

**IN THE SUPERIOR COURT OF THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT IN ANCHORAGE**

Attention Superior Court Judge Stephanie Joannides

DAVID HAEG,)	
)	
Applicant,)	
)	
v.)	
)	POST-CONVICTION RELIEF
STATE OF ALASKA,)	CASE NO. 3HO-10-00064CI
)	
)	
Respondent.)	
)	
<hr style="width: 40%; margin-left: 0;"/>		
Trial Case No. 4MC-04-00024CR		

**7-25-10 MOTION TO SUPPLEMENT THE CASE TO DISQUALIFY
JUDGE MURPHY FOR CAUSE**

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

COMES NOW Applicant, DAVID HAEG, in the above case and in accordance with this courts 7-9-10 order, hereby files this motion to supplement the case to disqualify Judge Murphy for cause.

Legend for Attached Evidentiary Exhibits

Exhibit #1: 17-page letter evidencing a complete defense to the charges against Haeg – that was first properly admitted into the official record of Haeg’s case and then subsequently removed.

Exhibit #2: Cover sheet that is still in the record of Haeg's case – evidencing the 17-page letter (a complete defense to the charges against Haeg) had been properly admitted into the official record and then removed.

Exhibit #3: April 20, 2006 letter to Alaska Commission on Judicial Conduct investigator Marla Greenstein – evidencing that Haeg provided investigator Greenstein with names and numbers of those who witnessed Trooper Gibbens give Judge Murphy rides before Haeg was sentenced.

Exhibit #4: January 12, 2007 (approx) and September 23, 2009 (approx) recorded conversations/transcripts of investigator Greenstein – evidencing (1) that Judge Murphy and Trooper Gibbens, during Greenstein's investigation, denied Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced; (2) that investigator Greenstein claimed to have contacted all witnesses provided by Haeg; and (3) that investigator Greenstein claimed no witnesses provided by Haeg claimed Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced.

Exhibit #5: Page 1262 of TRANSCRIPT OF PROCEEDINGS (the official record of the proceedings against Haeg) – evidencing that Trooper Gibbens, beyond a reasonable doubt, gave Judge Murphy rides before Haeg was sentenced.

Exhibit #6: Affidavits of David Haeg; Jackie Haeg; Tony Zellers; Tom Stepnosky; Drew Hilterbrand; and Wendell Jones – evidencing (1) that Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced; (2) that investigator Greenstein did not contact any of the witnesses Haeg provided in his April 20, 2006 letter to investigator Greenstein; and (3) witness Tom Stepnosky

had contacted Greenstein on his own and testified that he had personally seen Trooper Gibbens give Judge Murphy rides before Haeg was sentenced.

Issues to be Decided

1. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not Trooper Brett Gibbens gave Judge Margaret Murphy rides before Haeg was sentenced.

2. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not Judge Murphy and/or Trooper Gibbens gave false testimony (that Trooper Gibbens did not give Judge Murphy rides before Haeg was sentenced) to investigator Marla Greenstein.

3. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not Judge Murphy and Trooper Gibbens conspired to thwart the investigation into whether or not Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced.

4. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not investigator Greenstein falsely told Haeg that she had contacted the witnesses he provided for her investigation.

5. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not investigator Greenstein falsely told Haeg no witnesses provided by Haeg testified that Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced.

6. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not investigator Greenstein conspired with Judge Murphy, Trooper Gibbens, and/or others to thwart the investigation into Trooper Gibbens giving Judge Murphy rides before Haeg was sentenced.

7. Haeg respectfully asks this court to make specific written findings of fact and law of the potential consequences if it is proven that Trooper Gibbens (the primary witness against Haeg) gave rides to Judge Murphy (the judge during the proceedings against Haeg) before Haeg was convicted or sentenced.

8. Haeg respectfully asks this court to make specific written findings of fact and law of the potential consequences if it is proven that Trooper Gibbens (the primary witness against Haeg); Judge Murphy (the Judge during the proceedings against Haeg); and/or investigator Greenstein lied and/or conspired during the investigation into Haeg's complaint that Trooper Gibbens impermissibly gave Judge Murphy rides during the proceedings against Haeg.

9. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not Haeg's 17-page letter was ever admitted into the official record of Haeg's case.

10. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not Haeg's 17-page letter was taken out of the official record of Haeg's case.

11. Haeg respectfully asks this court to take Judicial Notice of the U.S. Supreme Court case Sorrells v. U.S., 287 U.S. 435 (1932); U.S. Supreme Court

case Jacobson v. U.S., 503 U.S. 540 (1992); Alaska Supreme Court case Grossman v. State, 457 P.2d 226 (1969); Alaska Supreme Court case Batson v. State, 568 P.2d 973 (1977); and then to make specific written findings of fact and law on whether or not Haeg's 17-page letter could have been important for Haeg's defense.

12. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not properly admitted evidence favorable to a defendant may be taken out of the official court record without the defendant's knowledge or consent, and potential consequences if this happens.

13. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not it is possible and/or probable that Judge Murphy removed, or allowed to be removed, Haeg's 17-page letter from the official court record, and the consequences if this happened.

14. Haeg respectfully asks this court to make specific written findings of fact and law on the issue of whether or not above questions decided in favor of Haeg must also necessarily require Haeg be granted Post Conviction Relief. In other words if decisions are made favorable to Haeg do these same decisions mean Haeg's conviction should be overturned?

