote fix it. Beyond that, I don't know what else to say.

Mr. Haeg: Okay. And your term fix, do you know if he was going to try to enforce the plea agreement or do you, do you have any idea what he meant by fix it?

Mr. Dolifka: Well, I don't know he used ... I guess rectify or make right, um. I guess.

Mr. Haeg: Okay. And, and you may not know, and I, I you know, but if ... so in other words, you didn't know how he was going to rectify it. He just said he was going to rectify it in some manner.

AAG Peterson: I, Objection. Hearsay. I guess.

Judge Morse: You can answer it so we can get this over with.

Mr. Dolifka: He seemed upset by what had happened. I was of the opinion that he was going to rectify, make right, whatever word you want to use. And I trusted him implicitly to do that, because he ... I viewed him as an excellent criminal attorney. So if he told me something was amiss, I believed it was and I relied on it, and I believed he would make things right. That ... I can't get any simpler than that.

Mr. Haeg: Okay. In your opinion, did Mr. Robinson make it right?

Mr. Dolifka: Well, (sighs), I, I, I guess ... I don't really know how to ... I'm confused about that by now, because he said he was going to make it right, and then it started getting really gray to me as to what, what that meant. The whole case has gotten gray to me by now. It's just ...

Mr. Haeg: Okay.

Mr. Dolifka: Because it veered off from being about the plea agreement to all these collateral goings on, and that's where the case lost me was the simplicity of Mr. Robinson telling me there was something amiss with the case and he was going to make it right. As a lay person, I could process that. But then there's all this collateral FBI, all this other stuff just left my wife and me drained, 'cause it w- ... I don't, I don't know what, I don't ... I still to this day do not totally know what happened.

Mr. Haeg: Okay. But, but, just the large scheme of things is to make it as simple as possible, your concerned not only ... I, I guess I'll put it this way: When you talked to Judge Hanson after you told Judge Hanson or he investigated, was Judge Hanson concerned?

JUDGE Morse: That's not admissible.

Mr. Haeg: Okay. Um. Anyway, uh, I think that's it, and I ... I'm done.

Judge Morse: I assume.

AAG Peterson: I have no recross.

Judge Morse: You may ... you're excused. Thank you.

Judge Morse: How many additional witnesses do you have?

Mr. Haeg: Uh.

Judge Morse: We're going to take a break here, a couple seconds. I'm just trying to get a sense of how many witnesses you have.

Mr. Haeg: I have-

Judge Morse: ... you have.

Mr. Haeg: Um, potentially four, not including myself, but I don't probably ... I don't ... I could probably get by with not calling them, but anyway.

Judge Morse: It's your case. You ... As I said to you yesterday-

Mr. Haeg: Okay. So um ...

Judge Morse: You have a finite amount of time. Prioritize.

Mr. Haeg: So I can call another witness?

Judge Morse: No. We're going to take a break so people can-

Mr. Haeg: Okay.

Judge Morse: We'll be back in uh, at 11:15.

Mr. Haeg: 11:15. Okay.

Clerk: Please rise. Court stands in recess.

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Clerk: Please rise. Superior Court is in procession, Judge [inaudible 00:00:08] William [inaudible 00:00:08]

Judge Morse: Be seated, be seated please. Your next witness.

Mr. Haeg: Will you go up there, Jack.

Judge Morse: Ma'am if you come up to the witness stand, please.

Clerk: And if you'd remain standing and raise your right hand. Do you solemnly swear or affirm that the testimony you give now before court will be the truth, the whole truth, and nothing but the truth?

Jackie Haeg: I do.

Clerk: Thank you, you may be seated. And for the record, please state your name, spelling your first and last name.

Jackie Haeg: Uh, my name is Jackie Haeg. J-A-C-K-I-E H-A-E-G.

Clerk: Thank you.

Judge Morse: You may proceed.
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Mr. Haeg: Did you ever remember our first attorney [Brent Cole 00:00:55] saying anything about the governor in regard to my case?

Jackie Haeg: He said it was-

AAG Peterson: Objection, hearsay.

Judge Morse: If I'm recalling, there was a question asked of Cole about whether [Murkowski 00:01:12] gave instructions to set an example. So, if that's what you're referring to, this is potentially a prior inconsistent statement. So go ahead.

Mr. Haeg: Uh, is it true that Mr. Cole told us that Alaska's governor Frank Murkowski-

Judge Morse: Ask her non-leading questions.

Mr. Haeg: Okay.

Judge Morse: So ask her-

Mr. Haeg: What do you-

Judge Morse: ... what did Cole say about Murkowski?

Mr. Haeg: What do you remember Cole saying about the governor?

Jackie Haeg: He said that this was such a big case that the governor would probably be wanting to make an example of you.

Mr. Haeg: Okay. Did he ever say anything about calling my prosecutor or judge?

Jackie Haeg: I can't remember that.

Mr. Haeg: Okay. Um. Do you remember Mr., uh, did Mr. Cole ever lead us to believe I had a plea agreement?

Jackie Haeg: Yes, he did.

Mr. Haeg: And, as far as you know, what did that plea agreement entail?

Jackie Haeg: You were gonna go out to McGrath and be able to plead open sentence and the airplane, the judge would determine whether or not you could get your airplane back. I don't remember all of the, how many years or-

Mr. Haeg: Okay, was that agreement that he talked, or ... Uh, is it your understanding that I could be sentenced to a one-year suspension of my guide license?

Mr. Haeg: Okay. Do you remember Mr. Cole telling us to give up guiding in reliance on this, uh, did Mr. Cole ever tell us to give up guiding?

Jackie Haeg: He said that it would look good if you did not guide.

Mr. Haeg: Ok. Did he ever tell us that the prosecutor Scot Leaders agreed to give us credit if we didn't?

Jackie Haeg: Yes.

Mr. Haeg: Okay. Did we give up guiding for that plea agreement?

Jackie Haeg: Yes, we did.

Mr. Haeg: Ah. Did we also fly in witnesses from as far away as Illinois on the eve of going out to be sentenced?

Jackie Haeg: Yes.

Mr. Haeg: Ah, did we ever make that plea agreement?

Jackie Haeg: What do you mean?

Mr. Haeg: Did we ever finalize it?

Jackie Haeg: Did we ever go out? No.

Mr. Haeg: Okay, and why was that?

Jackie Haeg: Because when we got to the office-

Mr. Haeg: And whose office?

Jackie Haeg: Mr. Cole's office. Mr. Cole came in and he said I have bad news, um, Prosecutor Leaders has changed the plea agreement, we're not going to be able to go out to McGrath tomorrow.

Mr. Haeg: Did Mr. Cole say we could - he could do anything to get the other agreement back?

Jackie Haeg: He told you, or he told all of us that the only thing he could do would be to contact Leaders' boss because she was a woman that he had worked with in the past.

Mr. Haeg: Did he ever say anything about not wanting to piss off the prosecutor because he had to make deals with him in the future?

Jackie Haeg: Yes.

Mr. Haeg: Um. We went to ... Is it correct we went Anchorage on November 8th, 2004 with the intent of flying to McGrath on November 9th, 2004?

Jackie Haeg: Yes.

Mr. Haeg: Okay. On the night of ... Was I arraigned telephonically on the 9th rather than going out to McGrath, did we do a telephonic thing with the court?

Jackie Haeg: Yes.

Mr. Haeg: Okay. After that, did, ah. On the night of November 9th, what was the mood of everybody? All the witnesses, Cole included, on the night of November 9th?

Jackie Haeg: Everybody was upset we didn't go out there, to McGrath.

Mr. Haeg: And was everybody, including Mr. Cole, extremely angry about what Mr. Leaders had done?

Jackie Haeg: Yes.

Mr. Haeg: And so if Mr. Cole has testified under oath that everybody was ecstatic, that would not be true?

Jackie Haeg: That wouldn't be true.

Mr. Haeg: Okay. You ever hear Mr. Robinson ... Or, did we ever ask Mr. Robinson about enforcing the plea agreement?

Jackie Haeg: Yes.

Mr. Haeg: And what did Mr. Robinson say?

Jackie Haeg: That he couldn't do anything, it was, I think his term was "water under the bridge."

Mr. Haeg: Okay, and you were there personally when Mr. Robinson said that?

Jackie Haeg: Yes. I remember him saying that, yes.

Mr. Haeg: Did you, is it true ... Did Mr. Robinson say anything about how Cole had represented me? I guess, did Mr. Robinson say something about, I don't know how to make this not leading. But, about Brent Cole lying to me. Did we talk about Brent Cole lying to me with Mr. Robinson?

Jackie Haeg: I don't remember that.

Mr. Haeg: Okay. Do you ever remember Mr. Robinson saying, "Even if Cole was lying to me, it might not be ineffective assistance of counsel?"

Jackie Haeg: Oh, I remember that, yes. We were in a meeting with him-

Mr. Haeg: Okay.

Jackie Haeg: ... with Robinson. Yeah.

Mr. Haeg: Yeah. And so what Robinson had said is, Even if Mr. Cole had lied to me about the plea agreement, it might not've meant that I got "ineffective assistance of counsel."

Jackie Haeg: That's what I understood, yes.

Mr. Haeg: Okay. Ah. Did Mr. Robinson eh, in other words, Mr. Robinson said he couldn't enforce any deal I had with Cole?

Jackie Haeg: Correct.

Mr. Haeg: Um. Did you ever hear Mr. Robinson say something about a defense called "subject matter jurisdiction?"

Jackie Haeg: Yeah, I remember him saying that.

AAG Peterson: Objection, relevance. Mr. Robinson has already testified to all of this.

Mr. Haeg: Okay.

Judge Morse: It's still relevant. I'm not sure why we're going over it again.

AAG Peterson: [crosstalk 00:07:31]

Mr. Haeg: Okay, um. Did Mr. Robinson ever say if I brought up other defenses this may waive subject matter jurisdiction, or admit it? He said waive ...

Jackie Haeg: I remember hearing that.

Mr. Haeg: Okay. Did you attend my trial in McGrath?

Jackie Haeg: I did.

Mr. Haeg: And would those dates include 5-17-oh-5, 5-18-oh-5, 7-25-oh-5, 7-26-oh-5, 7-27-oh-5, 7-28-oh-5, and 7-29-oh-5?

Jackie Haeg: That sounds correct, yes.

Mr. Haeg: So that's one, two, three, four, five, six, seven days. Is it true trial went to nearly midnight some days?

Jackie Haeg: Yes.

Mr. Haeg: Were you present in the courthouse every hour of trial?

Jackie Haeg: I was, yes.

Mr. Haeg: Were you also, uh, in McGrath at the courthouse during my sentencing? Or were you in McGrath for my sentencing?

Jackie Haeg: Yes. I was in McGrath.

Mr. Haeg: Okay. Um. Is it true Judge Murphy lived in Aniak and flew with us on the same plane to McGrath?

Jackie Haeg: Yes.

Mr. Haeg: Can you explain how that happened? I mean, where we got on, where she got on?

Jackie Haeg: We got on in Anchorage, we would fly to Aniak, pick up the people in Aniak and then go back to McGrath and everybody in the, that was going to McGrath would get off the plane there.

Mr. Haeg: Is it true that Judge Murphy lived in Aniak and so, at first we got on the plane in Anchorage, flew down without Judge Murphy but picked her up in McGrath, in Aniak, and then we all went to McGrath.

Jackie Haeg: Yes, we'd pick her up in Aniak.

Mr. Haeg: And when we got off the plane, where did Judge Murphy go? [9:26]

Jackie Haeg: She went right over to the truck with Trooper Gibbens.

Mr. Haeg: And that happened more than once when we arrived?

Jackie Haeg: Yes.

Mr. Haeg: Okay. Um, did we usually travel to McGrath with Mr. Robinson?

Jackie Haeg: Yes.

Mr. Haeg: Would he have seen Judge Murphy get in with Trooper Gibbens?

Jackie Haeg: Yes.

Mr. Haeg: During my trial, how often ...

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Mr. Haeg: Did you see-

Judge Morse: I have, I have a question. Did this ... Was there a single flight from, uh, you know, the Anchorage, Aniak to McGrath?

Jackie Haeg: Yes.

Judge Morse: So there was one time when, um, Murphy departed the McGrath airport with the trooper.

Judge Morse: There's only one flight, right?

Jackie Haeg: I believe there was more than...

Mr. Haeg: Trial got split into-

Judge Morse: It's his, her question.

Jackie Haeg: I believe-

Judge Morse: She's the witness.

Jackie Haeg: ... there was more than one flight, yes.

Judge Morse: How many times did you fly with Murphy to McGrath?

Jackie Haeg: I think it was two times.

Judge Morse: Two times?

Jackie Haeg: I think so.

Judge Morse: And, you ... How many times did she go with the trooper?

Jackie Haeg: Each time.

Judge Morse: Okay.

Mr. Haeg: During my trial, you've testified you were at the courthouse. How often did you see Judge Murphy riding around with Trooper Gibbens?

Jackie Haeg: Any time she left the courthouse, she would get in the truck with him ... With Trooper Gibbens.

Mr. Haeg: Ok and, did they arrive together also? At the courthouse?

Jackie Haeg: When, yeah, at times that we would see her arrive also. Yes.

Mr. Haeg: Okay, and did this riding around together during trial, did this include breaks, lunch, and dinner?

Jackie Haeg: Yes.

Mr. Haeg: And because ... Is it true that trial went so late midnight, that actually we would leave to go eat dinner sometime somewhere else?

Jackie Haeg: Correct.

Mr. Haeg: And come back to go 'til midnight.

Mr. Haeg: And then, at, everyday of ... Is it true that when Judge Murphy left at the end of each day, she left with Judge Murphy also? Er, I mean left with Trooper Gibbens?

Jackie Haeg: Correct.

Mr. Haeg: Okay. Did you ever see Judge Murphy and Trooper Gibbens eat together?

