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IN THE DISTRICT COURT OF THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT

STATE OF ALASKA)
)
 Plaintiff,)
)
 vs.)
)
 David HAEG,) Case No.: 4MC-S04-024 Cr.
)
 Defendant.)
)
 _____)
 Appellate Court Case #A-09455.

WRITTEN ARGUMENT & SUPPORTING CASE LAW,
MOTION TO COMPEL WITNESSES,
MOTION FOR POST-CONVICTION RELIEF

COMES NOW Defendant, DAVID HAEG, in the above referenced case, to file arguments and supporting case law. I respectfully request Magistrate Woodmancy give serious weight to the fact that I have no college education, no legal training, and come now without any legal assistance whatsoever. I respectfully request Magistrate Woodmancy to heed Alaska Rule of Criminal Procedure 53 - Relaxation of Rules, which states,

"These rules are designed to facilitate business and advance justice. They may be relaxed or dispensed with by the court in any case where it shall be manifest to the court that a strict adherence to them will work injustice."

I also respectfully request Magistrate Woodmancy heed Alaska Rule of Criminal Procedure 35.1 - Post-Conviction Procedure, which states in part, "**In considering a pro se application the**

court shall consider substance and disregard defects of form..."

I recognize that without counsel I will be at a very serious disadvantage - thus I request the latitude necessary for me to present the substance of my arguments and motions without being burdened by defects of form. There is no doubt that both Roger Rom (Rom) and Mark Osterman (Osterman) will endeavor to effectively use my defects in form to keep me from being able to make my arguments and motions.

"To use a procedural default or waiver as a means of ignoring a plain error that results in an unconstitutional incarceration would place form over substance; would damage the integrity, reputation, and fairness of the judicial process; and would render the plain error doctrine and post conviction relief remedies meaningless." State v. Burlinson, 255 Neb. 190, 583 N.W.2d 31 (1998), State v. Hall, 249 Neb. 376, 543 N.W.2d 462 (1996) (rev'd on other grounds); State v. Ryan, 249 Neb. 218, 543 N.W.2d 128 (1996).

The Court of Appeals stated the reason why my case was remanded was for the District Court to conduct a hearing to determine whether I knowingly and intelligently waive my right to counsel but while it's remanded the Court of Appeals said I have every right to make claims of constitutional violations and to make motions with this court concerning these violations. As Magistrate Woodmancy has indicated many times he is going to rule on Osterman's motion to withdraw as counsel, which is in addition and separate from the reason my case was remanded to the District Court, I humbly ask Magistrate Woodmancy rule on all of my claims of constitutional violations, motions previously submitted, and the motions I submit now. I also respectfully remind Magistrate

Woodmancy that it is the judiciary's ultimate duty to make sure all court proceedings past, present, and future were fair and that the judiciary may not pick and choose when a defendant brings forth concerns that the proceedings were not fair. It is every defendant's constitutional right to bring forth concerns of unfairness and violations of constitutional rights at the first opportunity possible, especially when it is in the same court in which he was convicted and in which many of the violations took place. To deny a defendant any opportunity to petition the court in which he was convicted in for redress of constitutional violations of his rights is a gross violation of the judiciary's duty. If it was not a violation no one would ever address constitutional violations because undoubtedly they are inconvenient, cumbersome, and extremely disruptive to everyone involved and it is much easier and far more beneficial for everyone involved, except for the poor defendant who lost his constitutional right to a fair trial, to deny him this right. Again it is the ultimate duty of this court to guard against violations of my rights and any failure or reluctance to do so, including telling me I must go somewhere else to seek redress for these violations, is a gross dereliction of your duty. If you deny me my right, during this hearing, to complain of constitutional violations you are abandoning your duty as an officer of justice. If necessary it is your duty to hear me out and, if you do not have enough time before my case is remanded,

to ask for an extension to investigate and conduct evidentiary hearings into my allegations.

