

**Transcribed Phone Call between
Alaska Commission on Judicial Council (Marla Greenstein) and
David Haeg on or about January 12, 2007**

- 1 **HAEG:** Hey I was wondering whatever became of the investigation into Judge Murphy?
- 2 **GREENSTEIN:** Yeah we're sending you a letter today. We have a meeting coming up
- 3 on January 22nd. Where -um- they'll consider my report and the judge's response.
- 4 But – but it sounds like everything was -um- was ok. It sounds like -um- there was no
- 5 communication about the case and they didn't share any meals together and the rides
- 6 were provided by somebody else – not Trooper Gibbens.
- 7 **HAEG:** They said the rides were provided by somebody other...
- 8 **GREENSTEIN:** Yes...
- 9 **HAEG:** ... than Trooper Gibbens?
- 10 **GREENSTEIN:** Yes.
- 11 **HAEG:** Well that's the biggest pile of shit I've ever heard in my life.
- 12 **GREENSTEIN:** -Um- that's what – that's what everyone I interviewed said.
- 13 **HAEG:** And who did you interview – may I ask?
- 14 **GREENSTEIN:** Well in addition to the names you gave me I talked to Trooper Gibbens,
- 15 and the Judge, and there was one other law enforcement person there.
- 16 **HAEG:** Ok well I'm goanna fly out to McGrath –uh- Marla and I'm goanna get tape
- 17 recordings of everybody – every juror that was there, all the people in McGrath -
- 18 cause there was 300 of them - and I'm goanna walk into your office and I'm goanna
- 19 hand you the tape. Ok?
- 20 **GREENSTEIN:** I'm just – it's – we don't...
- 21 **HAEG:** Will that be clear enough for you Marla?

22 **GREENSTEIN:** No. And it's not that serious a thing anyway - even if it did happen.
23 Which we don't have any evidence that it did. They...

24 **HAEG:** Wasn't that serious?

25 **GREENSTEIN:** No...

26 **HAEG:** Do you know – you guys wouldn't accept the other stuff that happened in my
27 case? Because 'oh...

28 **GREENSTEIN:** Yeah...

29 **HAEG:** ...we can't do whatever'... She was changing her decisions 180 degrees to
30 accommodate Trooper Gibbens. Ok?

31 **GREENSTEIN:** Well I understand that's your perception but the...

32 **HAEG:** Well....

33 **GREENSTEIN:** I mean the other people...

34 **HAEG:** Yeah my perception Marla...

35 **GREENSTEIN:** Mmm hmm...

36 **HAEG:** -Um- if I were you I would look at the Anchorage Daily News back whenever
37 they arrested -uh- Anderson and start looking at what's going on in this state. I'd start
38 opening my – my – my views should start expanding a little bit. You – and – I need a
39 copy – can I have a copy of Trooper Gibbens saying he never gave Judge Murphy a
40 ride – ever?

41 **GREENSTEIN:** He didn't say never ever. It was during that week when you were
42 down there.

43 **HAEG:** During the week, when we were down there, he never gave her a ride?

44 **GREENSTEIN:** No.

45 **HAEG:** Ok and the Judge said that also?

46 **GREENSTEIN:** Umm hmm...

47 **HAEG:** -Um- I have to have copies of that. You tell me how - what I need to do to get
48 copies of that? (talking over GREENSTEIN) And I will be there - in your office as fast
49 as you could say...

50 **GREENSTEIN:** Yeah I understand you want...

51 **HAEG:** ...get here.

52 **GREENSTEIN:** ...the copies. But they're confidential documents so we can't give them
53 to you. But it wasn't like they... Let me pull it up. Let me see if I could see the exact...
54 I can tell you what - what's there - hold on... (1 minute passes)

55 **HAEG:** You believe this shit Jackie?

56 **JACKIE HAEG:** (Background) No I sure can't.

57 **HAEG:** Can you believe this?

58 **JACKIE HAEG:** (Background) She interviewed 2 people and that's just as far as she
59 got?

60 **GREENSTEIN:** -Um- it was VPSO Parker who provided the rides...