Jackie Haeg: We would eat at the ... There was a hotel that was right at the airport, and we would have our meals there. And there was times that Judge Murphy was in there, and Trooper Gibbens was sitting at the table with her, yes.

Mr. Haeg: Okay. And do you remember the name of that place?

Jackie Haeg: I can't remember the-

Mr. Haeg: Could it have been the McGrath B and B?

Jackie Haeg: It could've been, yes.

Mr. Haeg: Okay, and did we stay at the McGrath B and B with Judge Murphy?

Jackie Haeg: We did.

Mr. Haeg: Okay. Um, is it true that Robinson smoked?

Jackie Haeg: Yes, he smoked.

Mr. Haeg: Would we, would we sometimes go outside the courthouse while he smoked?

Jackie Haeg: Any break they let us have, he would go outside and be with us and smoke, yes.

Mr. Haeg: And at that time when you were with Robinson, did we ever, or did you ever see Judge Murphy get in the truck with Trooper Gibbens?

Jackie Haeg: When we would go on break, yes, she would leave with Trooper Gibbens.

Mr. Haeg: Okay. Just taking an estimate, how many times do you think you seen Judge Murphy riding around with Trooper Gibbens during, during my trial alone?

Jackie Haeg: I don't know-

Mr. Haeg: Just a guesstimate.

Jackie Haeg: It, it was, I don't know ... How many days did you say [crosstalk 00:03:07].

Mr. Haeg: Well, and the arriving, um, so ...

Jackie Haeg: Maybe ten?

Mr. Haeg: Okay.

Jackie Haeg: Or more.

Mr. Haeg: Well I mean, if, if they arrived in the morning ... Maybe left for lunch and dinner and then came back, and then left after court was done ... Um, I guess I'll put it this way. Did you ever see Judge Murphy arrive or leave the courthouse with alone, or with anyone other than Trooper Gibbens?

Jackie Haeg: No.

Mr. Haeg: And so, based on that, would it be true that she would arrive there ... That would be one ride in the morning. She would leave at least probably at noon for another ride ... Probably for dinner, and then leave after court was over. So, would it be fair to say that there's at least four times, if not more because of breaks, that she was running around with Trooper Gibbens per day?

Jackie Haeg: Yeah.

Mr. Haeg: Okay. And if you took the four times the seven days of trial alone, four times seven is-

Jackie Haeg: 28.

Mr. Haeg: So, probably over 20 rides with-

Jackie Haeg: It could've been over 20 rides.

Mr. Haeg: Okay.

Mr. Haeg: Did I ever complain to Mr. Robinson about Trooper Gibbens giving Judge Murphy rides?

Jackie Haeg: Yes, you did.

Mr. Haeg: And what did, uh, Chuck Robinson say?

Jackie Haeg: Basically said, this is the way it is in the village, there's nothing you can do about it.

Mr. Haeg: Okay.

Mr. Haeg: How often were you ... have to think of this ... um ... Were you physically with Mr. Robinson most of the time you seen the rides taking place?

Jackie Haeg: Yes.

Mr. Haeg: And that's because we walked to court with him. Walked away from court with him. Went on breaks with ... Basically we were with ... Because no-

Jackie Haeg: We were with him all the time.

Mr. Haeg: Yeah, because none of us had a house there we were ... We stayed in the same place.

Jackie Haeg: Yes.

Mr. Haeg: Okay.

Jackie Haeg: We rented a house together.

Mr. Haeg: In other words, Mr. Robinson must have seen Trooper Gibbens giving Judge Murphy rides almost, if not more ... I mean, almost as many times as you did.

AAG Peterson: Objection, she couldn't possibly know that.

Judge Morse: Overruled.

Jackie Haeg: Yes, I believe that.

Mr. Haeg: Did you ever hear the tape recordings of my prosecution capturing Judge Murphy and Trooper Gibbens joking about the rides Trooper Gibbens was giving Judge Murphy?

Jackie Haeg: Yes, I heard that.

Judge Morse: Who was on this tape?

Jackie Haeg: It was Judge Murphy ... They were going on break, and Judge Murphy said to Trooper Gibbens that ... I believe she was out of Coca Cola, and wanted to commandeer him to take her to the store.

Mr. Haeg: And in that same recording, in fact didn't Judge Murphy-

Judge Morse: Wait a minute, where did this ... Where did you hear this? What, who, who recorded this?

Jackie Haeg: The state did, or well it was the court recording.

AAG Peterson: [crosstalk 00:06:51]

Jackie Haeg: It was the court recording of the proceedings. I believe I was transcribing them when I heard it.

Mr. Haeg: Well it would ... The state transcribed it.

Jackie Haeg: Well, yeah, I mean I was listening to the tapes.

Mr. Haeg: Um ... Did we ... How adamant was I that Mr. Cole testify at my sentencing?

Jackie Haeg: You wanted him there. We got a hotel room for him. I ... We bought tickets for him, and you told Chuck Robinson that you wanted him there.

Mr. Haeg: And is the reason why I wanted him there is I wanted to get credit for the year of guiding that we gave up?

Jackie Haeg: Yes.

Mr. Haeg: Was there any question at all that Mr. Robinson was going to subpoena and question Mr. Cole about that under oath at my sentencing?

Jackie Haeg: No.

Mr. Haeg: Did Mr. Cole ever testify at my sentencing?

Jackie Haeg: No.

Mr. Haeg: Did he ever show up in McGrath?

Jackie Haeg: No.

Mr. Haeg: Did you ever hear me ask Mr. Robinson what could be done about that?

Jackie Haeg: I don't remember that.

Mr. Haeg: Okay.

Mr. Haeg: Um, when I was on appeal, did you find anything wrong with the court record?

Jackie Haeg: We went into the Kenai Court to look at the record, and I found a cover letter that, um, Mr. Cole had stated that Dave - Dave had written up a letter to the court explaining why he had done what he did. And the cover letter was in the court record, but the whole letter wasn't there.

Mr. Haeg: And so, is it your opinion that the court record itself was tampered with to remove my evidence?

Jackie Haeg: It was gone.

Mr. Haeg: And the proof that it was in there, and properly admitted, is the cover letter which remained in the court record?

Jackie Haeg: Correct.

Mr. Haeg: And is that letter ... As far as you know, was that letter ... The evidence I had that I was killing the wolves where the state told me to?

Jackie Haeg: Yes, you said that in the letter.

Mr. Haeg: Okay.

Mr. Haeg: And so to sum this up, my evidence was corruptly removed out of the official court record.

Jackie Haeg: Your evidence was gone, yes.

Mr. Haeg: Did we ever go back out to McGrath after we had fired Chuck Robinson?

Jackie Haeg: I don't remember going back out there.

Mr. Haeg: Um, do you remember a friend of ours Greg Pearson and we went out, and I started representing myself-

Jackie Haeg: Yep, yes, yes, sorry.

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Jackie Haeg: Ah, yes. We went out and you talked to, um, Magistrate [Woodmancy 00:00:05].

Mr. Haeg: And is it true we went out there for a "quote, unquote" representation hearing for me to start representing myself?

Jackie Haeg: Yes, that's correct.

Mr. Haeg: And, at that hearing, who was there?

Jackie Haeg: Um, Magistrate Woodmancy, and Trooper [Gibbens 00:00:24], you were there, I was there, and Greg [Pearson 00:00:28] was there.

Mr. Haeg: Okay. Do you remember, uh, how long this, this lasted?

Jackie Haeg: I think it was a couple days.

Mr. Haeg: Okay, well. It, true, it probably, it and I, I don't know. It's true, we were there a couple days, 'cause it's only one flight. So, we-we, whatever. And, anyway, I guess we can move on with that.

Um, did you hear, at the end of that hearing, did you hear Mr. Woodman-, or Magistrate Woodmancy, say anything?

Jackie Haeg: Yeah. We were, I believe we were going on a break, maybe to lunch, or dinner. And he asked Trooper Gibbens if he could give him a ride, and Trooper Gibbens said something to the effect that, um, "No, I can't do that because of what happened uh the last time." And, I believe he meant-

AAG Peterson: [crosstalk 00:01:29] I'm a object to heresy. Um, Trooper Gibbens, or Magistrate Woodmancy could both come and testify to the contents of the conversation.

Judge Morse: Sustained.

Mr. Haeg: All right. And I'll just point out Magistrate Woodmancy's now dead. So, he's not available.

Judge Morse: Oh. Still sustained.

Mr. Haeg: Okay. (silence) Does anyone, well, I guess [inaudible 00:02:11] do that. That's all I have.

Judge Morse: Cross.

AAG Peterson: So, [Mrs. Haeg 00:02:23], um, you testified that you heard on the record, uh, the court asked about getting a Diet Coke from the, from the Trooper, right?

Jackie Haeg: She, yeah-

AAG Peterson: Or, stated he was getting the, she was going to commandeer his vehicle to get a Diet Coke, right?

Jackie Haeg: She wanted him to take her to the store.

AAG Peterson: Mm-hmm (affirmative).

Jackie Haeg: I did hear that, yes.

AAG Peterson: And then when they came back on the record, um, she explained that no [exparte 00:03:03] communication occurred.

Jackie Haeg: I don't remember that.

AAG Peterson: Y-You don't remember that?

Jackie Haeg: I don't remember that, no.

AAG Peterson: Okay. Are you aware that she filed an affidavit in this, uh, in this matter, stating that the only ride that she ever received from Trooper Gibbens, was after the sentencing, because it was late at night in [McGrath 00:03:21]?

Jackie Haeg: Yes, I'm aware of that.

AAG Peterson: Okay.

Jackie Haeg: I am aware of that, yes.

AAG Peterson: All right. Um, now this has been, just the piece here alone is almost 10 years old now, right?

Jackie Haeg: Correct.

AAG Peterson: And, fair to say, it has significantly impacted your life?

Jackie Haeg: That's fair to say, yes.

AAG Peterson: You want it to be resolved favorably, in your husband's favor, right?

Jackie Haeg: I want it to be resolved, no matter what.

AAG Peterson: Okay. Preferably-

Jackie Haeg: [crosstalk 00:03:49] But, pref-

AAG Peterson: ... erably in his favor?

Jackie Haeg: Of course.

AAG Peterson: Okay. Um, could you describe, uh, Sergeant Matt [Dobson 00:04:06] wildlife Trooper?

Jackie Haeg: I don't-

AAG Peterson: Describe his appearance.

Jackie Haeg: ... I don't know who he is. I don't know [crosstalk 00:04:13] Matt.

AAG Peterson: You didn't see another Trooper in McGrath during this trial?

Jackie Haeg: I don't remember seeing any other Trooper, no.

AAG Peterson: You remember seeing a public safety technician that drove Trooper vehicle?

Jackie Haeg: No.

AAG Peterson: Never saw, anyone else? Any other public safety employee?

Jackie Haeg: There was, uh, I forget what they call 'em. A VS, or OP, or the, I don't remember what they call them.

AAG Peterson: [crosstalk 00:04:37] A VPSO, or VPO?

Jackie Haeg: There were some other, or something, yeah, like that. Yeah, there-

AAG Peterson: Okay. Could have been-

Jackie Haeg: ... was another guy there.

AAG Peterson: ... could be that, not a, uh, public safety tech, but some, some other public safety employee was there, and had a vehicle.

Jackie Haeg: There was ... He was, I believe he drove a different vehicle. He didn't drive a Trooper truck.

AAG Peterson: Can we just have, a quick moment here? Nothing further.

Judge Morse: You may step down, thank you.

Mr. Haeg: Um, can I ask one more question?

Judge Morse: Sure.

Mr. Haeg: The affidavit that Judge Murphy swore to under penalty of perjury, that she only got one ride, and it was after I sent, after I sentenced, is there any doubt whatsoever in your mind, that, that is a false affidavit?

Jackie Haeg: Not-

AAG Peterson: Objection. Calls for speculation.

Judge Morse: Overruled. You can answer that question.

Jackie Haeg: I believe her statement was false. No doubt.

Mr. Haeg: Based on personal observation?

Jackie Haeg: Based on everything I saw, yes.

Mr. Haeg: Um, and, uh, that's-that's all I have for you.

Judge Morse: All right. You may step down.

Jackie Haeg: Thank you. [26:26]

Judge Morse: Come on up to the witness stand please.

Clerk: Sir, if you'd remain standing and raise your right hand. Do you solemnly swear, or affirm that the testimony you will give now before this court be the truth, the whole truth, and nothing but the truth?

Mr. Hilterbrand: I do.

Clerk: Thank you. You may be seated. And for the record, please state your name spelling both first and last name.

Mr. Hilterbrand: My name is Drew Hilterbrand. First name, D-R-E-W. Last name, Hilterbrand H-I-L-T-E-R-B-R-A-N-D.

Clerk: Thank you.

Judge Morse: You may proceed.

Mr. Haeg: Did you attend my sentencing in McGrath?

Mr. Hilterbrand: Yes.

Mr. Haeg: Uh, did it occur on 9/29/05 and go through the night into 9/30/05?

Mr. Hilterbrand: Yes.

Mr. Haeg: And, were you in the courthouse for every hour of that?

Mr. Hilterbrand: Yes.

Mr. Haeg: Was I finally sentenced at nearly 1:00 am on the 30th?

Mr. Hilterbrand: Uh, yes.

Mr. Haeg: Okay. Uh, did you ever observe before I was sentenced, Judge Murphy riding around with Trooper Gibbens?

Mr. Hilterbrand: Uh, yes I did.

Mr. Haeg: Um, how often did you see that?

Mr. Hilterbrand: Um, the time, anytime that, you know, like, uh, I was outside the courthouse, or saw them. That I actually saw them arrive, or depart.

Mr. Haeg: Okay. Uh, and so, all of this happened before I was actually sentenced for most of it, nearly all of it?

Mr. Hilterbrand: Yes.

Mr. Haeg: Okay. Did you ever see Judge Murphy arrive or leave the courthouse alone, or with anyone other than Trooper Gibbens?