Because of the time constraints imposed upon me I will utilize my draft pro se brief to the Court of Appeals for the bulk of my written argument and case law. I humbly ask Magistrate Woodmancy to also ask copious questions throughout these proceedings because it is his ultimate duty to determine whether these proceedings have been fair and justice has been served. I have been virtually overwhelmed with the many violations of justice and fundamental fairness that have happened in the proceedings so far. The only way for this court to determine the fairness and thus my right to due process is to thoroughly discuss the issues, which I know to be so unfair. Remember that "fundamental fairness" represents the essence of due process under both the federal and state constitutions, E.g. U.S. v. Valenzuela-Bernal (1982) 458 U.S. 858, 872. I also request that oral arguments be granted and that witnesses in my favor be compelled to testify. Witnesses I would like to question while under oath to support my argument include: Trooper Brett Gibbens (Gibbens), Prosecutor Scot Leaders (Leaders), McGrath ADF&G Biologist Roger Seavoy (Seavoy), Attorney Brent Cole (Cole), Attorney Arthur Robinson (Robinson), Attorney Mark Osterman (Osterman) and Jackie Haeg.

According to the Court of Appeals this case was remanded to the District Court to determining whether I knowingly and

intelligently waives right to counsel and that I am competent to represent myself on appeal. I fired Osterman on 5/22/06 because Osterman clearly, forcefully, and unequivocally told me that he placed the interests and protection of Cole's and Robinson's lives and livelihoods over that of advocating for me - in a 180-degree reversal from Osterman's position when I hired him (See *transcriptions/tapes of conversations & meetings*). The two ultimate responsibilities of a lawyer are loyalty to his client and to avoid conflicts of interest. Osterman, because of his avowed conflict of interest in protecting and concealing my former lawyers Cole and Robinson horrendous acts in collaborating and/or conspiring with the prosecution to establish and maintain a conviction and harsh sentence, robbed me of his loyalty. Thus I demand my conviction be voided or dismissed with prejudice and his representation be terminated due to ineffective assistance of counsel. (See the U.S. Supreme Court holding in the seminal case of *Cuyler v. Sullivan*, 446 U.S. 335 (1980):

"A criminal defendant is entitled to reversal of his conviction whenever he makes 'some showing of a possible conflict of interest or prejudice, however remote'" *Id.*, at 519, quoting *Walker v. United States*, 422 F.2d (1970)

See also the only published case in history that parallels mine *U.S. v. Marshank*, 777 F. Supp. 1507 (N.D. Cal. 1991) "Government's collaboration with defendant's attorney during investigation and prosecution of drug case violated defendant's Fifth and Sixth Amendment rights and required dismissal of the indictment. Counsel advised him [defendant] to provide some incriminating information as a showing of good faith when the government had not even been aware of the information. The court held that the government's conduct created a conflict of interest between defendant and counsel and the government took advantage

of it without alerting the defendant, the court, or even the "oblivious" counsel to the conflicts. "While the government may have no obligation to caution defense counsel against straying from the ethical path, it is not entitled to take advantage of conflicts of interest of which the defendant and the court are unaware." *Id.* at 1519. Moreover, the government here assisted in efforts to hide the conflicts from defendant. "In light of the astonishing facts of this case, it is beyond question that [counsel's] representation of [defendant] was rendered completely ineffectual and that the government was a knowing participant in the circumstances that made the representation ineffectual.

[T]he government actively collaborated with Ron Minkin to build a case against the defendant, showing a complete lack of respect for the constitutional rights of the defendant... and an utter disregard for the government's ethical obligations... . [T]he agents and the prosecutor here never warned Minkin not to engage in unethical behavior and in fact facilitated that behavior by hiding it from the defendant. Moreover, the government colluded with Minkin to obtain an indictment against the defendant, to arrest the defendant, to ensure that Minkin would represent the defendant despite his obvious conflict of interest, and to guarantee the defendant's cooperation with the government."

The issue of whether I am competent should make itself apparent through these proceedings, along with whether I knowingly do so - leaving only the issue of whether I intelligently waive my right to counsel. I am the first to admit that a lawyer is virtually indispensable in being able to exercise rights and ensure a fair trial. Before this case I would say anyone who proceeded without an attorney was foolish beyond comprehension. I am a professional hunter and a professional flight instructor - I know the value of the assistance of a professional in unknown waters. I now know, however, there is a situation in which a defendant is better off on his own without an attorney - when your own attorneys