61 **JACKIE HAEG:** (Background) She interviewed Tom?

62 **HAEG:** Ok. VPSO Parker...

63 **GREENSTEIN:** Yeah...

64 **HAEG:** ...ok ...

65 **GREENSTEIN:** ...and -um- and after...

66 **HAEG:** And did you interview – did you interview Mr. Parker?

67 **GREENSTEIN:** -Um- I don't remember. And then after...

68 **HAEG:** Don't remember...Just hang on... Don't remember...

69 **GREENSTEIN:** And then after the completion of the sentencing hearing -um- Trooper

70 Gibbens did give -uh- Magistrate Murphy a ride to the hotel. But that was after the

71 sentencing hearing.

72 **HAEG:** Ok just – after sentencing – was it. Ok mmm hmm. Do you read the papers

73 Marla?

74 **GREENSTEIN:** Yeah of course – yes.

75 **HAEG:** Do you watch TV?

76 **GREENSTEIN:** No.

77 **HAEG:** Ok. -Um- how long have you been in your post?

78 **GREENSTEIN:** -Um- since 1989.

79 **HAEG:** Nineteen eighty-nine. So a good long time. Ok. Do you get many people like

80 me calling you and issuing complaints like this?

81 **GREENSTEIN:** -Um- we – we average about 3 complaints – 2 - 2 to 3 complaints a

82 month that we investigate.

83 **HAEG:** Ok. Investigate – ok. And when it was determined that there should be further

84 investigation were you the only one that investigated?

85 **GREENSTEIN:** I'm the staff investigator – yes.

86 **HAEG:** Ok are there any other investigators?

87 **GREENSTEIN:** No.

88 **HAEG:** Ok so it's just you. Comes in you decide what's going on and that's it?

89 **GREENSTEIN:** No the Commission reviews everything.

90 **HAEG:** Ok and do I get a chance to appeal that decision?

91 **GREENSTEIN:** No.

92 **HAEG:** Ok – no appeal.

93 **GREENSTEIN:** You can – I mean there might be some – there might be a way to have

94 the Supreme Court...

95 **HAEG:** Oh – that's good...

96 **GREENSTEIN:** Do...

97 **HAEG:** Cause I already got – I already got two things heading their way already.

98 **GREENSTEIN:** Ok.

99 **HAEG:** Ok – Supreme Court may review – and that would be a – probably a Petition for

100 Review?

101 **GREENSTEIN:** No it's called an Original Application.

102 **HAEG:** Ok an Original Application.

103 **GREENSTEIN:** That'll discretionary on the part of the court.

104 **HAEG:** Ok – Original Application. Not the Petition for Review. (Writing notes)

105 **GREENSTEIN:** ...(indecipherable) out of court...

106 **HAEG:** Ok. -Um- (laughs) and what level of liability do Trooper Gibbens and Judge

107 Murphy have when they were talking to you? Did you have them under oath? Or was

108 it just...

109 **GREENSTEIN:** No it was an informal interview.

110 **HAEG:** Ok – informal. -Um- if you found out that they lied to you -uh- is there any
111 liability?

112 **GREENSTEIN:** -Um- if he -um- well not for – not for just a witness but if a – if a judge
113 wasn't telling us the truth we – we could review that as a complaint. But the – you
114 know there's – it would have to be a – a deliberate kind of thing.

115 **HAEG:** Deliberate? -Um- let me just put my wife on for just one second. Jackie come
116 here. Ok I want you to tell this lady that under the penalty of perjury you are goanna
117 tell her how many times Trooper Gibbens drove Judge Murphy back and forth to the
118 courthouse...

119 **GREENSTEIN:** I - I have...

120 **HAEG:** During my trial and sentencing...

121 **GREENSTEIN:** I have your wife's statement in writing – I have your wife's statement in
122 writing. She doesn't need to tell me.

123 **JACKIE HAEG:** Hello.

124 **GREENSTEIN:** Hi. I have your statement in writing. That's fine.

125 **JACKIE HAEG:** Ok.