Mr. Hilterbrand: Not that I recall, no.

Mr. Haeg: And, so, just on a rough estimate, how many times did you see 'em traveling together?

Mr. Hilterbrand: Um, that I can remember, three, maybe four times.

Mr. Haeg: Okay.

Mr. Hilterbrand: I'm not sure exactly.

Mr. Haeg: And that was just basically from the morning of the 29th, to 1, 1:00 am on the 30th?

Mr. Hilterbrand: Yep.

Mr. Haeg: Other than myself, has anyone ever contacted you about Trooper Gibbens giving Judge Murphy rides?

Mr. Hilterbrand: No.

Mr. Haeg: In my case?

Mr. Hilterbrand: No.

Mr. Haeg: Were you, uh, were you supposed to go to McGrath on November-

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Mr. Haeg: ... ninth to testify at my sentencing? Originally November 9, 2004?

Mr. Hilterbrand: Yes.

Mr. Haeg: Okay. Did we fly you in from Silver Sam- uh a little village across the Inlet from Silver Salmon to do so?

Mr. Hilterbrand: Yes.

Mr. Haeg: And did we provide you transportation to Anchorage also?

Mr. Hilterbrand: Yes.

Mr. Haeg: K. Um, Did we ever ... was this ... for- with the intent of going to McGrath?

Mr. Hilterbrand: Yes.

Mr. HAEG: To testify...

Mr. Hilterbrand: ...That's my understanding.

Mr. Haeg: Did we- did we every go to McGrath?

Mr. Hilterbrand: No.

Mr. Haeg: And can you explain very clearly why that was?

Mr. Hilterbrand: Uh, we showed up at uh Brent Cole's office, uh, to uh go over some things. Dave was going over some things with him. And um um basically, uh, Leaders, he had talked to Leaders and um, the deal that they had made uh previously was uh put off. Um, for whatever reason.

Mr. Haeg: Okay. And, um, was it ... uh. Did Mr. Cole, did, wa- was I angry?

Mr. Hilterbrand: Yes.

Mr. Haeg: Was Mr. Cole angry?

Mr. Hilterbrand: Um, more or less I gu- not angry but uh, resigned I would say.

Mr. Haeg: Okay. And did I ever ask Mr. Cole what could be done about this?

Mr. Hilterbrand: Yes.

Mr. Haeg: And what did Mr. Cole say?

Mr. Hilterbrand: Um, more or less, uh, if I recall he said that um he could possibly talk to Leader's boss, but uh, not not much that I recall. He said something to the effect that uh he had to work with them in the future.

Mr. Haeg: Okay. And so is it true uh, did he say anything like, uh, "I can't do anything to piss Leaders off"?

Mr. Hilterbrand: Uh, that was more or less, yeah, the statement that he made that he had to work with them in the future.

Mr. Haeg: K. And so, was it your impression that Mr. Leaders, or Mr. Cole basically said, "I can't do anything to get you your plea agreement, because it'll affect my ability to work with the state in the future."?

Mr. Hilterbrand: Uh, that would, yeah, the conclusion I would draw from that yeah.

Mr. Haeg: (deep breath) (clears throat) On the evening of November 9th, the day we were supposed to fly out to McGrath what was the mood of all the- everybody that was there. Were we ecstatic?

Happy? Sad? Angry? If you had to pick the gamut, the day that we were supposed to go out there what was the mood of the people?

Mr. Hilterbrand: Uh, disappointed. Ye- perplexed I guess.

Mr. Haeg: Okay. Uh, Did you testify at my sentencing?

Mr. Hilterbrand: Uh, yes I did.

Mr. Haeg: And the night before sentencing were you given- did you know about written questions that were given to Chuck Robinson about the plea agreement?

Mr. Hilterbrand: Yes.

Mr. Haeg: And was it your impression that Chuck Robinson was also gonna ask questions about the plea agreement of Mr. Cole?

Mr. Hilterbrand: Uh, I think so. He said he did. We went over some, yeah.

Mr. Haeg: Okay. And did you, did- we went over- so it's your memory that we had written questions from Mr. Robinson?

Mr. Hilterbrand: Yeah. I-

Mr. Haeg: ... about the plea agreement.

Mr. Hilterbrand: Yeah. I have a vague recollection of it, yeah.

Mr. Haeg: K. Did Mr.- as far as you know and the court record will bear this out- did Mr. Robinson ever ask you the written questions about the plea agreement?

Mr. Hilterbrand: Not that I recall. No.

Mr. Haeg: K. And just- and did Mr. Cole show up at my sentencing?

Mr. Hilterbrand: No.

Mr. Haeg: K. And did you ever hear me ask Mr. Robinson what could be done about that?

Mr. Hilterbrand: Um, I believe so, but I'm not sure.

Mr. Haeg: And do you remember Mr. Robinson's response?

Mr. Hilterbrand: Uh, no I don't really. No.

Mr. Haeg: Okay. That's all for- hang on here- um, (papers shuffling) do you know if Mr. Robinson- were you with Mr. Robinson anytime that you've seen Trooper Gibbens giving Judge Murphy rides?

Mr. Hilterbrand: I believe so. But it's been so long ago I can't remember exactly.

Mr. Haeg: K. It's possible, but you can't ...

Mr. Hilterbrand: Yeah.

Mr. Haeg: Okay. Um, That's all I have for you.

Mr. Hilterbrand: Okay.

Judge Morse: Hang on. Hang on. Any cross?

Mr. Hilterbrand: Oh sorry.

AAG Peterson: So sir, you're of the game guide right?

Mr. Hilterbrand: Yes.

AAG Peterson: Where do you guide?

Mr. Hilterbrand: Um. Uh The Alaska Peninsula mostly some on Kodiak.

AAG Peterson: Who do you guide for?

Mr. Hilterbrand: I'm sorry.

AAG Peterson: Who do you guide for?

Mr. Hilterbrand: Um, I'm a registered guide, but I also, I mostly guide for ah Frank Sanders who's a friend of mine.

AAG Peterson: Okay.

AAG Peterson: What's your relationship to Mr. Haeg?

Mr. Hilterbrand: Um, I met David uh 15 16 years ago. I packed for him originally.

AAG Peterson: Oh you wor- oh well you packed for him?

Mr. Hilterbrand: Yeah.

AAG Peterson: And when you're a packer to become an assistant guide you first generally you have to be a packer for uh two years? Is that right?

Mr. Hilterbrand: Um yeah. It's something like that yeah. It's a certain number of days. But yeah.

AAG Peterson: And the registered guide that you worked for has to write you a letter of recommendation to the board to get your assistant guide license then right?

Mr. Hilterbrand: Right. [36:21]

AAG Peterson: Mr. Haeg wrote you that letter?

Mr. Hilterbrand: Yup. Mm-hmm (affirmative)

AAG Peterson: He's responsible for your guiding career?

Mr. Hilterbrand: Yes, but that all happened before any of this happened.

AAG Peterson: Okay. Uh, and you've remained friends with him since then?

Mr. Hilterbrand: Yeah.

AAG Peterson: Did you ever guide for him as the assistant guide?

Mr. Hilterbrand: Uh, yes I did.

AAG Peterson: A-around what time?

Mr. Hilterbrand: Um, uh 2000 ... early 2004 I think.

AAG Peterson: Um, the spring bear season?

Mr. Hilterbrand: Yes.

AAG Peterson: Okay. (deep breath) He's a friend of yours?

Mr. Hilterbrand: Yeah.

AAG Peterson: Uh, you filed a sworn affidavit on July 19, 2010. In which you said Trooper Gibbens was the primary witness against David HAEG at sentencing and I believe in trial. Right?

Mr. Hilterbrand: What's that? Yes.

AAG Peterson: Were you at the trial?

Mr. Hilterbrand: No I was not.

AAG Peterson: Okay. Did you know that another, um, friend of Mr. Haeg, Mr. Zellers actually was also charged along with them?

Mr. Hilterbrand: Yes.

AAG Peterson: And then made a deal with the state to testify against him at trial?

Mr. Hilterbrand: Um, I recall him saying something about that yeah. More or less. I don't know all the details but yes.

AAG Peterson: Okay so if you don't remember what happened at trial what made you write in a sworn affidavit in 2010 that Trooper Gibbens was the primary witness against Mr. Haeg in trial?

Mr. Hilterbrand: Uh, I was told he was a tr- primary witness at the trial.

AAG Peterson: So you swore out an affidavit I declare under penalty of perjury the foregoing is true and correct based upon what someone told you?

Mr. Hilterbrand: Well I mean, it should be a matter of court record so yes.

AAG Peterson: But that's not what you just said. You didn't say it was of court record and that you analyzed that. You said that someone told you that. Right? ... okay.

Mr. Hilterbrand: I-

AAG Peterson: You're nodding in affirmation you're agreeing is that right?

Mr. Hilterbrand: I guess, I- yeah.

AAG Peterson: Okay.

Mr. Hilterbrand: I don't know.

AAG Peterson: Nothing further.

Mr. Haeg: Is it true that in that affidavit you just said I believe, you didn't know, you just said based on the information that you had you believed that Trooper Gibbens was primary-

Mr. Hilterbrand: I-I believe so yes. I didn't see a copy of it but yes.

Mr. Haeg:: Um okay nothing further.

Judge Morse: I have some questions. You- you went to the sentencing right?

Mr. Hilterbrand: Yes sir. Mm-hmm

Judge Morse: Did you fly out there with Mr. Haeg?

Mr. Hilterbrand: Uh yes.

Judge Morse: How many people were with him roughly?

Mr. Hilterbrand: Uh, 5 or 6. I don't remember exactly.

Judge Morse: Okay, and uh did those 5 or 6 all fly out together?

Mr. Hilterbrand: Uh, yes as much as I can recall.

Judge Morse: Did you guys overnight?

Mr. Hilterbrand: Yes.

Judge Morse: Stay at the same place? There aren't many options I guess.

Mr. Hilterbrand: Uh n- uh yes we did stay at the same place.

Judge Morse: Okay. And were you around Mr. Haeg during the sentencing process? I mean it went on for whatever it was.

Mr. Hilterbrand: Yes.

Judge Morse: You know 15, 16 hours did you talk to him at breaks?

Mr. Hilterbrand: Uh, yes I'm sure we did.

Judge Morse: Okay and did you point out to him what you had observed about Judge Murphy?

Mr. Hilterbrand: I- I can't recall exactly. I couldn't say that we did.

JUDGE Morse: Was that something...

Mr. Hilterbrand: I think it was um mentioned amongst us.

Judge Morse: Is that something you were surprised about? Th-That they thought was note worthy-

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Judge Morse: When you saw Murphy and the trooper together, did they, did that seem inappropriate to you?

Mr. Hilterbrand: Um, it seemed unusual.

Judge Morse: Okay. And so, did you say to [Chuck 00:00:09] Robinson, "Hey! That's kinda weird. What do you think about it?"

Mr. Hilterbrand: I don't recall that I specifically said something to him.

Judge Morse: Did you say anything to Mr. Haeg about that?

Mr. Hilterbrand: Uh, I honestly can't recall.

Judge Morse: Okay. Do you have any additional questions?

Mr. Haeg: Nope.

Judge Morse: You can sit down, thank you.

Mr. Hilterbrand: Thank you.

AAG Peterson: Before the next witness comes in, there is something on the witness stand there. Uh, not sure what it is, but it's been there for, since Mr. [Zellers 00:00:47 40:44], I think.

Judge Morse: It's some document that you had provided for somebody.

Mr. Haeg: Yeah, I think it's the, uh, transcription of the meeting between-

Judge Morse: Okay. Well you-

Mr. Haeg: Mr. Zellers-

Judge Morse: You can retrieve it.

Mr. Haeg: And, can I admit it as evidence?

Judge Morse: What is it?

Mr. Haeg: It's the transcription of the meeting of Tony Zellers, Prosecutor Leaders, and Trooper Gibbens, in which Tony Zellers points out the maps faults.

Judge Morse: Is this already part of the record?

Mr. Haeg: I believe it is, but I, I don't know. Maybe the State can help me...

Judge Morse: And where'd you get it?

AAG Peterson: I objected when he asked if he could admit it. As lacking in foundation. And also it's unclear where the transcript came from.

Judge Morse: This is not an official transcript that was put in the-

Mr. Haeg: Nope.

Judge Morse: Okay. No, you can't.

Mr. Haeg: Um, and I was gonna ask you a question, your Honor, you said you wanted the tape recording. I believe the State ... we got this tape recording ... and th, this is something that confused me. Is we got a a tape recording of this meeting. And it cut off in mid-sentence, and for years we thought that's all the State had. And finally we got another, we kept hounding the State.

Clerk: [COUGHS]

Mr. Haeg: We finally got another tape that has, where they're talking about the map being falsified. And so, we got that from the State, and, um. I guess, can we give your Honor that tape? I mean, you said you wanted the recording, or whatever, we're not at our house where we have access to everything.

Judge Morse: I, I, I don't, I'm, I'm lost.

Mr. Haeg: Okay. We, you'd asked, if I have a recording of them-

Clerk: [COUGHS]

Mr. Haeg: Talking about the map being false before trial to get that -

Judge Morse: Is your, do you claim that this is something that the prosecutor and the troopers recorded?

Mr. Haeg: Yes.

Judge Morse: Okay.

Mr. Haeg: And then they gave us a copy of it later.

Judge Morse: Okay.

Mr. Haeg: Many years after trial.

Judge Morse: Many years after trial?

Mr. Haeg: Yes. It should have been provided in discovery, prior to trial and only because we didn't get it, we didn't realize what had happened with the map until many years after. And so this is another reason why I believe there was a, a very bad-

Judge Morse: Did you raise all this-

Mr. Haeg: ... discovery violation.

Judge Morse: Did you raise this previously?

Mr. Haeg: Yes.

