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IN THE COURT OF APPEALS FOR THE STATE OF ALASKA

DAVID HAEG)
)
 Appellant,)
)
 vs.)
)
 STATE OF ALASKA,) Case No.: A-09455
)
 Appellee.)
)
 _____)
 Trial Court Case #4MC-S04-024 Cr.

OPPOSITION TO STATE'S MOTION TO VACATE APPELLEE'S FILING DATE

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

COMES NOW Pro Se Appellant, DAVID HAEG, in the above referenced case and, in accordance with *Appellate Rule 503(d)*, and hereby opposes the State's Motion to Vacate Appellee's Filing Date.

This Court of Appeals accepted Haeg's opening brief after refusing to rule on his multiple requests to stay his appeal pending outcome of a Post Conviction Relief procedures claiming ineffective assistance of counsel. This Court of Appeals also refused to grant Haeg the extension of time he required in which to perfect his opening brief.

In addition this Court of Appeals has refused to rule on a number of Haeg's motions or motions for reconsideration, critical for Haeg to obtain justice, that have been before this court for many months - including motions to order the district court to accept an application for Post Conviction Relief; a motion for the return Haeg's property, used to provide a livelihood; a motion to correct Haeg's sentence due to a clerical error; a motion to stay the suspension/revocation of Haeg's guide license; and motion to supplement the record.

As a result of these denials and refusals to rule Haeg was not able to perfect his appeal - in fact getting it post marked on the last day with only 2 minutes to spare. This caused several errors - both unintentional and/or unavoidable.

The first error, which Prosecutor Peterson (Peterson) holds should be cause to reject Haeg's brief, is Haeg failed to include "a victim's rights certificate as required by Appellate Rule 212(b) and Appellate Rule 513.5(e)." Haeg indeed forgot to include this certificate, on the front page of the brief but included it on the affidavit supporting and included with the brief. Also there is no victim let alone no victim of a sexual offense or any residence or business address or telephone number of a victim or witness to any crime, and Haeg has already included this certificate in a multitude of previous motions, it

would seem this oversight would meet the "harmless error" test. In case this oversight does not meet the "harmless error" test Haeg hereby swears under penalty of perjury that his opening brief, or its attachments filed with the Court of Appeals of Alaska on 1/22/07, does do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Peterson also contends that since Haeg's brief did not comply with Appellate Rule 210(a) and Appellate Rule 210(b)(1)(B) his brief should be rejected. The reason why Haeg's brief did not comply with Appellate Rule 210(a) and (b)(1)(B) is that these rules do not apply to Haeg's brief as they are for briefs appealing judgments from **superior** court and not from **district** court (Haeg is appealing from a district court judgment).

Peterson also states the material Haeg submitted is **not** "relevant to the **limited** constitutional issues that the Appellant is attempting to place before this court." This is incredible. The material Haeg submitted **proves**, beyond any doubt whatsoever, that a multitude of Haeg's fundamental constitutional rights were

directly and blatantly violated - by his own attorney's, the prosecution, the trial court, and by this Court of Appeals.

The constitutional rights violated are as follows:

U.S. Constitution Amendment IV: **"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized";**

U.S. Constitution Amendment V: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; **nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law;** nor shall private property be taken for public use, without just compensation.";

U.S. Constitution Amendment VI: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; **to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.**";

U.S. Constitution Amendment XIV: "Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due**

process of law; nor deny to any person within its jurisdiction the equal protection of the laws.";

Alaska Constitution Article 1.1: Declaration of Rights. Inherent Rights - "This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.";

Alaska Constitution Article 1.7: Due Process - "No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.";

Alaska Constitution Article 1.9: Jeopardy and Self-Incrimination - "No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.";

Alaska Constitution Article 1.11: Rights of Accused - "In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. **The accused is entitled to be informed of the nature and cause of the accusation;** to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Alaska Constitution Article 1.14: Searches and Seizures - "The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation,

and particularly describing the place to be searched, and the persons or things to be seized."

Haeg would not call the intentional, knowing, and malicious violations of these constitutional rights by his own attorneys, the prosecution, and the courts "limited".

Peterson correctly states Haeg's brief is over length - as briefs in appeals from district court are limited to 20 pages and Haeg's brief is 88 pages. Yet the constitutional and civil rights violations Haeg is addressing are more numerous and more grave than almost any on record in a single case in the entire United States. Never has there been such compelling proof that multiple defense attorneys conspired with each other and the prosecution to illegally convict their own client. It has such far-reaching consequences that it is really no wonder Haeg is being deliberately kept from introducing the mountain of physical evidence he has compiled into the official "record" and/or submitting an over length brief.

Although briefs appealing judgments from district court are limited to 20 pages (double spaced so in reality 10 pages) the Court of Appeals are specifically allowed to order the acceptance of over-length briefs.