collaborate and/or conspire with the prosecution and, at every instance in which your common sense tells you the judicial process cannot be so unfair, lies to you knowingly and maliciously to help the prosecution continue to deprive you of your rights guaranteed under procedural law, statute, and two constitutions. This vicious cycle may have started with only Cole willingly collaborating and/or conspiring with the prosecution yet this collaboration/conspiracy had to continue throughout my other attorney's representation because if they had not done so Cole's ineffectiveness and thus exposure to criminal and towering malpractice claims would have been exposed. I would like to point out that I even hired a fourth attorney - G. Blaire McCune and also talked to many, many other attorneys in hopes of hiring them. Attorneys I've talked to, many in person, are top criminal defense attorney Jim McCommas, retired Alaska Supreme Court Justice Bob Erwin, Phillip Weidner, Sidney Billingslea, John Murtagh, Jeff Feldman, Susan Orlansky, Brian O'Neil, Myron Angstman, Ray Brown, Michael Oropallo, Mike Flannigan, Randal Cavanah, Walter Share, and Cindy Strout are possibly half of the attorneys I have talked to both in and out of the state of Alaska. There is no attorney now that I can find who is willing to represent me at any price. The common refrain was that it I wouldn't get anywhere if I tried to show Cole's unbelievable actions, they would not help me do so and that it would be best if I did not get consumed by this and just moved on with my life.

Yet it's very difficult to do that when to move on means wiping clean the entire first 40 years of both your wife and yourself. Especially the more you read the more obvious it becomes that Cole physically sold me lock, stock and barrel to the prosecution and all other attorneys I have talked to or hired so far are willing to protect this unbelievable sellout at the cost of my families life to date. It is hard for even me at times to believe this but the evidence is overwhelming and irrefutable. It is your duty, charged to you by the Alaska Court of Appeals, to determine if I **intelligently** waive my right to an attorney. The only way you can do this is to make a very thorough and in-depth inquiry into my representation by my former attorneys Cole, Robinson, and Osterman - who have billed me almost exactly \$70,000.00 so far. This shows how much I value an attorneys services and should show the court just how serious I know this to be.

I began to suspect this collaboration, fired the first attorney, and hire a second. The second attorney tells me no matter what the first attorney did there is absolutely nothing that can be done about it (never ever mentioning there is the constitutional right to effective assistance of counsel which was formulated for exactly this type of situation) and recommends going to trial because "although you are going to lose at trial because of Cole you will win on appeal" - after which I found out there were numerous constitutional violations, statute violations

and Alaska Rule of Criminal Procedure violations - all of which proved my attorneys were collaborating and/or conspiring with the prosecution. Some of the constitutional violations include violating due process because of perjury on search warrant affidavits, subornation of perjury by the prosecutor, perjury by Alaska State Troopers, prejudicial pre-trial publicity, prosecutor perjury, tampering with witnesses, violating a Rule 11 Agreement **after** there was immense detrimental reliance, and obstruction of justice; the right to effective assistance of counsel; the right against self-incrimination; and the right to a compulsory process for witnesses in my favor.

Leaders never disclosed the formal plea bargain he made with my accomplice/co-defendant even though Robinson made a complete discovery request. I have an affidavit from Zellers stating that Leaders would not agree to a Rule 11 Agreement unless he testified against me at my trial. In fact Leaders agreed to an extremely lenient sentence for Zellers in payment for his testimony against me. See in *State v. James*, 186 W. Va. 173, 411 S.E.2d 692 (1991) this Court held that:

"[t]he prosecution must disclose any and all inducements given to its witnesses in exchange for their testimony at the defendant's trial." Id. at 174. This holding was based upon the rationale that "[s]uch deals are crucial as impeachment evidence; in some cases the jury may decide that the deal has created an incentive for the witness to lie." Id. at 175. We concluded in *James* that "[c]lear evidence of a deal directly linking leniency for ... [a witness] with testimony tending to convict ... [the defendant] that was not disclosed would be grounds for a new trial."