Mr. Haeg: Uh, I don't know if we had this information during the appeal. I think we actually got this tape after my appeal was done. And it was some time coming up through, PCR when we obtained the tape.

Judge Morse: Is it part of the PCR, um, hearing in front of [Bauman 00:03:25]?

Mr. Haeg: I believe, I brought it up and I wanted an evidentiary hearing, and I think he denied me having an evidentiary hearing on this, uh, evidence.

Judge Morse: [SIGHS] I, I will mark it. And it is not admitted as an exhibit. But it is part of the, it is, it is kept so that you can show that you tried to get in. But it's not part of the record.

Mr. Haeg: Okay.

Judge Morse: So, do, you mark that as, as an exhibit but it's not admitted.

AAG Peterson: It's a court exhibit? And just as a point of clarification. For my own edification, your Honor-

Mr. Haeg: Go ahead.

AAG Peterson: What is this? It's, it's, it's a transcript that the petitioner created of a tape that they got and this purports to be an exact copy of that tape? Is that-

Mr. Haeg: That's it. Yep.

AAG Peterson: What's being-

Judge Morse: Wait a minute. I thought you said that the transcript itself was created by the troopers? And was given to you in discovery?

Mr. Haeg: No, the recording, the recording was created by the troopers. The tape recording. We transcribed it when we got it.

Judge Morse: Okay. So you got a partial recording and then you got a full recording?

Mr. Haeg: Correct.

Judge Morse: And when did you get the partial recording?

Mr. Haeg: I think that was, maybe, uh, sometime a year or two, maybe three, after trial and then, we listened to that and transcribed it. And it cut off in mid-sentence, you know, and there was, so we knew there was more, so we kept asking, for years, "Where's the rest of it?" And so, then it was a number of years later we got the part that actually records the map being discussed as being false.

Judge Morse: Does this transcript show where the first tape ended?

Mr. Haeg: I can't answer that. I don't know.

AAG Peterson: Who made the transcript?

Mr. Haeg: My wife.

AAG Peterson: So this is the objection that I have, your Honor.

Judge Morse: Go ahead.

AAG Peterson: Look, if they have a tape that shows something like this, then he could call a witness to establish that foundation. He's had a decade now to do that. Hasn't done it. In fact, he's refused to do it. Even though the Court of Appeals specifically told him to do it.

Judge Morse: Where's the-

AAG Peterson: Now, but, but my objection to this is-

Judge Morse: Right, I'm-

AAG Peterson: We have no idea if it's accurate or not, and the problem with that, your Honor, and I need to make this on the record, is that the clerk that looks at it, the Court of Appeals clerk that looks at it, may not recognize that it isn't, in fact, an authentic, you know, legal transcription of a, of a verified audio. This could have been made up of whole cloth. We don't know.

Mr. Haeg: Okay-

AAG Peterson: Not saying it was, we don't know.

Judge Morse: I understand exactly what you're saying.

AAG Peterson: And that needs to be very clear if it is a court, if it does come in as a court exhibit. Then it needs to be branded in some way to reflect that.

Judge Morse: I did not. I did not admit it as exhibit.

AAG Peterson: No, it's a court exhibit. Not, not ... I understand that it's not being admitted as an exhibit for the purposes of this hearing, but-

Judge Morse: Made your record.

AAG Peterson: For the record on appeal, it should be branded as such.

Judge Morse: Who gave you the tape? The original one. The original recording? Who gave it to you?

Mr. Haeg: The State of Alaska.

Judge Morse: Do you know acknowledge that? I'm not talking about-

AAG Peterson: I don't know anything about this, specifically. It's not a matter that's before this court for the PCR,

Judge Morse: I'm asking a simple question. If you know the answer, tell me. If you don't know the answer, that's fine.

AAG Peterson: I don't know the answer.

Judge Morse: Okay. That's good.

AAG Peterson: And, and if it would have been part of this hearing, then I would know the answer, but I haven't researched that.

Judge Morse: Okay. It would be helpful for me, if you had the tape. 'Cause I don't know what, you know, this transcript-

Mr. Haeg: Well-

Judge Morse: Who know what it-

Mr. Haeg: Okay. And what I'm saying is, when we get home I will make it my first thing I do to try get this court in and up to ... I assume the State has the recording.

Judge Morse: I have no idea.

Mr. Haeg: We got a copy from them, that's all I know. And so, I can get you the audio-

Judge Morse: Did you bring all the, now, just so, you, I, I asked you this before but I can't remember what you said. Did you bring this up in front of Bauman?

Mr. Haeg: Yes.

Judge Morse: And what happened down there?

Mr. Haeg: He ref, I asked for an evidentiary hearing, 'cause we just found out this evidence, and he dismissed my request and I think, the same day or a day after, ruled on my, my PCR, decided it and said, "I am," you know, denied my request for an evidentiary hearing and then denied my PCR but overturned my sentence. And so I never have had an evidentiary hearing on ... I never got this in. In other words. Although I asked in an official request. I said, "Lo and behold," You know, whatever it was, 13 years after my trial, we get a tape recording of the prosecutor and trooper and State witness talking about how their trial exhibit was false before trial. And then they still used it against me.

Mr. Haeg: It, it's where they talk about the map.

Judge Morse: When do you think this thing was made?

Mr. Haeg: The what?

Judge Morse: The recording.

Mr. Haeg: It was made exactly on the day of Mr. Zellers meeting with Scot Leaders and Trooper Gibbens, prior to my trial. And it may have a date on it. I don't know.

Judge Morse: Okay.

Mr. Haeg: Um.

Judge Morse: You can submit the, you can submit a copy of the partial recording and the full recording.

Mr. Haeg: Okay. And, and it was made on 6/23/04. And there, there was a number on the tape.

Judge Morse: I wouldn't-

Mr. Haeg: Would that help if I had, if you guys had the tape number?

Judge Morse: You seem to claim that there was two tapes, two recordings. One partial. One full.

Mr. Haeg: Okay.

Judge Morse: I'm gonna give you an opportunity to-

Mr. Haeg: So you want both tapes? You want the partial and the-

Judge Morse: Yes I do. You're making s, accusations that-

Mr. Haeg: Okay.

Judge Morse: Okay?

Mr. Haeg: Okay. Um.

Mr. Haeg: Uh, the next witness is a Tom [Stepnosky 00:09:32], he's in Pennsylvania and he has a number here we can, we could try, if we could try calling him? Is that doable?

Judge Morse: Sure. What's the number?

Mr. Haeg: 5-7-0-9-6-0-4-0-4-0

Clerk: And what was that name again?

Mr. Haeg: Tom Stepnosky.

Clerk: Thank you.

pm40hp05

Clerk: Hi, is this Tom Stepnosky? This is Judge Morse's clerk calling you in regards to testifying in the David Haeg versus State of Alaska case. Okay, hold on just a moment. Okay, we have Tom Stepnosky on the line.

Judge Morse: Mr. Stepnosky, can you hear me?

Mr. Stepnosky: Yes, I can, sir.

Judge Morse: My name is William Morse, I'm a superior court judge here in Anchorage. You're being called, uh, as a witness by David Haeg in a case, uh, uh, he has against the State of Alaska, as arises out of his conviction. Uh, he is calling you as a witness, he'll be asking you questions first and then the state's attorney, Mr. Peterson, may have some follow up questions for you. So, are you available for some testimony?

Mr. Stepnosky: Yes, sir.

Judge Morse: I'd like you to raise your right hand and the clerk will swear you in.

Clerk: Okay, Mr. Stepnosky?

Mr. Stepnosky: Yes.

Clerk: Do you solemnly swear or affirm the testimony you'll give now before this c- court will be the truth, the whole truth and nothing but the truth?

Mr. Stepnosky: I do.

Clerk: Thank you. And for the record, please state your name, spelling both first and last name.

Mr. Stepnosky: Thomas Stepnosky. T-H-O-M-A-S Stepnosky is S-T-E-P-N-O-S-K-Y.

Clerk: Thank you.

Judge Morse: Go ahead.

Mr. Haeg: Did you attend my sentencing in McGrath in ... I believe it was 2005?

Mr. Stepnosky: Yes, I did.

Mr. Haeg: Okay. Did my sentencing start on 9/29/05 and go into the early morning hours of 9/30/05?

Mr. Stepnosky: Yes, it did.

Mr. Haeg: Uh, were you in the court house for all of this time?

Mr. Stepnosky: Yes, I was.

Mr. Haeg: During this period, did you ever see, uh, Judge Murphy ride around with Trooper [Gibbens 00:02:38 52:36]?

Mr. Stepnosky: Yes, I did. Multiple times.

Mr. Haeg: Okay, and when you say multiple times, uh, did they leave during the day, come back? I mean, can you explain what multiple times means?

Mr. Stepnosky: Well, when we drove from where we were staying, she drove down with Trooper Gibbens, and then at the court house, when we went on breaks Trooper Gibbens would give her a ride to the store for her to pick up soda and snacks and then drive her back. Multiple times.

Mr. Haeg: Okay. Um, is it true I was sentenced at maybe midnight or 1:00 AM on the 30th?

Mr. Stepnosky: I don't remember the exact time, but it was very late, yes.

Mr. Haeg: Okay. And these rides that you'd seen Judge Murphy getting from Trooper Gibbens, did they occur before I was sentenced? Or after?

Mr. Stepnosky: Before. Multiple times.

Mr. Haeg: Okay. Did you ever see Judge Murphy arrive or depart the court ho- house alone or with anyone other than Trooper Gibbens?

Mr. Stepnosky: No, I did not.

Mr. Haeg: Uh, were you ever contacted by anyone, other than me, about Trooper Gibbens riding with Judge Murphy?

Mr. Stepnosky: No one contacted me, but I on my own volition, contacted, uh, [Marla Greenstein 00:04:20 54:20]]

Mr. Haeg: Okay. And what did you tell Ms. Greenstein?

Mr. Stepnosky: What I saw of Trooper Gibbens driving around, driving the judge.

Mr. Haeg: Okay, and is ... so- so Marla Greenstein has ... is recorded stating that you never seen that happening, that would be false, correct?

Mr. Stepnosky: Completely false.

Mr. Haeg: Okay. Um, were you ever with Mr. Robinson when you seen Judge Murphy riding around with Trooper Gibbens?

Mr. Stepnosky: Yes, I was. I'm a smoker and so did ... was ... is or was Mr. Robinson, at the time, and we would be outside the courthouse smoking when Trooper Gibbens would give Judge Murphy a ride to the store for her to pick up soda and snacks.

Mr. Haeg: Okay, so, you're pretty sure that Mr. Robinson had to see the rides take place, because you were with him?

Mr. Stepnosky: Oh, he definitely had to see it. We were standing right next to each other. They would pull up in the truck, get out and walk right by us back into the courthouse. Of course he seen them.

Mr. Haeg: Okay. And again, this was all before I was sentenced, correct? Or most of it.

Mr. Stepnosky: It was all before you were sentenced.

Mr. Haeg: Okay. Um, and if, uh, Judge Murphy has sworn an affidavit that she only received a ride from Trooper Gibbens after I was sentenced, would that be a false affidavit from Judge Murphy?

Mr. Stepnosky: That would definitely be false.

Mr. Haeg: And how sure are you about that?

Mr. Stepnosky: I am absolutely, positively-

Mr. Haeg: Okay.

Mr. Stepnosky: ... know that that is a false statement by Judge Murphy.

Mr. Haeg: Okay. And since it's a sworn statement, would you consider that perjury?

Mr. Stepnosky: Yes, I certainly would.

Mr. Haeg: Were you supposed to go out to McGrath on November 9th, 2004 for me to plea out?

Mr. Stepnosky: Yes, I was.

Mr. Haeg: Did we ever go to McGrath on November 9th?

Mr. Stepnosky: No, we did not.

Mr. Haeg: Can you explain very clearly and accurately why we didn't?

Mr. Stepnosky: Because, uh, the district attorney changed everything that you were supposed to get. He told you one thing, and then when it came time to go out there, he completely changed everything.

Mr. Haeg: Okay. Did I ever ask Mr. Cole what we could do about that?

Mr. Stepnosky: Yes, you did.

Mr. Haeg: And what did Mr. Cole say?

Mr. Stepnosky: "I can't do anything about that. I have to continue to work with the DA, I don't wanna piss him off. The only thing I can do is call his superior and see what they say."

Mr. Haeg: Okay. Were you ever with me personally when I talked to Mr. Robinson?

Mr. Stepnosky: Yes, I was. Many times.

Mr. Haeg: Okay. Did you ever hear Mr. Robinson state anything about his ability to enforce the plea agreement I'd made with Mr. Cole?

Mr. Stepnosky: My recollection is, was he said he can't do anything that was water under the bridge.

Mr. Haeg: Okay. Um, did you ever hear Mr. Robinson tell me anything about standing mute at trial?

Mr. Stepnosky: Yes. I did. I heard him tell you not to say anything.

Mr. Haeg: And was he also saying that he should stand mute also?

Mr. Stepnosky: That, I do not recollect.

Mr. Haeg: Okay. Do you remember any of that coming up in the- in the context of subject matter jurisdiction?

Mr. Stepnosky: Yes. I remember that.

Mr. Haeg: Okay. And did Mr. Robinson say that if we put up a defense, it may admit or waive subject matter jurisdiction?

Mr. Stepnosky: Correct, that's exactly what he said.

Mr. Haeg: Okay. Um, did we stay with Judge Murphy at the McGrath B&B? Or did you stay with Judge Murphy at the McGrath B&B?

Mr. Stepnosky: Well, we stayed at the ... not with her, but we stayed in the same place, yes.

Mr. Haeg: Okay. While you were there, did you ever see Trooper Gibbens eating with Judge Murphy where we were staying?

Mr. Stepnosky: Yes, I did. They sat in the back of the little restaurant there, at a table sitting alone.

Mr. Haeg: Okay. Were you with Mr. Robinson when you seen this?

Mr. Stepnosky: Yes, I was.