Haeg was intending on submitting a motion for acceptance of an over-length brief in his case because of the number and gravity of issues but ran out of time to do so before his brief

was due. Haeg will now file a motion for acceptance of his over-length brief because of the threat to numerous constitutional rights that his case exposes. Haeg feels that since his brief will have an enormous direct effect on the constitutional rights of every Alaskan and almost assuredly every American that an 88 page double spaced brief (44 pages of actual type) is not at all inappropriate.

All these "harmless errors" and misrepresentations by the State result in absolutely no prejudice to the State - yet the prejudice to Haeg is undeniable.

It is also unbelievable to Haeg that State Attorney Peterson was substituted for State Attorney Rom in direct violation of Appellate rule 517(b) and this Court of Appeals has never even approved this illegal substitution. Yet when Haeg wished to fire his third attorney after he stated on tape he was not going to help Haeg because "it would affect the lives and livelihoods of your first attorneys" it took Haeg 3 months to be allowed to represent himself - having to fly to McGrath for a 12 hour hearing, had to submit to a 2 hour psychiatric examination in the bowels of the Alaska Psychiatric Institute, and then contend with a 14 page opposition by the State that virtually demanded Haeg not be allowed to represent himself.

Another more stunning example of this fundamental unfairness is that in addition to Peterson's failure to include the mandatory order with the State Motion to Vacate Appellee's Filing Date, (Appellate Rule 503(b)(5)) he fails to support his numerous factual allegations with the mandatory affidavit (Appellate Rule 503(b)(2)).

This is an immense prejudice to Haeg. Without Peterson under penalty of perjury as he is required he is free to make false claims, as he has already done, without Haeg able to hold him accountable for perjury.

Another extremely prejudicial act by Peterson is the fact that after this Court of Appeals ordered the State to produce the motions for return of property Haeg filed in the district courts Peterson only produced 5 of the 15 motions Haeg filed. This is even more fantastic considering each motion was filed in the court and a copy was served on the State prosecution.

In other words there were **30** documents filed and Peterson could find only 5. Exactly where are the rest? Did they just throw them away? How can the prosecution and courts do this when Haeg has established an absolute right to the return of his and his wife's property and has been asking for it back for 9 months with all the courts avoiding this by saying the other court has jurisdiction?

The stark reality of all this is that the corruption Haeg's case has exposed is far beyond that coming to light in the State Legislature. The proof Haeg has is overwhelming and irrefutable. The only way the State prosecution and the courts can keep this covered up is to continue denying Haeg's absolute right to a Post Conviction Relief Procedure as provided by Alaska Rule of Criminal Procedure 35.1. With this procedure he can place on the record his stunning evidence. By continuing to avoid ruling on this, along with avoiding ruling on the merits of Haeg's case and the motions by finding and/or creating a continuing series of small harmless errors the courts and State can completely ignore the massive constitutional violations. Is this fundamentally fair?

Haeg demands this Court of Appeals rule on his 11/27/06 motion for reconsideration of motions previously denied by this court. With the additional information supplied by Haeg in response to this courts fantastic claims - such as that Haeg had never filed a motion for the return for his property in the lower courts when he had filed 15 there and copied them all to this court - that he had never stated why the trial court had refused to stay his guide license suspension/revocation, when he had told this court the judge had specifically used the knowing perjury presented by Prosecutor Leaders and Trooper Gibbens

claiming the evidence was in the same Game Management Unit as Haeg is authorized to guide and thus illegally turning the case into a guiding case rather than Wolf Control Program case.

By far and away the most blatantly obvious evidence of this Court of Appeals corruption is its refusal to even mention Haeg's motion that they order the district court to accept Haeg's written and constitutionally guaranteed application for a Post Conviction Relief Procedure.

Haeg first asked for this from this Court of Appeals on 11/6/06. This Court of Appeals failed to even mention this request in their ruling of 11/16/06. Haeg again motioned this Court of Appeals to order the district court to accept an application for Post Conviction Relief on 11/27/06. In their response of 12/29/06 to this motion the Court of Appeals again fails to even mention this motion - let alone ruling on it.

On 1/6/07 Haeg submitted a Motion for Ruling with this Court of Appeals - asking they rule on his motion to order the district court to accept his constitutionally guaranteed application for Post Conviction Relief and the other motions this Court of Appeals has ignored.

It is now 2/9/07 or over 3 months later and this Court of Appeals has yet to even mention Haeg's multiple motions for an order to the district court that they accept a Post Conviction

Relief Application that is guaranteed to all Alaskans by Criminal Rule 35.1.

It is chillingly apparent that it is more important to this Court of Appeals to keep Haeg's mountain of stunning evidence off any record at any cost than to afford Haeg the rights guaranteed to him in writing by Alaska law, rule, and both the U.S. and Alaska Constitutions.