Zellers completed a formal Rule 11 Agreement with the State prosecutor Leaders and could no longer be charged for anything, yet because no one - not the judge, not Robinson, and not Leaders - informed the jury of Zellers formal Rule 11 Agreement, it seemed to them Zellers was incriminating himself along with me and thus to the jury it would seem that his testimony was absolutely truthful. If the jury would have known that Zellers no matter what he said to incriminate me or himself could no longer be prosecuted it would have been a huge blow to his credibility. My conviction should be reversed because of Leaders failure to disclose exculpatory information. My conviction should be reversed because of the judge's failure to instruct the jury to be regard with suspicion accomplice testimony, and that my conviction should be reversed because of ineffective assistance of counsel because Robinson failed to cross-examine and impeach Zellers testimony because of the formal and very lenient Rule 11 Agreement which the State gave him in return primarily for his testimony against me.

After I fired Robinson and hired Osterman and he had looked through the evidence of what had transpired he confirmed my conclusions by telling me:

Osterman: "I cannot believe any defense attorney in the world would do that and particularly any defense in the world would do that with Scot Leaders." "I don't necessarily agree with the points on appeal that he's [Robinson] got." "I'm not real happy with Chuck's position not to go after Cole." "I looked at this and it was a disaster in it and what Chuck did was wrong - what Cole did was wrong. There's no two ways about it." Haeg: "And

is there - do you have any compunction against utilizing that for me?" Osterman: "No." Haeg: "Well that's what I want to hear." Osterman: "I hate - I - I don't like doing it - I'll tell you - I - I don't like doing it but I don't like - I don't like - I don't like washing dishes and I don't like sweeping the floor too." "See that's part of the argument for vindictiveness on behalf of the District Attorney and that's also part of the argument for vindictiveness of the Judge. If you didn't catch the overbearing attitude of Murphy then you - she must have been wearing a different perfume." Haeg: "Yep and I asked for his [Cole's] license to be revoked for life." Osterman: "Well they're not goanna do that." Haeg: "Well they're - they're goanna..." Osterman: "I think they're probably hit him with a 6 month to 1 year unless they've had a lot prior problems." Osterman: "If the attorney grievance says - State Bars says this guy committed a grievable act for which they punish him. You got an automatic Ineffective Assistance claim - automatic." Haeg: "Can you help me make sure that happens?" ... Osterman: "No let me explain to you how the - the Grievance Commission is - there - there function is to protect the attorney." Haeg: "And not me?" Osterman: "Not you - you're not a foreseeable problem to them." Haeg: "I think that they may be changing that opinion of me."...Haeg: "Ok what about not sticking up for a Rule 11 Agreement you told your client to give up a whole years of his income for and -uh- a 5 hour confession." Osterman: "I think that that's a real big malpractice issue but is it an ethics issue?" Haeg: "Is it Ineffective Assistance of Counsel though?" Osterman: "Well but see Ineffective Assistance is that you committed that the attorney by his failure to act could be..." Haeg: "He failed to act to stand up for my deal." Osterman: "But then that's malpractice - it's not ineffective assistance. He may have seen some -uh- advantage who knows what the hell that advantage is. I'm arguing the devils advocate on (*sic*) because I could tell you that only one in a thousand Ineffective Assistance of Counsel claim lands." ... "Well you do have bad news as I said the problem is you got a great malpractice." Haeg: "But you can't - you cannot have a malpractice suit unless you're found innocent or not innocent or unless your conviction is overturned - Chuck Robinson told me that." Osterman: "No Chuck's wrong, ok? He obviously was the malpractice of one attorney that put you in this bind. Cole has a malpractice problem a big malpractice problem." Haeg: "Well what Chuck said is that if my conviction stands he's - he was goanna show me the case in Alaska that said that you can't go after attorney on a criminal conviction - if in a criminal trial your conviction is not overturned because of the ineffectiveness of the attorney you can't go after him for malpractice. They said that the precursor..." Osterman: "Well there is a (*sic*) out there that says that - I'll grant you but I don't think that that's -uh- I don't think that's the end of the