Mr. Haeg: Okay. Were you with Mr. Robinson ...

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Mr. Haeg: How often were you with Mr. Robinson when you seen Judge Murphy riding around with Trooper Gibbens?

Mr. Stepnosky: Well, every break we got during ... at the court house we would go outside and have a cigarette. And every time that we went out, Trooper Gibbens would give Judge Murphy a ride to the store for soda and snacks. So I would say in the course of the, the time period that we spent there during the day, I would say at least six to eight times.

Mr. Haeg: Okay. And, uh, ... do you remember Mr. Robins-, do you remember Mr. Robinson – do you remember me asking Mr. Robinson to ask questions about the, the year of guiding I gave up for the plea agreement that I, I didn't get?

Mr. Stepnosky: You asked him that, and, and other things, and he never asked any of those questions.

Mr. Haeg: And do you remember the night before him agreeing to ask all those questions?

Mr. Stepnosky: Yes. As a matter of act, we were, we were going over wh- what questions were going to be asked the next day at the sentencing, and he never said a word.

Mr. Haeg: Okay, and were those questions actually written out on paper?

Mr. Stepnosky: That I do no ... recall.

Mr. Haeg: Okay. Um ... Were you with me when I hired an attorney called Mark, er, named Mark Osterman?

Mr. Stepnosky: Yes I was.

Mr. Haeg: Do you remember us doing anything unusual with Mr. Osterman?

Mr. Stepnosky: Uh, when you say unusual as far as what?

Mr. Haeg: Um, by, by the time I hired Mr. Osterman, did we recognize we had a problem with, uh, Brent Cole, and Chuck Robinson?

Mr. Stepnosky: Oh yes, definitely.

Mr. Haeg: Okay. And-

Mr. Stepnosky: As a matter Mr. Osterman made that statement.

Mr. Haeg: Okay, and what did Mr. Osterman say?

Mr. Stepnosky: Well, that you've been sold out by your previous attorneys.

Judge Morse: Hearsay. I won't accept it.

Mr. Haeg: Even if he's ... If he's dead, how do I get around that or is it just gone forever?

Judge Morse: It's gone forever.

Mr. Haeg: Is it true that because of the problems with Mr. Cole and Mr. Robinson we tape recorded Mr. Osterman?

Mr. Stepnosky: Yes.

Mr. Haeg: Did you help in recording that, the making those recordings?

Mr. Stepnosky: Yes I did.

Mr. Haeg: As far as you can, as to your knowledge is it true that I tape recorded, uh, everything?

Mr. Stepnosky: I'm not sure as far as everything, but I know you made recordings.

Mr. Haeg: Okay.

Mr. Stepnosky: We ... we made recordings.

Mr. Haeg: Yeah. You, did you, you personally helped make recordings of him?

Mr. Stepnosky: Yes I did.

Mr. Haeg: Okay. Uh, that's all I have for you Mr. [Stepnosky 00:03:29 1:03:26].

Mr. Stepnosky: All right. Thank you.

Judge Morse: Don't hang up yet.

Mr. Haeg: Don't ... Don't hang up.

Judge Morse: Don't hang up.

Mr. Stepnosky: Nope.

Judge Morse: Any cross?

AAG Peterson: Just very brief. Uh so, Mr. Stepnosky how to you know Mr. Haeg?

Mr. Stepnosky: Uh, I've been a friend of his for many years. I worked with his wife, and that's how I got to know him. And went out to his lodge, started doing some work out there and eventually, actually worked for him.

AAG Peterson: Okay. In what capacity did you work for him?

Mr. Stepnosky: I was a camp manager.

AAG Peterson: Okay, do you like that job?

Mr. Stepnosky: Yes, I loved it.

AAG Peterson: Okay. How long did you do that for?

Mr. Stepnosky: Oh, I would have to say probably five years.

AAG Peterson: What were those years?

Mr. Stepnosky: Pardon me?

Speaker 3: What were those years?

Mr. Stepnosky: Uh, I believe they were like from 2001 to 2005. Or 2000 to 2005, somewhere in that range.

Judge Morse: Okay. Would you prefer to keep, keep doing that? Keep acting as his camp manager?

Mr. Stepnosky: Oh yes, definitely.

Judge Morse: And so when Mr. Haeg was charged, that sort of ended your work out there. Is that right?

Mr. Stepnosky: Yes.

Judge Morse: And you maintained your friendship with Mr. Haeg throughout that?

Mr. Stepnosky: Yes, I did. Still do.

AAG Peterson: You're close?

Mr. Stepnosky: Pardon me?

Judge Morse: You're, you're close? You're close friends?

Mr. Stepnosky: Oh yes. I would, I would consider us very close friends.

AAG Peterson: Very, okay. Uh, and in that capacity as his friend, you surreptitiously recorded an attorney without his knowledge?

Mr. Stepnosky: Yes.

AAG Peterson: Ok. You said on direct that the district attorney changed the deal. How do you know that? Were you, were you privy to conversations between Mr. Cole and Mr. Leaders?

Mr. Stepnosky: Between Mr. Cole and Mr. Leaders?

AAG Peterson: Yes.

Mr. Stepnosky: No, but I was there when Mr. Cole told us that Mr. Leaders had changed the deal. And we wouldn't be flying out to McGrath.

AAG Peterson: When he told you there was no deal and you wouldn't be flying out, you were there for that?

Mr. Stepnosky: No.

AAG Peterson: If you don't know what the content of that deal-

Mr. Stepnosky: I didn't say, I didn't say that. I didn't say there was no deal. I said Mr. Cole said Mr. Leaders changed the original deal to something else, and we would not be flying out to McGrath.

AAG Peterson: So you know what that original deal was then?

Mr. Stepnosky: Uh, well all I can say is this, it was no where near what Mr. Haeg wound up getting. The exact of it, I really don't remember off hand.

AAG Peterson: Okay.

Mr. Stepnosky: But I know it was ... instead of getting hit with a little ball-peen hammer, he got hit with a sledgehammer.

AAG Peterson: Okay, nothing further.

JUDGE Morse: Do you have any questions?

Judge Morse: Thank you sir, you may hang up.

Mr. Stepnosky: All right, thank you.

Mr. Haeg: Can I call myself?

Judge Morse: Sure.

Mr. Haeg: Can I stay here, or do I have to go up there?

Judge Morse: You can stay there.

Clerk: Mr. Haeg, if you'd stand and raise your right hand. Do you solemnly swear or affirm that the testimonial you will give now before this court will be truth, the whole truth, and nothing but the truth?

Mr. Haeg: I do.

Clerk: Thank you, you may be seated. And for the record, please state your name. Spelling both first and last name.

Mr. Haeg: David Haeg. D-A-V-I-D H-A-E-G.

Clerk: Thank you.

Judge Morse: Mr. Haeg, let me caution you. You have a brief period of time. You've got the five topics that I'm authorized to deal with. I know you have a lot to say. My recommendation to you is you focus on the five topics. Nonetheless, you can say whatever you want.

Mr. Haeg: Okay.

Judge Morse: But-

Mr. Haeg: Um-

Judge Morse: Don't, don't waste your opportunity.

Mr. Haeg: Okay. I would just like to testify that I was present at my trial and sentencing. Every day, every hour, and flew out to McGrath I think almost every time with Judge Murphy. Every single time that I seen Judge Murphy, she got in a truck with Trooper Gibbens. Uh, we stayed with Judge Murphy at the McGrath B&B. When we were there, I personally witnessed them eating together. Um, I pointed ... when it first started happening, I pointed it out to Chuck Robinson and he said, "Hey, there's nothing I can do about it. It's the way it is in the villages. You know, get over it."

Mr. Haeg: Um, again, we ... because McGrath's such a small place. We walked from where we stayed. Or like Chuck said, sometimes we borrowed bicycles. Little gravel road. Judge Murphy, Trooper

Gibbens going by us all the time. Um, you know, I seen them ... I think I may have already testified this, but I seen them eat together, basically they were uh together a very large portion of the time that we were out of court. And you know, that was just what we could see. You know, behind closed doors maybe there was more but I, you know, I don't know about that.

Mr. Haeg: Um ... at the court house, uh, I personally never seen Judge Murphy arrive or leave alone or with anyone other than Trooper Gibbens throughout the whole ... amount of the trial. Um, and sentencing. And again, we rode with Judge Murphy on the same plane, and she would get on and off of the plane with ... or get off the plane, get in with Trooper Gibbens. [1:10]

pm40hp07

Mr. Haeg: Um, one of the items I'm allowed to litigate is whether Mr. Robinson gave me uh, competent advice about the strength of my defense. Um, he has admitted and testified that uh, he ... excuse me for a second here.

Mr. Haeg: He told me that subject matter jurisdiction was my def- the defense for me and that we should depend on it to the exclusion of all else, and told me, that in fact, it's so strong that at trial, both he and I should stand mute and never put up a defense. I was so scared that I contacted friends and relatives, including some of those that had friends that were lawyers, and ran this by them, and they were all w- one word: horrified that any attorney would suggest that.

Mr. Haeg: And in fact, Mr. Robinson told me that should we try to put on a defense, that this would waive subject matter jurisdiction. And thus, ruin our defense.

Mr. Haeg: I ... after I fired Mr. Robinson, I actually looked into what's subject matter jurisdiction um, and let me just find the stuff I need here for a second.

Mr. Haeg: Huh, um, anyway uh ...

Judge Morse: Isn't it true, Mr. Haeg, that he made the motion regarding subject matter jurisdiction?

Mr. Haeg: What was that?

Judge Morse: Isn't it true that he made the ma- he raised that motion, he-

Mr. Haeg: Correct.

Judge Morse: Okay.

Mr. Haeg: Um-

Judge Morse: And it got denied?

Mr. Haeg: And I-

Judge Morse: and you appealed that?

Mr. Haeg: Yeah, and he appealed that.

Judge Morse: Okay. Second question: you didn't stand mute at trial, did you? You provided-

Mr. Haeg: No, we did not.

Judge Morse: ... a variety of defenses.

Mr. Haeg: What was that?

Judge Morse: You provided a variety of defenses?

Mr. Haeg: Yes.

Judge Morse: Okay.

Mr. Haeg: Man, I am not very good- not very organized right now. It's got to be here. Can't believe where it would've went ... anyway ... um ...

Judge Morse: Do you want a break?

Mr. Haeg: What was that?

Judge Morse: Do you want to break?

Mr. Haeg: Uh, just hang on one second here please. I found it. Sorry about that,

AAG PETERSON: I got a lot of papers.

Mr. Haeg: Because my career and my family's welfare depended on it, I started looking into what Mr. Robinson had said and why he based everything on subject matter jurisdiction-

Judge Morse: But he didn't.

Mr. Haeg: It's what he told me and it was his appeal point. So I'm just ...

Judge Morse: Right, right, but I- I know you-

Mr. Haeg: Can I- can I put on my- my defense please, your Honor-

Judge Morse: Yes, you can, but- but you- you can't make stuff up. You didn't stand mute.

Mr. Haeg: I'm getting beyond that.

Judge Morse: Okay, all right. Good.

Mr. Haeg: Okay. Um, I started looking into what Mr. Robinson recommended I stand mute, and you're right, we didn't. But I wanted to check to see if he was telling me the truth, that because I very nearly said, "Let's stand mute." It was on a razor's edge. And so, after as Mr. Dolifka said things were confusing...-

Judge Morse: When did you decide not to stand mute?

Mr. Haeg: I don't know, it was like the day of trial or-

Judge Morse: The day of trial?

Mr. Haeg: Well, I mean, I don't ... it was probably prior to that, but it was right up to, close to the day of trial.

Mr. Haeg: Okay, so, I looked into subject matter jurisdiction and I found that it is set by state statute. And I'm looking at a Cornell Law School definition of subject matter jurisdiction, and it says-

Judge Morse: Get to the- cut to the chase.

Mr. Haeg: Okay.

Judge Morse: Wh- what is the point of this, that you're trying to do, because it sounds to me like you're-

Mr. Haeg: The point of it is, and it'd sure help if I could talk without being interrupted-

Judge Morse:: All right, go for it.

Mr. Haeg: It says, "In state court systems, statutes that create different courts generally set boundaries on their subject matter jurisdiction." And so, state statute sets subject matter jurisdiction, and Mr. Robinson said that if I brought up other defenses, it could waive subject matter jurisdiction.

Mr. Haeg: The definition in the Cornell Law School, it says, "While litigating parties may waive personal jurisdiction, they cannot waive subject matter jurisdiction." So right there, I knew Mr. Robinson was telling me a falsehood. He told me that if we brought up other defenses, it would waive subject matter jurisdiction. And here it says, from the Cornell Law School, that it cannot be waived.

Mr. Haeg: And so, I believe my attorney was lying to me. I kept looking into this-

Judge Morse: Have you ever been wrong?

Mr. Haeg: Yes, many times.

Judge Morse: Were you lying when you were wrong?

Mr. Haeg: Sometimes.

Judge Morse: Now? [1:18:26]

Mr. Haeg: So, okay-

Judge Morse: Is it possible someone can make a mistake without lying?

Mr. Haeg: It is possible, yes. I'll agree to that-

Judge Morse: And you don't think it's possible that your lawyer made a mistake? You insist on believing he was lying?

Mr. Haeg: Okay.

Judge Morse: Well, I'm asking you.

Mr. Haeg: There's so much proof that he was lying, it shocked me. Can I go over why I feel that way?

Judge Morse: Well, I've been listening to a man who is exhibiting an enormous quantity of moral outrage, who thinks that he has been wronged. And the one question I've always wanted to ask you is um, you lied when you fi- when you describe where you got the wolves and s- and- and prepared those documents to the state, right?

Mr. Haeg: Y- yes.

Judge Morse: Where's the moral outrage there?

Mr. Haeg: The moral outrage is the state official running the program told me to shoot the wolves where we did, and then he told me to claim that they were shot inside the area-

Judge Morse: And so you-

Mr. Haeg: ... that's my moral outrage.