126 **GREENSTEIN:** You know I don't need you to tell me again cause I have your letter
127 that you faxed us.

128 **JACKIE HAEG:** Ok well we did see her every single time that you know she was out of
129 court and riding around to go to the store to get her pop or whatever and he was the
130 one driving her everywhere. Back and forth from the hotel,

131 **GREENSTEIN:** Well he...

132 **JACKIE HAEG:** ...to eat...

133 **GREENSTEIN:** Well both he and the judge say that they weren't the people doing it...

134 **JACKIE HAEG:** Wow...

135 **GREENSTEIN:** ...It was VPSO Parker who provided the rides...

136 **HAEG:** (in background) tell her...

137 **JACKIE HAEG:** Well they're...well he's - Dave's pretty upset cause they are both lying

138 - I - you know there were - everybody else that was there with us saw it too and they

139 were all - you know and all the jurors. So - well I don't know what to tell ...

140 **GREENSTEIN:** Ok.

141 **JACKIE HAEG:** ... you probably need to ask some more people besides those two.

142 **GREENSTEIN:** No I talked to the people that your husband gave me the list of. I've

143 spoke to them as well.

144 **JACKIE HAEG:** And what did they tell you?

145 **GREENSTEIN:** -Um- they said they - that they did see -um- a trooper giving her rides

146 and - but they - they couldn't identify which - who the trooper was.

147 **JACKIE HAEG:** Hmm...Well I'll let you talk to David again.

148 **GREENSTEIN:** Ok - thank you.

149 **HAEG:** Hi. (8M39S).

150 **GREENSTEIN:** Ok - well I think I gave you all the information that I can - so -um-

151 you'll get a letter after our Commission meeting on the 22nd to let you know exactly

152 what the Commission did.

153 **HAEG:** Ok and when does the Commission meet the next time – where I can talk to
154 them?

155 **GREENSTEIN:** You already had an opportunity to talk to them.

156 **HAEG:** I want another opportunity.

157 **GREENSTEIN:** We only give the public one – one opportunity to talk to...

158 **HAEG:** Ok – my wife wants an opportunity.

159 **GREENSTEIN:** No we give each complainant one opportunity.

160 **HAEG:** She's a different complainant – she's pretty pissed.

161 **GREENSTEIN:** No it's the same complaint. She could've appeared when you did as
162 well.

163 **HAEG:** Oh really...

164 **GREENSTEIN:** Yeah.

165 **HAEG:** Oh.

166 **GREENSTEIN:** No...

167 **HAEG:** It's too bad you didn't...

168 **GREENSTEIN:** ...it's the same...

169 **HAEG:** ...tell us that.

170 **GREENSTEIN:** ... complaint.

171 **HAEG:** Ok. -Um- (exhales)

172 **GREENSTEIN:** So...

173 **HAEG:** You understand what's going on here?

174 **GREENSTEIN:** Well I – I'm telling you even if everything you say is true it wouldn't be
175 that significant -um- a thing. It would be the kind of thing where we would just caution
176 the judge to -um- to try to make other arrangements in small communities in the
177 future. That's all we would do.

178 **HAEG:** Well if I just made a small little thing if you were in court and just you know -
179 um- see I've been reading about how important all this stuff is and why people do what
180 they do. And when she's hanging out with Trooper Gibbens the whole time – he's the
181 one – he actually perjured his search warrant affidavits to start my whole case and I
182 mean you - I know that you're just saying I'm convicted and I have sour grapes. And I
183 understand that and that's a good position to take because it's probably the logical
184 position. But when she was involved over the entire course of my case and every
185 decision that she was free to make sided with Trooper Gibbens and then she's riding
186 around with him all the time and my jury is watching that each and every day. She
187 leaves with Trooper Gibbens and she arrives with Trooper Gibbens. What they say is
188 that a jury when they see that they say 'that trooper is credible...

189 **GREENSTEIN:** Did you have a lawyer?

190 **HAEG:** ... because he has the trust of the judge'...

191 **GREENSTEIN:** You have a lawyer?

192 **HAEG:** Huh?