statement. Because see it's not Chuck Robinson I would be focusing on. I would be focusing on Cole because Cole set up a by his conduct absolutely malpractice. You gave the evidence to the District Attorney to use against you because of Cole's conduct." ... "Like I said the issues on appeal that you've got don't really seem to cover the issue on appeal." ... Haeg: "I just beg you that if we do this just please be in my corner you know?" Osterman: "First of - you know what I'm goanna be in your corner." "I'm very conservative about my client and client billings. I don't want my clients spending a tremendous sum of money to get a little bit of nothing." ... "I don't mind going after Mr. Cole, ok?" ... "[w]e're goanna file a complaint for malpractice against Cole." ... "**[y]ou did not realize he was goanna set it up so that their dang dice was always loaded - they were always goanna win.**" ... "He (Cole) committed the malpractice act which was selling the farm" ... "I'm goanna need 12,000.00." Haeg: "You're not cheap." Osterman: "No sir. If you call any - any attorney in town who does appeals and anybody in Anchorage that does appeals they will tell you it's 3 to 5 thousand dollars an issue" ... "[w]e're goanna have to get on this thing with a big stick"... "You've got most of the stuff, you've got a good synopsis so I figure we're goanna cut a good \$10,000.00 off of what I charged this last case by having the availability of this stuff in short notice." ... "Cause I don't want to get a phone call from you half way through the appeal that we're out of money Mark and I can't help you. That's goanna mean that I've gotta continue appeal for free and I don't like that." ... "I want you involved." ... "[w]e're goanna get your approval on those (amended points on appeal), we're goanna proceed to brief those." Haeg: "Well both Robinson and ---um- ..." Osterman: "I don't give a damn what those guys say." Haeg: "I know but..." Osterman: "You're - you're not happy with them and they've already screwed up your case bad enough." Osterman: "Issues of motions that should've been or could've been brought up that weren't - whether there were the 'big one' the 'big give away' - ineffective assistance by your first attorney. No doubt about it." "... are we likely to get a reversal by the Court of Appeals? And I think the likelihood is yes. I think when the Court of Appeals sees the sell out that happened here. That your attorney told you to talk and you talked to a huge detriment and why in the world this guy never got any kind of a deal in writing." "It's one thing to hold somebody back. It's another thing to get them down on the ground and stomp on their head with boots. What Scot Leaders did was stomped on your head with boots. He went way, way, way to far - ok - and he violated all the rules that would normally apply in these kind of cases and your attorney allowed him at that time to commit these violations." "Your attorney just didn't open the door - ok - he blew the side of the house off, with his conduct." ... " I don't necessarily agree with the points on

appeal that he's [Robinson] got." ... Haeg: "He's - he's trying to keep Brent Cole's law firm from taking a hit." Osterman: "Yeah. I can't figure out why Chuck's protecting him. He screwed up - he screwed up that's the bottom line." (See 3/15/06 & 3/20/06 conversation/tape

Then, nearly 2 months later, Osterman gives me a draft brief that is absolutely useless with none of the issues utilized that he told me were so important in the beginning and using Robinson's arguments that he didn't agree with - and then in a conversation with me:

Haeg: "When I came into you I told you what Chuck Robinson and Brent Cole had done and you had agreed totally with it, said it was a big disaster, and you couldn't believe Chuck Robinson didn't go right after Cole, and what Cole did with lying to me and all that stuff, and now none of that's in the brief and you know like I told you I'm kind of suspicious about it. To me it seems like you had good intentions to begin with and then as time went on you switched focus and - that brief that you have is absolutely useless and when I first talked to you - you were like 'the sell out that happened was just horrendous. The Court of Appeals is just goanna just freak out' and then you write this brief and you even said that Chuck Robinson's statements were or his points of appeal were no good and you didn't like them. Well here your brief comes and it has nothing but Chuck Robinson's things that I showed you are worthless and told you and sent you all the stuff. And then ineffectiveness thing about Brent has one very weak point that probably isn't goanna be upheld and has nothing in there about him lying to me, about not sticking up for the Rule 11 Agreement, none of that, none of the year I gave up, none of the important stuff's in there. What would you think?" Osterman: "Well hang on a second now." Haeg: "What would you think?" Osterman: "Well hang on a second, Dave." Haeg: "Yeah I mean just tell me what you would think." Osterman: "Before you work yourself up into frenzy - what I think" Haeg: "No I'm not working - I'm totally calm, cool, and collected." Osterman: "Ok. So what I think is not important. What's at issue here is what is the Court of Appeals going to think. That's the issue." Haeg: "You don't think - you don't think that you prove that your attorney's lying to you is important?" Osterman: "Well bear with me for a second. You just twisted that handle. Don't do that." Haeg: "What do you mean twisted that handle?" Osterman: "Well you just - you just had twisted the entire argument. You said, 'I gave up a year of being a guide don't you think that that's