Judge Morse: And you lied, right?

Mr. Haeg: Yes. But a state official that's running the program says the whole future of this program is at stake, and for it not to be shut down a- they have to kill wolves and since there's no wolves inside the area that's open, he says go outside the area and shoot wolves and claim they're taken on the inside so that artificially, it'll look like the program is...

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Mr. Haeg: ... successful.

Judge Morse: Why would you do that?

Mr. Haeg: Because I believed the person telling me he- he was the ... Ted Spraker, the guy running the program, he was a senior state of Alaska biologist and he was running the wolf control program and he said, "David, this program is going to-

AAG Peterson: Objection. Hearsay.

Mr. Haeg: ... go down the tubes if you don't make it work. And here's what you need to do.

Judge Morse: And you said to yourself, "What a great idea. I'll lie. Jeopardize my career and family."

Mr. Haeg: I did not. I trusted him that that was the proper thing to do.

Judge Morse: Out of curiosity, did you raise this defense at trial? That you were-

Mr. Haeg: Mr. Ro- ... I was told-

Judge Morse: Did you?

Mr. Haeg: I was told that it was an illegal defense and I did not raise it because I was told specifically it was an illegal defense. And why I'm so outraged and thank you for letting me get this out, the- the document that I put into the court record explained exactly what I was told by the state and it's in the court record. It's like being with your clerk now, I can't go take ... I can't go pull the court record out without her watching me. You know, once it's in the court record, it's kind of ... the word is inviolate, I think, or whatever, and so, my proof that the state told me this was removed out of the court record after it was admitted and there's a cover letter that proves it was in there.

Mr. Haeg: And I ... years after ... my wife found out it was missing and I- I want this on the record: when I brought it up, the court of appeals, I said, "I want to reconstruct the record." And here's the- you know, this document. The state never even opposed and because the cover letter says that it not only went to the court, but because everything that goes to the court has to be copied to the state prosecutor's office, they obviously got a copy of my evidence.

Mr. Haeg: So when I wanted to uh, reconstruct the court record, they didn't oppose. So that led me to believe that they knew that that evidence was uh, originally in the court record and it had properly been copied to them, they never asked for another copy of the evidence. And so, what happened is, this happened-

Judge Morse: Did you ultimately-

Mr. Haeg: Brent Cole and it never-

Judge Morse: Did you get a copy of the letter back?

Mr. Haeg: Huh?

Judge Morse: Did you get a copy of the letter back?

Mr. Haeg: No.

Judge Morse: Did you-

Mr. Haeg: We had one- we had one that we submitted, but we never knew where it went and the problem, your Honor is-

Judge Morse: Did you ask-

Mr. Haeg: ... is that we-

Judge Morse: Go ahead.

Mr. Haeg: ... uh, when I reconstructed the record, the state ... we didn't get it done in time for my original appeal and then it got into post conviction relief, and this is where when I realized Judge Murphy was running around with Trooper Gibbens, th- the cover letter said that it was uh, received by the McGrath court and signed for, M- M- M- it's Margaret Murphy, M ... I don't know what her middle initial is.

Mr. Haeg: But then the- the- the evidence is gone and so when I filed a complaint of Judge Murphy riding around with Trooper Gibbens, part of that complaint that I put before the courts was, I believe Judge Murphy went into the court record and removed it out because- to favor Trooper Gibbens and to eliminate my defense. And that never really got liti- ... it just kept you know ...

Mr. Haeg: I would make these claims, there should have been an evidentiary hearing, there never was and now we're ... you know, 15 da- years down the road. But the significance of that is there was evidence in the court record that is no longer there. That the trial court never ... seen or did see and took out so that it would, you know, and- and that goes right along with the false map and my attorneys not telling me the truth. All of the sudden, right or wrong, I believe that everybody was against me, including my own attorneys and the judge and everybody.

Mr. Haeg: And then, like you heard testimony that every ... nearly everybody here says that this affidavit from Judge Murphy, this sworn affidavit is false. To have evidence like that, your Honor, that a sitting judge has committed felony perjury is disturbing not just to me, but to all these people that are here that want ... these court rooms have to be ... they have to have integrity and I mean, you should agree with that.

Judge Morse: I do.

Mr. Haeg: If they don't have integrity, you don't have anything.

Judge Morse: I agree with you.

Mr. Haeg: Okay. That's why I'm ... you know, and your office, th- the troopers here or whatever, I hope they listen to this because if you lose ... if the public loses faith in these court rooms and courthouses and judges, we begin to act irrationally and wrongly and you know, the last time I was ... not this last time, but you know, a while back, I was tased in a courtroom solely for saying this map was falsified at trial and this ... or before trial, and there's evidence that the prosecutor and trooper knew this map was false and they, knowing that it was false, used it against me.

Mr. Haeg: And when I tried to bring that up, instead of somebody stepping back and saying, "Mr. Haeg, hey, we'll give you an opportunity," they come at me with tasers and tase me and because of that, I didn't get that opportunity. I'm glad I got it again. But what if I had had a heart attack when I was tased and I died. That would never come in.

Mr. Haeg: And all this evidence that Judge Murphy is lying about what happened, would never come out. And you know, and I know I'm kind of going off the rails here somewhat with what you want me to do, but I- it is so important your Honor, it is so important that Marla Greenstein, something be done.

Mr. Haeg: Everybody tells me, this is a common refrain, and I'm sure it's yours, what Marla Greenstein did years after your conviction, has no bearing on your conviction. Would you agree with that, your Honor?

Judge Morse: Correct.

Mr. Haeg: Okay. Every single person here, if I ask them, whether or not they would decide I got a fair trial or not, whether or not Marla Greenstein, whatever it was, eight years after my trial, falsified an investigation to cover up what my trial judge did, I will guarantee you every one of those person, would raise their hand and say that would help me decide that you didn't get a fair trial.

Mr. Haeg: So their opinion, the public's, and mine, differs from yours. Because the question is this, if something didn't go wrong at my trial, why did Marla Greenstein cover up what happened at my trial? (silence). [1:27:19]

Judge Morse: You have anything else you want to say? [1:27:40]

Mr. Haeg: Yes, I do.

Judge Morse: Then this your opportunity.

Mr. Haeg: Okay. I looked into subject matter jurisdiction. I found out it's set by state statute. I looked up to see if Alaska has such a statute. I found AS22.15.060: Criminal Jurisdiction. It says, "The district court has jurisdiction of the following crimes: a misdemeanor." In other words, when I was charged in district court with a misdemeanor, the court had subject matter jurisdiction, and it makes zero difference, zero, what Mr. Leaders does in either swearing to or not swearing to a charging information. That is fact.

Mr. Haeg: So, when Mr. Robinson said there was some defect, that is a- this is false. Okay, I won't say it's a lie, I'll just say that that was false information. And for him to tell me to put all my eggs in one

basket on this, when it's now false, and he was touted as one of Alaska's top criminal defense attorneys, just like with what happens with Marla Greenstein, all of our hackles stick up, because my family and I, your Honor, hired the best. We didn't hire the bottom of the barrel. We went to the top of the barrel and now my top of the barrel is telling me to rely on a defense that beyond a shadow of a doubt was invalid. And he has testified under oath that it was valid. And I know, and these people can go right on Google, Cornell Law School, and verify that.

Mr. Haeg: Mr. Robinson has testified that when I asked him what case law supported, his belief that the subject matter jurisdiction uh, was valid, he gave me two cases. US Supreme Court cases. One of them, Albright v. United States, 19- in 1927. Uh, the other one that he gave me was Gerstein v. Pugh, decided in 1975.

Mr. Haeg: Mr. Robinson told me-

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Mr. Haeg: ... that the prosecutor not swearing to the charging information, deprived the court of subject matter jurisdiction, and that these cases prove that. And remember, your honor, this is very important and you should take a note on this if you have a pencil or have the clerk do so, is I was never arrested. Brent Cole said, "It's time to go into court," and so under my own power, I went into court. And so, I started looking through Albright v. United States. Down a ways it says, "As the affidavits on which the warrant issued had not been properly verified, the arrest was in violation of the clause in the Fourth Amendment, which declares no warrant shall issue but upon probable cause supported by oath or affirmation."

Mr. Haeg: But then it says, "But it does not follow that because the arrest was illegal, the information was or became void." In other words, Mr. Robinson's case law that he gave me proved the exact opposite of what he told me they proved. Again, the hackles go up on the back of my neck. Again, I'm like, what is going on with a top criminal defense in this at- this state telling me, again, that's a mistake, right? In your book, that's a mistake. Well, maybe it was a mistake that he said, you know, "It couldn't be wai- or it could be waived, when in fact it can't." That might be a mistake, but now he's made two massive mistakes.

Mr. Haeg: So then, I keep looking through and it says here a little further down in, uh, Albright. It says, "The invalid- inva- invalidity of the warrant is not comparable to the invalidity of the indictment. A person may not be cuni- punished for a crime without a formal and sufficient accusation, even if he voluntarily submits to the jurisdiction of the court, but a false arrest does not necessarily deprive the court of jurisdiction of the proceeding which it was made where there was an appropriate accusation. Either by indictment or information," and remember, I was charged by information, "a court may acquire jurisdiction over the person or the defendant by his voluntary appearance." And remember, I voluntarily appeared.

Mr. Haeg: And the- the- the distinction is, I just wanna make this clear for everybody, these cases concern personal jurisdiction. The court has to have two kinds of jurisdiction, and I believe you know that, subject matter and personal. They have to have the, like, here in this court, um, you know,

in a, basically in a district court, in my district court, if I'd have been charged with a felony, they would've had, not had subject matter jurisdiction because the statute says they're limited to misdemeanors. Personal jurisdiction is what both these cases are about, and it proves that what Mr. Robinson told me was a lie. And in fact, it says right here, "Here the court had jurisdiction of the subject matter, and the persons named as defendants were within the territorial jurisdiction."

Mr. Haeg: In other words, they're saying that the subject matter isn't- isn't what's being addressed in this case. It is the personal jurisdiction, the ability to arrest somebody. And to go over *Gerstein v. Pugh*, it says right here, "The sole issue in this case is whether there is probable cause for detaining the arrested person pending further proceedings." I was never arrested. How can Mr. Robinson, who I've paid many tens of thousands of dollars to, say that this supports the, his notion that the court didn't have subject matter jurisdiction when, uh, it is solely about the issue of whether this probable cause for detaining an arrested person pending further proceedings? And r- remember again, I was never arrested. So, why is he saying this proves my defense when it's all about being arrested and it, they, it specifically says if you're not arrested, this doesn't apply anyway?

Mr. Haeg: So, then I looked through it a little more, and I go, uh, "In holding that the prosecutor's assessment of probable cause is not sufficient alone to justify restraint of liberty pending trial." And I was never restrained. It says, "We do not imply that the accused is entitled to judicial oversight or review of the decision to prosecute." In other words, the prosecutor can write up a, an information, sign it, and it is completely valid for a, for a charging document. He doesn't have to provide anything with it.

Mr. Haeg: Um, that's one of the issues I have is that maybe Mr. Robinson made a mistake in the first instance. When he told me those cases proved that the court didn't have jurisdiction over me, they proved the exact opposite, and it's clear for anybody. Something else I believe we proved in this case that my statement and the charging information ... Bear this out, and I- I would like to have your honor actually ask the state's attorney-

Judge Morse: Keep speaking.

Mr. Haeg: Huh?

Judge Morse: Keep talking.

Mr. Haeg: Okay ... is if my statement made during plea negotiations was ever taken out of the charging information? In other words, the charging information that forced me to trial; did it still include my statement made during plea negotiations? It did, your honor, and Chuck Robinson protested it to Scot Leaders. Certified that it got to Scot Leaders. Actually, I told, it came out that it, uh, came out in two ways. It actually went to Mr. Leaders in three ways. Mr. Robinson's staff certified that they hand-delivered it, couriered it over to Mr. Leaders' office, that they faxed it to his office.

Mr. Haeg: But then they found out Mr. Leaders was attending a district attorney conference at the Alyeska Ski Resort, and they wrote a, uh, a letter there, or a- a fax document and faxed it to there, and in

the fax document it says, "Here's Dave Haeg's affidavit, protesting your use of his statement in a charging information, sending him to trial," and they, on the cover there, it says, you know, uh, "Alyeska see- Ski Resort staff, give this to District Attorney Leaders ASAP." So, when Mr. Leaders, when I filed the bar complaint in a certified document, when he said, "I never used Mr. Haeg's statement in the charging information's," we know that's untrue. The charging information's prove it. I mean, it's just, it says, "Dave Haeg came in and said this, this, and this, and this is why we're charging with this, this, and this." I mean, it's all over in it. Your honor should look at that.

Mr. Haeg: Not only that is, um, Mr. Leaders then says in the certified document, "The proof, the proof that I did not use Mr. Haeg's statement ... The proof is nobody complained about it." This certified document, your honor, was made after, after prosec- or Robinson's staff certified, informing Scot Leaders in three different ways. I believe that means that Prosecutor Leaders, to cover up, he gave me an illegal trial based on an information that wasn't worth the paper it's written on because it violated my right against self-incrimination, plain and simple, including Evidence Rule 410, that to keep me convicted, he was willing to falsify a certified document, which I believe is perjury. He was willing to commit a felony to cover up that I had a unconstitutional trial.

Mr. Haeg: I want to read Evidence Rule 410, which is what Scot Leaders, or what Arthur Robinson protested was violated by Scot Leaders' use of my plea agreement statements, to charge me with crimes to force me to a jury trial. Remember, if your honor remembers, I never pled out. I had a jury trial. Do we all agree on that? Okay. Okay. So, here we go. Evidence Rule 410: Inadmissibility of plea discussions in other proceedings. Statements or agreements made in connection with any of the forgoing pleas or offers is not admissible in any civil or criminal action, case, or proceeding against the accused person who made the plea offer if ... it has to be one condition ... a plea discussion did not result in a plea of guilty. I never pled out. How can my statement-

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Mr. Haeg: ... be used against me to force me to trial? Then, even worse, we've seen a lot of people testify about this map. Well it is proven beyond any doubt whatsoever that I put these marks on this map. The state itself recorded me putting them on during my plea negotiation statement. They then show this map to Mr. Zellers and they say, "Dave Haeg put these marks on there, can you confirm 'em and write, you know, some numbers down."

