



## FACTS

While perfecting his civil lawsuit it has come to David's attention that AS 12.35.020 and AS 12.35.025 are also unconstitutional as written and as applied to David's case – for the same reasons David is claiming AS 16.05.190 and AS 16.05.195 are unconstitutional in both his appeals. All of the above statutes are unconstitutional because they do not specify the standards necessary to comply with the constitutional due process that must be provided when depriving someone of their property – especially property they use as the primary means to provide a livelihood. This due process includes prompt (“within days if not hours”)<sup>1</sup> notice of an opportunity to contest the seizure and deprivation; prompt notice of the case, intent, and authority for forfeiture; prompt notice of an opportunity to bond the property out; and prompt notice of the statutes that allow seizure and forfeiture. None of this due process is required to be given in the above statutes and none of this constitutional due process was given to David – thus all these statutes are unconstitutional, both as written and as applied to David's case. See the overwhelming and controlling caselaw and principles in David's many motions for Return of Property and to Suppress as Evidence.

This motion is supported by the accompanying affidavit and statutes.

---

<sup>1</sup> See *F/V American Eagle v. State*, 30 620 P.2d 657, 667 (Alaska 1980), *Waiste v. State*, 10 P.3d 1141 (Alaska 2000), *State v. F/V Baranof*, 677 P.2d 1245 (Alaska, 1984), and *Stypmann v. City and County of San Francisco*, 557 F.2d 1338 (9th Cir. 1977).

RESPECTFULLY SUBMITTED this \_\_\_\_ day of \_\_\_\_\_ 2007.

---

David S. Haeg, Pro Se Appellant

**ALASKA STATUTES**

**AS 12.35.020. Grounds For Issuance.** A search warrant may be issued if the judicial officer reasonably believes any of the following: **(1)** that the property was stolen or embezzled; **(2)** that the property was used as a means of committing a crime; **(3)** that the property is in the possession of a person who intends to use it as the means of committing a crime, or in possession of another to whom the person may have delivered it for the purpose of concealing it or preventing its being discovered; **(4)** that the property constitutes evidence of a particular crime or tends to show that a certain person has committed a particular crime;

**AS 12.35.025. Seizure of Property.** (a) Property described in AS 12.35.020 may be taken on a warrant from **(1)** a house or other place in which it is concealed or may be found; **(2)** the possession of the person by whom it was stolen, embezzled, or used in the commission of a crime; **(3)** a person who is in possession of the property; **(4)** the possession of a person to whom the property has been delivered for the purpose of concealing it or preventing its being discovered, or from a house or other place occupied by that person or under that person's control. **(b)** When property is seized under this chapter, the peace officer taking the property shall give to the person from whom or from whose premises the property was taken a copy of the warrant, a copy of the supporting affidavit, and a receipt for the property taken, or shall leave the copies and the receipt at the place from which the property was taken. **(c)** The return of the warrant to the court shall be made promptly and shall be accompanied by a written inventory of the property taken. The inventory shall be made in the presence of the applicant for the warrant and the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one other person as a witness. **(d)** The inventory required by (c) of this section shall be signed by the peace officer under penalty of perjury under AS 09.63.020 . The judge or magistrate shall, upon request, deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

**CERTIFICATE OF SERVICE**

I certify that on the \_\_\_\_ day of \_\_\_\_\_ 2007, a copy of the forgoing document by \_\_\_\_ mail, \_\_\_\_ fax, or \_\_\_\_ hand-delivered, to the following parties: Andrew Peterson, Attorney, O.S.P.A.310 K. Street, Suite 403, Anchorage, AK 99501

U.S. Department of JusticeBy: \_\_\_\_\_