To keep this mountain of evidence off the record this Court of Appeals has perverted its own absolute duty and obligation to be a champion of justice and turned into the very thing it is obligated to protect American citizens from. There is no other explanation for this Court of Appeals incomprehensible actions - which included completely reversing its own decisions - especially this Court of Appeals decision in *State v. Jones*, 759 P.2d 558:

"Jones also filed a direct appeal challenging his conviction and sentence on unrelated grounds. **The appeal was stayed pending resolution of the post-conviction relief proceeding.**"

This decision in *Jones* is further backed up almost unanimously by all other courts - so much so the *American Bar Association Standard 22-2.2* states:

"When an application for postconviction relief is filed while an appeal from the judgment of conviction and sentence is pending, the appellate court should have the power to suspend the appeal until the conclusion of the postconviction proceeding or to

transfer the postconviction proceeding to the appellate court immediately. The trial court or appellate court should exercise these powers to enable simultaneous consideration of the appeal, if taken, from the judgment of conviction and sentence and an appeal, if taken, from the judgment in the postconviction proceeding, where joinder of appeals would contribute to orderly administration of criminal justice."

Just how corrupt must this Court of Appeals be to not only refuse to suspend Haeg's appeal pending the outcome of his Post Conviction Relief Proceeding but to collude and/or conspire with the trial court to deny him his constitutional right to even apply for a Post Conviction Relief Proceeding in the first place? This is in addition to this courts refusal to even rule on several other motions that, by not doing so, severely prejudices Haeg.

Yet Haeg this very day received this Court of Appeals order granting Prosecutor Peterson's 1/30/07 Motion to Vacate Appellee's Filing Date. Not only is Prosecutor Peterson unable to legally represent the State of Alaska until he complies with the rules and is approved by the court, this court did not even give Haeg the mandatory 10 days required by rule in which he may respond before they rule. See Appellate Rules 503(d) and 502(c).

Because of the very serious issues presented above Haeg respectfully asks this court to deny the States 1/30/07 Motion to Vacate Appellee's Filing Date. In addition Haeg again begs this

court to rule on all motions and/or motions for reconsideration this court has not addressed in the past several months. These motions include: motion to order to the district court, preferably in Kenai for the convenience of all parties, to accept an application for Post Conviction Relief from Haeg; motion to stay appeal pending Post Conviction Relief proceeding; motion to supplement the record with proceedings concerning Haeg before the Alaska Bar Association and before the Alaska Commission on Judicial Conduct; motion to correct and stay guide license suspension/revocation; and motion for return of property and to suppress evidence.

I would ask this Court of Appeals to very carefully read the seminal U.S. Supreme Court cases of Marbury v. Madison, 5 U.S. 137 (1803):

"The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection.

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.

Is it to be contended that where the law in precise terms directs the performance of an act in which an individual is interested, the law is incapable of securing obedience to its mandate? Is it on account of the character of the person against whom the complaint is made? Whatever the practice on particular occasions may be, the theory of this principle will certainly never be maintained.

[W]hen the legislature proceeds to impose on that officer other duties; when he is directed peremptorily to perform certain acts; when the rights of individuals are dependent on the performance of those

acts; he is so far the officer of the law; is amenable to the laws for his conduct; and cannot at his discretion sport away the vested rights of others.

[W]here a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.

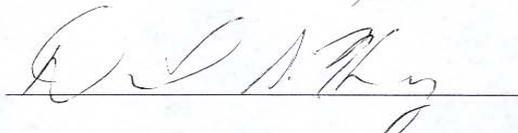
What is there in the exalted station of the officer, which shall bar a citizen from asserting, in a court of justice, his legal rights, or shall forbid a court to listen to the claim; ... directing the performance of a duty, ... on particular acts of congress and the general principles of law?

[W]here he is directed by law to do a certain act affecting the absolute rights of individuals, in the performance of which he is not ... forbidden; ... it is not perceived on what ground the courts of the country are further excused from the duty of giving judgment, that right to be done to an injured individual..."

If this Court, along with the district court, may "sport away" Haeg's vested and written rights to not only a Post Conviction Relief Procedure but to the multitude of other constitutional rights violated they will have reduced both the United States and Alaskan Constitutions to pieces of paper not worth the gasoline needed to burn them.

This motion is supported by the accompanying affidavit and email that has already been sent to all appropriate persons.

RESPECTFULLY SUBMITTED this 9th day of February 2007.



A handwritten signature in cursive script, appearing to read "R. S. Haeg", is written over a horizontal line.

CERTIFICATE OF SERVICE

I certify that on the ____ day of
January 2007, a copy of the forgoing
document by ____ mail, ____ fax, or
____ hand-delivered, to the following
party:

Roger B. Rom, Esq., O.S.P.A.
310 K. Street, Suite 403
Anchorage, AK 99501

By: _____