important?" Haeg: "No I said that and the other stuff is important." Osterman: "They (Court of Appeals) could give a shit less. Ok?" Haeg: "Really you think so huh?" Osterman: "This is not an equity argument, this is a legal argument. You're looking at binding legal precedent." Haeg: "Yep" "You ever heard of a thing called Detrimental Reliance?" Osterman: "No, Detrimental Reliance occurs in contracts." Haeg: "Do you know that when you put Detrimental Reliance on a criminal plea Rule 11 Agreement it must be upheld?" Osterman: "No kidding. That's exactly correct Dave. You're absolutely right." Haeg: "Why isn't there anything like that in your brief?" Osterman: "Primarily because as I said before we were giving you a draft to see how these issues were goanna work with you." Haeg: "Yep and I sent you all the information that we had and you had read it the first time you came out of the gate all fat and sassy and telling me what I wanted to hear and then as time went on you ended up in a position---" Osterman: "Are you accusing me Dave - are you accusing me of - of -um- protecting other attorneys and not doing the job for you, is that what your accusing me of?" Haeg: "It sure looks like it." Osterman: "Ok now you gotta tell me what action it is that you think I've taken that has caused that." Haeg: "Well telling me all the things that I had found and that you agreed with me right off the bat, were all excited about it - I mean you were just - you were just freaked - you were like 'I can't believe that Brent Cole sold you out and Chuck Robinson didn't do anything about it it's unbelievable'". Osterman: "Right." Haeg: "Those are pretty close to your words. Well where is that in my brief?" Osterman: "Well hang on a second now. That's right but I had not" Haeg: "Where is that?" Osterman: "Hold on a second Dave" Haeg: "Where'd it go?" Osterman: "Wow Dave it didn't get in there did it?" Haeg: "It sure didn't." Osterman: "Well why do you think that is?" Haeg: "Cause I think if it was in there old Brent Cole and Chuck Robinson they'd be - uh- flipping hamburgers after they got out of the ***** Federal pen." Osterman: "**Well I got news for you that aint goanna happen here, you're not goanna get that to happen here, and I'm not goanna get that to happen here.**" Haeg: "Well you don't know me very well do you?" Haeg: "You said, 'I'm goanna go after these attorneys but I sure don't like it - I don't like going after attorneys'". Osterman: "Taking away and depriving people of their livelihoods is that what you enjoy? Are you so crass that that's what you believe? That's what you're asking me in essence to do is **you're asking me to go on and interfere with another mans livelihood so I hesitate**, I don't think it's the same as hunting a deer out in the woods." Haeg: "Mark Osterman - what" Osterman: "Come to think it's a (inaudible-talking over each other)" Haeg: "What has all - all them attorneys that I showed you what they did what have they been doing to me? They've been hunting me-exactly" Osterman: "No they have not been hunting you." Haeg:

"Want to bet?" Osterman: "By some act of negligence or carelessness they've caused you harm. And granted they should pay for the act of carelessness or negligence but those people are not out there with a gun trying to shoot you like you're trying to shoot them. As I said before" Haeg: "No they've only put so much pressure on me that my wife takes tranquilizers and for every tranquilizer she takes I'll put a bullet in them not through the law but with the Law." Osterman: "Bear with me for a second. That is going to make me hesitate when I do that - hesitate yes, hesitate to be reflected yes" Haeg: Does your wife take tranquilizers because of the pressure put on them by some crooked attorneys? Osterman: "Pro se's don't survive - pro se's seldom win." "The paranoia that you're experiencing can be solved with Medication." Haeg: "Is that what you suggest - do you think I should be on." Osterman: "I've got news for you" Haeg: "Hey" Osterman: "There's nobody out to get you." Haeg: "Why did you say that they were, at the beginning then?" Osterman: "Your attorneys committed - I did not say they were out to get you - I said they screwed you. There's a difference. You think these people are hiding in dark corners" Haeg: "Then why is none of that in my brief now?" Osterman: "You think these people are hiding in dark corners to do you harm." Haeg: "So your - you think I'm a kook?" Osterman: "No, I'm telling you everybody else is goanna think you're one." Haeg: "Well I guess I'd rather go out a kook when I go to US Supreme Court and show them that Brent Cole did nothing but sabotage my whole case and then Chuck Robinson jumped in and was goanna do a valiant effort. Well it's hard to do a valiant effort when your fighter, your man your advocating for they chopped both his legs off already. It's hard for him to win." Osterman: "I understand." Haeg: "Well you don't understand. Do you know that in the US Supreme Court they said that it's supposed to be a fight not maybe equal but neither is it the sacrifice of unarmed prisoners to gladiators and what the **** happened to me? They took every defense - they took all my money - they took all my weapons - and I'm goanna go - Brent Cole said that false information on a search warrant didn't matter, Brent Cole says give them a 5-hour interview nothing in writing- nothing, give up a whole year of your life, wipe out your kids college funds and everything, fly in everybody for this moose thing, oh they - they've changed the charges, used all your - your statements against you to file all these charges, oh it don't matter, you go to trial now that you're ***** screwed, defenseless, and penniless. That is not Constitutionally Right. You know it, I know it, and I don't care what the **** you say that you know it's going in there. I thought you were my man, in my corner, when I called you and you said, "oh man it's so bad the sell out" - you said the sell out is the worse thing you'd ever seen. Well then you pick out one little portion of what the sellout was and water it down and put it in there at the last. -

Do you know that I've got -uh- you still there?" Osterman: "Yeah." Haeg: "Do you know that we've actually got West Law, we signed up to West Law? Now that's pretty dedicated. Do you think that was a smart move?" Osterman: "I don't." Haeg: "It tells us that you - first impressions are the utmost importance, utmost - do you know what that word means - utmost?" Osterman: "Yes." Haeg: "Well it says how to write a good brief the utmost importance is first impressions. Do you throw in there what you have first in the brief that's absolutely useless - that the subject matter jurisdiction? We even looked up subject matter jurisdiction. You guys are blowing so much smoke it's not even funny. You're goanna go in there, the Court of Appeals would look at it and they'd go oh this guys *****. They won't even get to the Ineffective Assistance of Counsel because that's - they've already got their impressions made. I'm goanna go in there and you said to write a brief that grabs them by the balls. Well when they get this brief they're goanna look at it and you know what I don't even really care if they throw it out because it will be on the record and when I get to the US Supreme Court they're goanna ***** sit up and go holy **** what are these attorneys doing to citizens that don't know the law in Alaska? They're goanna ***** freak, they're goanna send up the aircraft carriers, the destroyers, the tanks, and clean out this nest of ***** lawyers and Department of Law. They are ***** breaking the goddamn citizens Constitutional Rights for Effective Assistance of Counsel and for a fair trial because you know it, I know it with Murphy and Leaders and my own ***** attorneys working against me how do you get a fair trail? You don't. You end up getting screwed. What happened to me? I got screwed. I'm smart, I'm tough, if it could ***** happen to me Mark Osterman it would have happened to virtually everybody. No one would come out of it like I did and persevere and figure out the law like I did, but I did. My whole - my whole life I grew up on correspondence, I graduated with a 4.0 grade average, standing scholarships to Stanford, Harvard, and Yale. I can ***** get the letters for you if you want. I'm not smart - I aint been to college but I ***** read and I understand what I read and that's all you goddamn need. I don't care what you guys interpret. I'm ***** pissed. You guys water everything down and I'll tell you what - you guys better be ***** scared man because when this shit ***** hits the fan there's goanna be some shit ***** flying I'll tell you what so - anyway I'll talk to you Monday and go from there and thank you very much. Bye."