Mr. Haeg: So he does so. Then at trial, at trial, ah, if I can find my trial book. I'm sorry I'm kind of disorganized. At trial Mr. Scot Leaders, and this is the official transcript from my trial on page 281. Mr. Leaders says this is a map Trooper Gibbens has said. And then he said, "You are the one that did this, right?" Er, "One that right did this." Trooper Gibbens responds, "Yes."

Mr. Haeg: Mr. Leaders says, "And he did trying to fairly, fairly depict the boundaries of the permit area. And then it was used in an interview. One with Mr. Haeg."

Mr. Haeg: So they're talking about this and we have yet to identify that they actually this is 25. "Which is not admissible because it was based on plea negotiations and also with Mr. Zellers, regarding

where the wolves were taken." Remember, we have a recording, or transcription and a recording of Mr. Zellers and the prosecutor, trooper talking about how I put the locations on this map and how Tony Zellers confirmed them.

Mr. Haeg: So now they're talking about this map that was used in my plea negotiation statement. We go down, page 28, or 281, you just kind of zip there, they keep talking about different stuff, but they still kind of talking about this map. And then they say on 286, they said, Mr. Leaders says, "Okay. I can mark it as an exhibit, that way well then we'll have a stipulation, I think, on that."

Mr. Haeg: Exhibit 25, and if you look at this, it says right here, plain as day, "Prosecution Exhibit 25-admitted." In other words, there's zero doubt that not only was my statement used incorrectly, illegally, unconstitutionally, to force me to trial. At my very trial, they gave my jury my statement in violation of my right against self-incrimination.

Mr. Haeg: And what's even worse is not only was this map wrong with that, Scot Leaders, Trooper Gibbens, and Tony Zellers, before trial, are talking about how the game management unit boundary had been falsified to prove I was killing the wolves inside my guide area to benefit my guide business and I'll tell everyone here, including all these people, the whole, the state's whole case against me to my jury was: Mr. Haeg is killing the wolves in his guide area to benefit his guide business.

Mr. Haeg: Let's lay the hammer to him.

Mr. Haeg: Everyone there knew this was a lie. Not only that, Trooper Gibbens got up on the stand, put his right hand in the air and he swore under oath those wolves were killed in my guide area, 19-C. Yet there's a recording, prior to trial of him talking and remember, Scot Leaders, the prosecutor, accepted this. So not only did Trooper Gibbens know he was committing perjury, and that's the word it is, perjury, Prosecutor Leaders was what's doing what's called suborning perjury. He was letting it happen while knowing it's perjury.

Mr. Haeg: So Mr. Leaders is also guilty of a felony over there. They were guilty of two felonies when they falsified the map, now they're guilty of two more. Um, let me think for just a minute here. Oh. Something else that is interesting is that, later on down the line here, Trooper Gibbens says it's he that put the wolf-kill locations on this map. When there's a recording of him telling me to. Mr. Haeg can you take a pen, and in ink place the wolf-kill locations on here.

Mr. Haeg: Now, because they know that using my statement would mean I had an illegal trial, he's willing to lie, again, under oath, in my trial that he put them on there. So now we're up to, how many felonies is that now? I'm starting to lose count. Five, six, seven. Um, I'll try to find the page where Trooper Gibbens says that. Ah, right here. Page 333. Uh, Mr. Leader, ah, Mr. Robinson says, "This is ..." Mr. Leader says "Exhibit 25." Mr. Robinson, "Exhibit 25." The court, "This is exhibit 25."

Mr. Haeg: Let me check again here. Yep, Exhibit 25. "Officer, first of all I'm going to show you what's marked as Exhibit 25 and I want to see if you recognize that."

Mr. Haeg: Answer from Gibbens, "Yes I do."

Mr. Haeg: Question, "And what is that?"

Mr. Haeg: Answer, "That's an aircraft sectional for the McGrath area."

Mr. Haeg: And guess what this is? It's an aircraft sectional. It says right here, "McGrath sectional aeronautical chart."

Mr. Haeg: And then Mr. Gibbens says, "Marked with marks and a legend placed on it by myself."

Mr. Haeg: Well, there's a recording that Mr. Gibbens made himself of him telling me to put the marks on this map. And I'll try to hold myself down, and I'll be calm, but I am so angry. 15 years of my life went down the tubes. I was the youngest master guide in this state, professional pilot, and the State of Alaska asked for my help and I was honored.

Mr. Haeg: Your Honor, I was honored that they asked me for my help. And I went out and I did a job for them, and I did exactly what they asked. And then they ripped me and my family apart from one end to the other and they used my attorneys as double-agents to do it. And when a Grand Jury looks into this, and a Grand Jury there will be, because these people are going to make sure there's a Grand Jury investigation into this. Because our court system, the integrity is compromised. Period.

Mr. Haeg: Marla Greenstein, who falsified my complaint of Judge Murphy, and then lied in a certified document to cover up what she did, she has been the sole investigator of judges in this state for the past 30 years. One judge investigator for the past 30 years. I want everybody to think about that. For 30 years, I talk to Miss Greenstein, she gets, I don't know, it's like 15 or 20 complaints against judges a month. You multiply that by 12 months and then you multiply that by 30 years, and the harm ...

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Mr. Haeg: ... that that single person could have done to Alaska's judicial system is incomprehensible.

Mr. Haeg: In as much as I would like to say, "Hey, your Honor, overturn my conviction. Let me go," the real issue here is the integrity of Alaska's judicial system. My attorney that I hired, lying to me about basic things. He was running me down a rat hole so I would never start looking into this.

Mr. Haeg: Marla Greenstein covered up what Judge Murphy did. And because of that, the word's starting to spread that our judicial system in Alaska is losing credibility and- and faith from the people. And if we let that happen, your Honor, we don't have hardly anything. I mean, I hope you agree with that.

Mr. Haeg: If- if we the people lose faith in you people, what ... in reality, what do we have? We have anarchy. When we come in here, we need to believe that you're gonna do the right thing and

you're gonna follow these rules that are there for a reason. It's because people fought and died for them.

Mr. Haeg: And you have the power to put me in jail, to tase me, to take away my airplane and my career. And if you're doing it illegally and by trumping up charges and trying to cover it up, you are going to have a rebellion that no one can stop. And if you doubt that, you wait another couple years, if no one does anything and there will be hell to pay.

Mr. Haeg: I found something online that I'm gonna read because when I read it, I knew ... I know exactly what we're dealing with here in the state of Alaska. And I want everybody to think about these errors that I brought up: how one of the best attorneys in this state could make such a unbelievable error; tell me that the holy grail of my defense is something that is no good 100%. How the prosecutor and troopers could get away with falsifying a map and not be found out.

Mr. Haeg: And by the way, I don't know if I went over this, Arthur Robinson filed a written discovery request for this map and the recording of them talking about falsifying it. Does anyone here actually believe that was a mistake by Mr. Leaders to not provide this map and that recording prior to trial? Because those two things together would prove they had committed felony tampering with evidence and that they were going to commit perjury and subornation of perjury.

Mr. Haeg: Does anybody here think that prosecutor Scot Leaders, the sole thing on his mind is, "We can't give this to Mr. Robinson or Mr. Haeg, or they'll find out what we're doing."

Mr. Haeg: Right here, this is the Independent Mollen Commission Report on Corruption. It was uh, in New York City, it was ... this report was made on 07/07 of '94. It says: "What we found is that the problem of police corruption extends far beyond the corrupt cop. It is a multifaceted problem that has flourished because of a culture that exu- exalts loyalty over integrity, because of the silence of honest officers who fear the consequences of quote unquote "ratting out" another cop no matter how grave the crime, because of willfully blind supervisors who fear the consequences of a corruption scandal more than the corruption itself, because of the demise of the principal of accountability that makes all commanders responsible for fighting corruption. All the factors contributed to the state of corruption we uncovered. To cover up their corruption, officers created even more. They falsified official reports and perjured themselves to conceal their misdeeds."

Mr. Haeg: I want everybody right now to stop and think of this. What did Scot Leaders and Marla Greenstein do when I filed bar complaints about them? They falsified official documents and perjured themselves to cover up what happened to me.

Mr. Haeg: This report confirms that this what happens in a ... what's called 'Systemic Corruption Society.' It means that many people are- are in on it and covering up for the others. Says, "Thus police corruption has become more serious and threatening than ever before. In the face of this problem, the department allowed its systems for fighting corruption virtually to collapse. It had become more concerned about the bad publicity that corruption disclosures generate, than the devastating consequences of corruption itself. As a result, its corruption controls minimized, ignored, and at times, concealed corruption rather than rooting it out."

Mr. Haeg: I want everybody here to remember Marla Greenstein, who stated that she contacted all five witnesses that I gave her to the corruption of a sitting judge and Marla said she contacted all five of them. She was covering it up rather than rooting it out. She should've went right to Judge Murphy and said, "Judge Murphy, you were riding around with a main witness in a case you're presiding over, we are going to have to remove you as a judge."

Mr. Haeg: That didn't happen. Instead- instead, Marla covers up. Says, "Oh, the witnesses didn't see anything," then what does Judge Murphy do? Rather than admit it happened, what does she do? She files a sworn affidavit that the rides never took place.

Mr. Haeg: Now, your Honor, now not only do we have lawyers and- and prosecutors and troopers committing perjury, we have a sitting judge committing perjury. I will see Judge Murphy stand trial or investigated, or I'll die trying. I will see Marla Greenstein investigated and stand trial, or die trying.

Mr. Haeg: Because before this happened, I had no idea what our constitution meant. But now I understand totally what it means. It is our protection from you, you, you, and you, and you. It is our only protection against you guys banding together and coming and arresting me and taking my airplane.

Mr. Haeg: And how did they do it? By lying and cheating and stealing, and in essence, they stole my airplane, they stole my livelihood, they stole my life.

Mr. Haeg: Okay. I'm gonna go on here: "such institutional reluctance to uncover corruption is not surprising. No institution wants its reputation tainted. Especially a department that needs the public's confidence and partnership to be effective."

Mr. Haeg: That's exactly what this court system is losing. They're losing the public's confidence in it. And I pointed out why. Says, "No entity outside the department was responsible for reviewing the department's success at policing itself, years of self-protection compe- continued unabated until this commission commenced its independent inquiries."

Mr. Haeg: I wanna stop here. I found out, in this state- in this state that we do have an independent ... an entity outside the department. That entity in this state, your Honor, is called the Grand Jury. A grand juror in Kenai, tried to litigate, tried to look into this evidence. This very exact evidence as an entity outside the department to look into this stuff.

Mr. Haeg: Scot Leaders, the person who falsified this map, and then falsified a certified document to cover up what he had done, he is the very person that ordered the Grand Jury to not investigate. You talk about scary -

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Mr. Haeg: that when our independent entity, the Grand Jury wanted to look into the stuff I presented, that Grand Jury was shut down in the face of a statute that says this. "If an individual grand juror knows, or has reason to believe, that a crime has been committed, that is triable by the court, that juror shall inform the other grand jurors, who shall investigate."

Mr. Haeg: This was a crime by a District Attorney, and a trooper. We also have proof that a sitting judge committed perjury. That a grand juror was ordered not to present his evidence, and reasons to believe, to the other grand jurors.

Mr. Haeg: There's an Alaska statute that says he is obligated to do that, but no. The very person they were going to investigate, Scot [Leaders 00:00:51], runs into the grand jury room, and drags the grand juror out of the grand jury room, into a locked courtroom, where the public was not allowed to witness, and a sitting judge ordered him not to present his evidence to the other grand jurors. You talk about a problem.

Mr. Haeg: I'll continue. "This abandonment of effective anti-corruption efforts did more than avoid public exposure of corruption, it fueled it. It sent a message through the department that integrity was not a high priority, and that the department bosses did not really want to know about the corruption."

Mr. Haeg: "In short, it gave everyone in the department an excuse for doing what was easiest, shutting their eyes to the corruption around them." That's what's been happening in my case, wave after wave. That's why Mr. [Dolifka 00:01:45] is sitting there, not even knowing how to testify, because it is so extensive, the corruption, he doesn't even know where to begin.

Mr. Haeg: We did go to the FBI, and Mr. Dolifka was actually called to the FBI a second day, to testify about all the other cases in which he knew there was corruption. There's a serious problem when the FBI calls you back for another day, to testify about all the other cases, and that is precisely what happened.

Mr. Haeg: "The principle of command accountability, which holds commanders responsible for fighting corruption, completely collapsed. Supervisors and commanding officers were largely complacent about maintaining integrity, few were concerned with corruption on their watch, unless it exploded into an embarrassing corruption scandal."

Mr. Haeg: And I predict, I'm gonna ask every one of these people that, after this hearing is done, we're gonna walk right over to Governor, the Governor's office, and I'm gonna hand him this petition here. Actually, I don't know if I have it with me ... Yep, this is it, here.

Mr. Haeg: There's about 500 signatures here, Your Honor. And, you know what? We would have at least 10 times this, but you know what the people manning the booth at the Alaska State Fair said? They said the single most common thing they hear is, "If we sign this petition asking for a grand jury investigation of the troopers and Your Honor, and the prosecutors, they'll come after us. They'll have our name, they'll have our address, they'll have our phone number."

Mr. Haeg: Now when you have the public, Your Honor, refusing to agr- refusing to ask to investigate Your Honor, because they're afraid of retaliation, do we live in a free country? Or, do we live in a police state? Can you answer that?