15. Haeg respectfully asks this court to make specific written findings of fact and law on whether or not the above issues, if not decided during Haeg's case, will evade review because most defendants do not have the resources, time, and/or money to persevere for over 6 years and counting against their own

attorneys, judge, and State – especially after the defendant’s way of making a livelihood has been permanently destroyed?

Conclusion

Haeg believes that attorney Cole told the truth when he testified that “immense pressure” had been placed on Haeg’s judge and prosecutor to make an example of Haeg to protect the Wolf Control Program. Haeg believes this same pressure was placed either directly or indirectly on his attorneys – as indicated by his attorneys incomprehensible advice which negated numerous basic constitutional rights; Cole’s statements he couldn’t do anything to “piss off” the prosecutor; and Fitzgerald’s testimony that the last thing an attorney would do is make an enemy of the prosecutor – and that advocating for a client would do so.

Haeg believes that a series of events was triggered when he forced Cole to submit the 17-page letter (evidencing the State had told and induced him to falsify the data used to justify the Wolf Control Program) into the official court record. Haeg believes this submission caused the State, just 3 hours after receiving their copy of the letter, to intentionally break the then existing plea agreement by filing an amended information that greatly increased the severity of the charges – so Haeg was prevented from also reading this letter into the court record under oath when the plea was presented to the court, as he told Cole he intended to do. Haeg believes in conjunction with the intentional breaking of the plea agreement to prevent Haeg’s testimony Judge Murphy was told to take Haeg’s letter out of the record, or told to let someone else take it out. This, along with Haeg’s attorneys

claiming it was not a legal defense and refusing to bring it to the courts attention on their own, would complete the elimination of all evidence the State was falsifying the data used to justify the Wolf Control Program (which animal rights activists claimed but were unable to prove), a program so controversial it had sparked animal rights activists to conduct a nationwide boycott of Alaska's tourism to stop it. Haeg's letter and testimony would have been the "smoking gun" the animal rights activists needed to end the Wolf Control Program.

Haeg believes that when he complained of Trooper Gibbens chauffeuring Judge Murphy "immense pressure" was put on Trooper Gibbens, Judge Murphy, and investigator Greenstein to cover up the chauffeuring that happened every day of Haeg's trial and sentencing – so this evidence could not be used to overturn Haeg's conviction. In contradiction to investigator Greenstein's claim otherwise, no one would agree that their judge being chauffeured by the primary witness against him or her was fair. Yet over and over investigator Greenstein told Haeg "even if things happened exactly as you remember it is not a big deal and will not help you."

The evidence that investigator Greenstein falsified her own investigation is chilling. Greenstein has stated on tape she contacted every witness to the chauffeuring that Haeg provided, and that every witness denied that they had seen Trooper Gibbens chauffeur Judge Murphy before Haeg was sentenced. Yet all these witnesses Haeg provided to Greenstein have written affidavits, under penalty of perjury, that investigator Greenstein never contacted them. If these people had

been contacted Greenstein would be able to prove this – with phone records, recordings, and other documentation of the dates, times, and substance of the testimony – exposing the witnesses to felony prosecution.

One witness, Tom Stepnosky, stated in his affidavit that he contacted investigator Greenstein on his own and specifically told her Trooper Gibbens gave Judge Murphy rides before Haeg was sentenced – in exact opposition to investigator Greenstein’s statements otherwise.

To coin a phrase from Sir Arthur Conan Doyle’s fictional sleuth Sherlock Holmes: “When all possibilities except one are eliminated, the remaining possibility, no matter how unlikely it is, is the answer to the mystery.” There is no other possibility for the events in Haeg’s case to have happened as they have, except with corruption and conspiracy involving Haeg’s own attorneys, Judge Murphy, Trooper Gibbens, State prosecutors, and now investigator Greenstein.

Haeg is curious to see how the public is going to react when it is published in all major Alaska newspapers (people following this case have offered to pay for full page ads to publish the proof) that a sitting judge and current State Trooper impermissibly consorted during proceedings in which the judge is presiding and the Trooper is the primary witness; the judge and Trooper lied and conspired to deny this when there are numerous witnesses and the official court record itself irrefutably proves it; and Alaska’s only investigator of judges corrupts her own investigation by (1) claiming she contacted all witnesses provided when in fact she had not contacted any of them; by (2) claiming none of the witnesses had observed

the consorting when in fact she had only spoken to one of the witnesses because he contacted her himself – and he told her point blank the consorting had taken place exactly as claimed before Haeg was sentenced; and (3) by apparently failing to look at the irrefutable evidence in the official court record, after complaints regarding them were made, that the rides indeed took place.

Haeg then wonders if the public will be interested in knowing how many judges investigator Greenstein has exonerated during her 21-year career.

I declare under penalty of perjury the forgoing is true and correct. Executed on _____. A notary public or other official empowered to administer oaths is unavailable and thus I am certifying this document in accordance with AS 09.63.020.

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Certificate of Service: I certify that on _____ a copy of the forgoing was served by mail to the following parties: Andrew Peterson, O.S.P.A; Steve VanGoor, ABA; and U.S. Department of Justice

By:_____