Haeg: "My attorney never stood up for keeping my statements out of my thing either. Well what the hell ..." Osterman: "Well I don't disagree with you ..." Haeg: "...is going on with these sons of bitches, man?" Osterman: "Well I - but see I'm telling you right now..." Haeg: "What the hell is going on?" Osterman:

"These sons of bitches have been in this particular area of practice for so long they've been schmoozing so many people that when they hit Scot Leaders the new kid on the block they had no idea what was goanna happen. And it happened to them." Haeg: "Well wasn't it their duty to say 'hey Scot Leaders broke the law'?" Osterman: "Well damn straight they should have." (See 5/19/06 & 5/22/06 conversation/tape)

It is held by all courts, from the US Supreme Court on down, that due process means fundamentally fair procedures throughout an entire prosecution. In my case I had an attorney who told me ...to give up any chance for any defense including even trying to attack virtually all the evidence for a Rule 11 Agreement, give up an entire whole years combined income from my wife and I for the same Rule 11 Agreement, agree to let the prosecution try to use a baseless allegation of improper conduct of a previous moose hunt to enhance my sentence for he same Rule 11 Agreement and then fly in witnesses from as far away as Illinois and Silver Salmon Creek for the same Rule 11 Agreement. Then, when the prosecution breaks the Rule 11 Agreement by filing charges far harsher then those agreed upon only five business hours before I am to receive my end of the bargain and escape this nightmare that has aged me and my family decades, my own attorney tells me there's no possible way to enforce the Rule 11 Agreement - even though the prosecution is using the statements I made during plea negotiations and in reliance upon the Rule 11 Agreement for the only basis of which to file over half of the charges. So now the prosecution gets to take me to trial **after** my own attorney has first helped the prosecution break me financially along with

giving the prosecution each and every weapon or defense I possessed to supplement their own. Someone please tell me what is fair about this? As the US Supreme Court in United States v. Cronin 466 U.S. 648 (1984) quotes Judge Wyzanski:

"While a criminal trial is not a game in which the participants are expected to enter the ring with a near match in skills, neither is it a sacrifice of unarmed prisoners to gladiators."

My own attorney collaborated with the prosecution to strip me of every weapon and defense by promising me I would not have to do battle with the gladiators and then, after they had given my weapons and defenses to the gladiators, they threw me into the ring to do battle with the gladiators that were now armed with not only their own weapons and defenses but also with my own - breaking the exact promise they used to get me to give up all my weapons and defenses.

Cole, while sworn under oath before an official Alaska Bar Association panel, committed 17 different and distinct acts of class B felony perjury in trying to escape responsibility for his actions in representing me. The only way we were able to prove these felony acts beyond any shadow of a doubt was through the graciousness of the chairperson who allowed in as evidence the tapes/transcripts I secretly made of conversations with Cole after I became suspicious of his actions in having me sacrifice nearly my entire life to the prosecution for not a single thing to be given in return.

Robinson, who I hired after I fired Cole, convinced me there was absolutely nothing that could be done about Cole's actions and recommended I go to trial. Robinson stated he had a great defense, that since Leaders had not positively sworn to the information under oath the court did not have jurisdiction. Robinson further stated that I should never bring up that I had engaged in plea negotiations because if I did it would establish I had voluntarily submitted personal jurisdiction to the court. After I studied this defense exhaustively it shrank and shrank until one day it disappeared I realized the last time it had not been ruled "harmless error" was in 1909 in the case Salter v. State, 2 Okla. Crim. 464, 479, 102 P. 719, 725 (1909) & Ex parte Flowers 1909 OK CR 101 P. 860 2 Okl.Cr. 430. When I pointed this out to Robinson he said he had found two fresher cases that supported his tactic - Gerstein v. Pugh, 420 U.S. 103 (1975) & Albrecht v. U.S., 273 U.S. 1 (1927). After I studied these I thought they sided with the prosecution but when I asked Robinson he said, "You are interpreting them the wrong way". Something else that now interests me is that that Robinson was talking about personal jurisdiction when he told me to never bring up the Rule 11 Agreement & later when I showed him evidence that it was a frivolous claim he changed his argument to subject matter jurisdiction. The funny thing about subject matter jurisdiction is to obtain it all the State needs is to have the person be either a resident of Alaska or located in it, for the crime to

take place in Alaska, and for the crime to be under the state jurisdiction and not federal. After trial, when I started finally putting all this together, I also came to the realization that if the court did not have jurisdiction because of the prosecutors failure to positively swear to the information, the prosecution itself could show evidence of the plea negotiations to counter our claim. It was at this point I realized that Robinson was leading me on a wild goose chase and killing two birds with one stone. (1) He was giving me hope by claiming he had a nearly an unbeatable defense and (2) at the same time hiding from the official court record Cole's negligence in having me give up so much to the prosecution for absolutely nothing in return.