Judge Morse: Could you wrap up please?

Mr. Haeg: Um, one ... There's one item that I wanna, right here. Um, there's actually two more. One is, long time after my conviction, we got another tape recording. The tape from the State is #4MC-304-24. And, it was a tape recording of Trooper Gibbens and one of the witnesses on the witness list, in my trial.

Mr. Haeg: And it captures Trooper Gibbens talking to him. Trooper Gibbens states ...

AAG Peterson: Objection, hearsay.

Judge Morse: Wait a second. What is this?

Mr. Haeg: It's a tape that the State provided us, of Trooper Gibbens interviewing a witness.

Judge Morse: Prior to trial?

Mr. Haeg: I believe s- Yes, I believe so. Can I read it?

Judge Morse: All right.

Mr. Haeg: Huh?

Judge Morse: Go ahead and read it.

Mr. Haeg: Okay. Trooper Gibbens states, "What are your concerns with regards to uh, people who are issued predator control permits, to participate in this wolf control proj- pro= project? And, they kill wolves outside the wolf control area? What are your thoughts about that and what might ... what effects it could have on the project?"

Mr. Haeg: And, Mr. [Egrass 00:05:28] replies, "I was told by you know, yourself, Officer Gibbens, the sensitivity, you know of ... You know, this goes all the way up to the Governor. The Governor is putting himself on the line, politically."

Mr. Haeg: And then, Trooper Gibbens replies, "Yeah. I would hate to see any ammunition given to the animal rights groups, that could potentially be used in the fight to get these programs shut down." And so, I believe the motive behind the State to do all this to me, was to cover up that a state official told me to shoot wolves outside of the open area, and claim they were killed on the inside. And, I had to do that, to artificially show that it was effective.

Mr. Haeg: The program was ... The animal rights activists were trying to shut the program down as ineffective. And so what the State wanted to do is make it seem effective, by killing wolves elsewhere, but claiming they were in the program. And that was ... and ...

Judge Morse: And you went along with that?

Mr. Haeg: Yes. They told me what they wanted, and I did what I was asked.

Judge Morse: And what does that suggest, to you?

Mr. Haeg: What was that? I missed that.

Judge Morse: What does that suggest to you, about your integrity?

Mr. Haeg: Because they said, "We need this program to be successful, so that ungulates, and ungulates are moose and caribou ...

Judge Morse: I know what they are.

Mr. Haeg: ... levels can be high enough to provide for the nutritional needs of remote villages. You need to do this." And so, my integrity was, is, I was ...

Judge Morse: You lied.

Mr. Haeg: ... so that people who needed the meat would have it.

Judge Morse: Alright but you lied, in order to gain that goal? Correct?

Mr. Haeg: Correct.

Judge Morse: And now you're upset that other people are lying, to obtain other goals?

Mr. Haeg: I had a valid belief that what I was told by the State was right to do.

Judge Morse: And you think that that gave you permission to lie?

Mr. Haeg: I was told to lie, by the State.

Judge Morse: And you went along with that.

Mr. Haeg: And when the State tells you to do it ...

Judge Morse: You could have said, "No, thank you." You could have said, "No, I'm an honest man, I will not lie." But you said, "No ...

Mr. Haeg: Okay. You're right.

Judge Morse: ... I will lie."

Mr. Haeg: Guilty as charged, Your Honor. I want Scot Leaders to come up and say, "Guilty as charged," on a felony of tampering with evidence ...

Judge Morse: Wrap up ...

Mr. Haeg: ... to frame me for ...

Judge Morse: Wrap up ...

Mr. Haeg: Okay. Um, one other thing is, the- the State told me a long time ago, six ... 6-5-12. They said uh, "The State has also identified one of the witnesses ..."

AAG Peterson: Who -who's the State?

Judge Morse: What is this?

AAG Peterson: Who?

Mr. Haeg: Huh?

AAG Peterson: Who?

Judge Morse: What is this?

Mr. Haeg: It was a state attorney.

AAG Peterson: Every person in the State of Alaska?

Mr. Haeg: Respondent, State of Alaska, by and through it's counsel ...

AAG Peterson: Hold on.

Mr. Haeg: ... Assistant Attorney ...

Judge Morse: Wait? Slow down.

Mr. Haeg: ... General, Andrew Peterson ...

Judge Morse: Mr. [Haeg 00:08:28], slow down. Mr. Peterson, I'm not sure that you get to ask him questions, in this context. All right? Mr. Pete- Haeg, could you explain to me what it is you're talking about? What is this document?

Mr. Haeg: It is a ... I had asked for a Discovery request, of what the State was going to ... what witnesses and evidence they were gonna put on ...

Judge Morse: I understand Discovery. What is it that you've got in your hand?

Mr. Haeg: It is a tran- It is a copy of the State's filing. It is a copy of their response, to my 6-5-12 Interrogatory Discovery request.

Judge Morse: Okay. Thank you.

Mr. Haeg: Okay. And so in it, the State says, "The State has also identified one new witness not previously identified, prior to trial, that the State intends to call, if an Evidentiary Hearing is conducted, in this matter ... matter. And, I think this is an Evidentiary Hearing, conducted in this matter.

Mr. Haeg: The witnesses name is Bobby [Fithian 00:09:20]. Mr. Fithian is currently writing a letter to the State, outlining the testimony he will give, if called in an Evidentiary Hearing. The State anticipates that Mr. Fithian will testify that he spoke with Haeg, prior to Haeg taking wolves outside the predator control area, and warned Haeg that he should not fly outside the area to kill wolves, but that it was Haeg's intent to kill wolves outside the control boundary."

Mr. Haeg: Well, after I got this from the State, I got on the phone with Mr. Fithian, and I tape recorded the call. Mist- And I says, "Mr. Fithian, the State ...

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Mr. Haeg: ... falsified direct evidence and testimony to convict me of killing wolves in my guide area. And I asked him, why would you be willing to lie under oath during this evidentiary hearing? I assume that was ... I was looking for Mr. [Fithian 00:00:16] in here because they said they're going to bring him in here.

Mr. Haeg: Mr. Fithian said, "I am willing to lie under oath because the state put too much time and effort into the wolf control program to see your case end it."

AAG Peterson: Objection, hearsay.

Mr. Haeg: Well that's exactly what you guys did here, isn't it, where you say, "Mr. Fithian..."-

Judge Morse: Mr. Haeg, wrap up.

Mr. Haeg: Okay. Um, anyway.

Judge Morse: In fact, your time is up.

Mr. Haeg: I ... okay.

Judge Morse: Stop, let's talk about where we go from here, okay.

Judge Morse: Do you want some opportunity to cross examine Mr. Haeg?

AAG Peterson: I could use a couple of minutes.

Judge Morse: Okay, so let's assume that we do that. Do you want any, do either of you want some opportunity to file additional briefing based on what they ... you know, based on the two days of testimony?

AAG Peterson: No.

Mr. Haeg: Can I have some time to think about? My brain's been spinning for the last couple days.

Judge Morse: Okay. Um, how much time-

Mr. Haeg: What I would want, an opportunity with the tape recordings that you-

Judge Morse: How much time would you need to make a decision about what you want to do?

Mr. Haeg: I would say, is a week appropriate, or less than that?

Judge Morse: You tell me how much time it will take you to unwind, so that you can make a rational-

Mr. Haeg: How about a week?

Judge Morse: ... decision.

Mr. Haeg: A week.

Judge Morse: What's today? So today's the 29th, a week from now is February 5. So by February 5, each of you tell me what you want to do, if anything, regarding further submissions. I'm not talking about new evidence, I'm talking about dealing with the evidence of ... that has been developed in the last two days. Okay?

Mr. Haeg: You said February 15th?

Judge Morse: February 5.

Mr. Haeg: February 5.

Judge Morse: A week today. Do you want to cross now?

AAG Peterson: Yes, I'll keep it brief. And I can also state for the record now I think the record is clear, I don't think there's any need for any additional briefings from the state.

Judge Morse: Ok so you don't have to do that. If he does something and I allow it, you can reply to it, but you don't have to do anything initially. So ask your questions.

AAG Peterson: Alright so Mr. Haeg, you testified at trial in your defense, right?

Mr. Haeg: Yes.

AAG Peterson: And at that trial, you admitted that you killed wolves outside of the wolf control area, right?

Mr. Haeg: Yes.

AAG Peterson: And you were a registered big game guide at that time, right?

Mr. Haeg: Yes.

AAG Peterson: And you knew that a guide committing a same to airborne violation, carried a guide license suspension of three years to a permanent revocation, right? Or did you not know that?

Mr. Haeg: At that time, I did not know that.

AAG Peterson: Ah you-

Judge Morse: I'm sorry, at that time you're talking about is the time of the wolf-kill or?

AAG Peterson: That was the question.

Judge Morse: Okay. Alright, go ahead.

AAG Peterson: At the time that you submitted the coordinates for where the wolves were killed, you gave false coordinates, thereby falsifying the sealing certificates, correct?

Mr. Haeg: Yes.

AAG Peterson: Okay. You've stated multiple times in open court that you were sentenced to two years in jail and a 20 thousand dollar fine. What was your actual imposed sentence in this case?

Mr. Haeg: Ah, I don't know on the fine, you know that got stayed.

AAG Peterson: Six thousand dollars.

Mr. Haeg: Ah, I don't know. There was, I think it was 19 thousand 500.

AAG Peterson: And how much of that was suspended?

Mr. Haeg: I don't remember.

AAG Peterson: All but six thousand, right?

Mr. Haeg: I don't remember.

AAG Peterson: Okay. And you got 35 days to serve, right?

Mr. Haeg: I believe so, it was over a month.

AAG Peterson: Where did you serve that?

Mr. Haeg: Huh?

AAG Peterson: Where did you serve that?

Mr. Haeg: In home confinement.

AAG Peterson: Okay, so you served it on ankle monitors?

Mr. Haeg: Yes.

AAG Peterson: Not two years in jail and 20 thousand dollar fine. You had to sit at home for a month and got a six thousand dollar fine. That was your sentence, right?

Mr. Haeg: I was sentenced to nearly two years in jail and 19 thousand dollar-

AAG Peterson: Uh-huh (affirmative.)

Mr. Haeg: ... 19 thousand, 500 dollar fine-

AAG Peterson: And all but 35 days were suspended, right?

Mr. Haeg: Huh?

AAG Peterson: You never ... How much time did you serve on home confinement?

Mr. Haeg: Uh, the whole time.

AAG Peterson: 35 days, right?

Mr. Haeg: I believe that's accurate, yes.

AAG Peterson: Not two years, right? So when you stand up in open court and say that you went to jail for two years, is that accurate?

Mr. Haeg: I said I was sentenced to two years in jail.

AAG Peterson: Okay. I'm sorry. When you stand up in open court and say you were sentenced to two years in jail, is that accurate?

Mr. Haeg: Yes.

AAG Peterson: It is.

Mr. Haeg: Very nearly two years in jail. Yes.

AAG Peterson: Even though you only did 35 days on home confinement?

Mr. Haeg: The sentence says-

AAG Peterson: It does, it says-

Mr. Haeg: Okay.

AAG Peterson: ... two years with all but 35 days suspended, which would only be imposed if you violated your probation conditions, right?

Mr. Haeg: I believe that's probably what it says, yes.

AAG Peterson: Okay. Alright. Your guide license was revoked for five years at sentencing, right?

Mr. Haeg: Yes.

AAG Peterson: And the range was three years to a permanent revocation, right?

Mr. Haeg: Ah, I believe that is so, yes.

AAG Peterson: So what you were actually sentenced to was at the extreme low end of the potential sentence, as far as the guide license suspension goes, right?

Mr. Haeg: Well, wouldn't you say three years would be less than the five?

AAG Peterson: It would be less. I didn't say the least available, I said at the extreme low end.

Mr. Haeg: It's true. I would like to-

AAG Peterson: When did you get your guide license back?

Mr. Haeg: I'd also like to add-

AAG Peterson: When did you get your guide license back?

Judge Morse: Answer his question.

Mr. Haeg: Huh?

Judge Morse: Answer his question.

Mr. Haeg: Ah, it was like, and I'm not positive on this, a year to two years after my suspension was over because the State of Alaska told me after the suspension was over, that they would never give my guide license back.

AAG Peterson: You got it back in 2011, right?

Mr. Haeg: I don't know.

AAG Peterson: Around 2011?

Mr. Haeg: It could be.

AAG Peterson: So, it wasn't revoked for life. You, you were able to guide. Is that right?

Mr. Haeg: Yeah, I did get. I ended up, I ended up getting my guide license back. Yes. I would like it on the record, however, that after my five year suspension was over, your Honor, the state refused to give my guide license back. And in my-

Judge Morse: When did you get it back?

Mr. Haeg: I don't know the exact year. All's I know is-

Judge Morse: Best recollection, help me out. What's your best recollection?

Mr. Haeg: Well if it was 2005, it would have been five years on top of that, so it would be 2010. And then when they didn't give it back in 2010, I had to fight for another couple years so it was like 2012.

Judge Morse: Any idea when, spring, fall?

Mr. Haeg: I don't. You know, I could find that out if it's important.

Judge Morse: You don't remember, you don't remember. But sometime in 2012 is-

Mr. Haeg: Yeah.

Judge Morse: ... when you think it came back?

Mr. Haeg: And what, and what, I guess-

Judge Morse: Just answer my question. Sometime basically in 2012 is your best recollection?

Mr. Haeg: Uh-huh (affirmative.)

Judge Morse: Go ahead, your next ... do you have further questions?

AAG Peterson: No, your Honor.

Judge Morse: So you submit your thing, February 5 about what you want to do. Okay?

Mr. Haeg: Okay.

Judge Morse: And, uh, these various documents, the ones that are admitted as exhibits and the others are just marked for identification will be part of the court file. Alright we'll be recessing.

Clerk: Please rise. Court is adjourned.