193 **GREENSTEIN:** Did you have a lawyer?

194 **HAEG:** Yeah and I can prove my lawyer was lying to me throughout the whole trial and
195 I know that's another fantastic idea.

196 **GREENSTEIN:** Right no I mean if you're telling me everybody is lying including your
197 lawyer you know I'm...

198 **HAEG:** Then – then I'm not credible. I understand that.

199 **GREENSTEIN:** Right.

200 **HAEG:** Ok look at Trooper or I mean not... Legislator Anderson and I know that I'm
201 kind of harping on this a little bit. But would you believe one of our legislators was
202 extorting money from somebody?

203 **GREENSTEIN:** Well you would be the first to say that somebody excused should not
204 be assumed guilty? Right?

205 **HAEG:** No what I'm saying and I - I understand entirely what you're saying - that you
206 can't judge people before they're found guilty.

207 **GREENSTEIN:** Right.

208 **HAEG:** And that's what you're saying I'm doing. But what everybody's saying to me is
209 since I've already been found guilty that my word is no longer any good.

210 **GREENSTEIN:** That's kind of how the system works.

211 **HAEG:** My wife just told you what happened and she hasn't been found guilty of
212 anything. And I will go get every jurors -um- affidavit.

213 **GREENSTEIN:** Well I'm just saying even if what you tell me is true it's a very minor
214 thing from our perspective on what we address.

215 **HAEG:** Ok if it was so minor a thing in your perspective...

216 **GREENSTEIN:** Right.

217 **HAEG:** ...why do you even do it?

218 **GREENSTEIN:** Because then we could give a cautionary letter to judge -um- warning
219 them that -um- they should make other arrangements if they're in a small community
220 without public transportation.

221 **HAEG:** Ok now this is the real question. Why do you think Trooper Gibbens and
222 Judge Murphy lied?

223 **GREENSTEIN:** I – I don't believe they lied. I understand you do. But I don't believe
224 they did. If – if your memories differ on those things...

225 **HAEG:** If my memories different...

226 **GREENSTEIN:** Mm hmm...

227 **HAEG:** You know how many times I've been told that? -um- and you know I'll have you
228 know that I'm taping this conversation as I tape all my conversations. And you know
229 these allegations that I made about my – my -uh- lawyers they were all on tape.

230 **GREENSTEIN:** Mm hmm...

231 **HAEG:** And my first lawyer cause the one that went through trial was the second one.
232 My first one I had before the Alaska Bar Association and as he lied I think it was
233 somewhere over 20 times. Actually he was under oath so it was perjury. We played
234 the – actually didn't play the tape he agreed that the transcriptions my wife made of
235 the secretly recorded conversations were true and correct and as he read them he
236 started shaking like a leaf. And you know there aint – there probably isn't goanna be
237 much done to him because of people like yourself that when they're faced with the
238 obvious they don't want to do anything. But I mean I have this - I have - I mean...

239 **GREENSTEIN:** Well let me...

240 **HAEG:** ...my...

241 **GREENSTEIN:** Let me just reflect back to you.

242 **HAEG:** Ok.

243 **GREENSTEIN:** I think what you really want to - is a new trial or a retrial or to have
244 everything done over again.

245 **HAEG:** Exactly.

246 **GREENSTEIN:** I don't have the power – our agency doesn't have the power to do that.
247 So I'm saying even if you know we found everything that you want us to find all we
248 would do is a cautionary letter to the judge. It won't help you.

249 **HAEG:** And did she get a cautionary letter?

250 **GREENSTEIN:** No. She hasn't yet...

251 **HAEG:** So she didn't even get that?

252 **GREENSTEIN:** Well until you...

253 **HAEG:** Didn't even...

254 **GREENSTEIN:** ... our Commission...

255 **HAEG:** ...freaking get that?

256 **GREENSTEIN:** ...I told you our Commission...

257 **HAEG:** I cannot believe that Marla.

258 **GREENSTEIN:** I told you our Commission hasn't finished with it yet. Didn't I just tell
259 you that we are goanna address it at our January 22nd meeting?

260 **HAEG:** I thought you said it's over and that...

261 **GREENSTEIN:** I said...

262 **HAEG:** ...you said -um- ...

263 **GREENSTEIN:** ...January 22nd meeting...

264 **HAEG:** ...everything - I wrote down -um- everything I wrote down everything was ok...

265 **GREENSTEIN:** Yeah from my investigation but I told you that we're meeting on

266 January 22nd.

267 **HAEG:** Ok January 22nd. Do you have a call in number for that date?

268 **GREENSTEIN:** I told you you already had your opportunity to address the

269 Commission.

270 **HAEG:** No there's other people that want their opportunity.

271 **GREENSTEIN:** You're the only – we only allow the complainant to talk about their

272 complaint. And we'll give the opportunity one time.

273 **HAEG:** Hmm...How convenient. -Um- And who's your boss in the big scheme of

274 things here?

275 **GREENSTEIN:** I work for the Commission.

276 **HAEG:** Ok Commission. And whose the – is there a president or...

277 **GREENSTEIN:** There's a Chair.

278 **HAEG:** Ok who's the Chair?

279 **GREENSTEIN:** Judge Ben Esch.

280 **HAEG:** Judge – what's the last name again?

281 **GREENSTEIN:** Esch. E-S-C-H.

282 **HAEG:** S-C-H?

283 **GREENSTEIN:** E-S-C-H.

284 **HAEG:** Ok and how do you pronounce that?

285 **GREENSTEIN:** Esch.

286 **HAEG:** Esch? Ok -um- ok well I guess and I probably am not allowed to talk to her or
287 him or... Is it a him or a her?

288 **GREENSTEIN:** Him.

289 **HAEG:** Him.

290 **GREENSTEIN:** Yes Mr. Ben Esch.

291 **HAEG:** -Um- is there any way I can communicate with him?

292 **GREENSTEIN:** -Um- you can send a letter.

293 **HAEG:** Ok do you have an address?

294 **GREENSTEIN:** -Um- He's at the Nome court. Do you have access to the Internet?

295 **HAEG:** Yep. Nome court?

296 **GREENSTEIN:** -Uh- huh.

297 **HAEG:** Ok we can probably manage that one. -Um- -uh- well actually this is kind of
298 good. And if I wanted those records. Cause this is goanna be good. Cause I'm going
299 to have Trooper Gibbens and Judge Murphy under oath again at my Post Conviction
300 Relief. And this will be a joy a true joy.

301 **GREENSTEIN:** Our – our records are confidential...

302 **HAEG:** I can – I can subpoena those records, correct?

303 **GREENSTEIN:** No. Our – our records are confidential by State statute.

304 **HAEG:** Ok and there's no – absolutely no court record – no way of getting those?

305 **GREENSTEIN:** No.

306 **HAEG:** Not even through the Supreme Court?

307 **GREENSTEIN:** -Um- if the...

308 **HAEG:** Supreme Court? I – I...

309 **GREENSTEIN:** If the Supreme Court...

310 **HAEG:** ... I walk into your office with an SCO and I can't have it?

311 **GREENSTEIN:** I mean if the Supreme Court ordered it they would get it under seal but

312 you probably wouldn't have access to it.

313 **HAEG:** Ok. Well I'll guarantee you those records are goanna be -um- looked at by

314 somebody -um- cause I'm actually starting to enjoy this. This is kind of like – I used to

315 be a trapper and a hunter but this is far more fun. -Um- because it's the most

316 ridiculous thing that's ever happened. This state is so crooked you couldn't get a fair

317 trial here if you tried your hardest - like I did. It's unbelievable. -Um- but anyway you

318 probably heard that before. -Um- and as I said I'm guilty so you don't have to listen to

319 me. -Um- and oh I guess I've taken up enough of your time Marla.

320 **GREENSTEIN:** Ok.

321 **HAEG:** Thank you very much.

322 **GREENSTEIN:** You're welcome.

323 **HAEG:** Bye.

324 **GREENSTEIN:** Bye.