

TRANSCRIPT (11)

Telephonic Arraignment That Happened
Instead of Rule 11 Agreement That Was to Take Place
In McGrath & be Attended by David Haeg, Jackie Haeg, Kayla Haeg,
Cassie Haeg, Tom Stepnosky, Jake Jedlicki, Drew Hilterbrand,
Tony Zellers, & Brent Cole (11/9/04)
Transcribed Tape

Magistrate Murphy: Present telephonically from the State is Mr. Leaders; present telephonically for Mr. Haeg is Mr. Cole and Mr. Fitzgerald is present for Mr. Zellers present here and in McGrath is Trooper Gibbens. All right gentlemen I got the - got a call this morning from Mr. Leaders and Mr. Cole indicating that we're just going to do an arraignment for Mr. Haeg and Mr. Zellers this morning is that correct?

Mr. Cole: That is correct your honor.

Magistrate Murphy: Ok. All right um just for ease why don't we start with Mr. Haeg's case he's numbered first as (reads case numbers) and I have received from Mr. Leaders an amended information of an information I received on Friday and then yesterday received a fax copy of an amended information. Mr. Haeg and Mr. Cole do you both have that?

Mr. Cole: Your honor I just think that you need to refer to the original information #1. We waive reading of it and enter a not guilty plea on against on all those counts with the understanding that we have reached a resolution um that Mr. Leaders and I believe uh we will be asking to put on for a change of plea in about 2 to 3 weeks.

Mr. Leaders: Judge this is Scot Leaders if I could speak. I ask that we actually arraign on the amended information. Brent that won't change my agreement I just ask we arraign on that.

Mr. Cole: Why on that one?

Mr. Leaders: Um.

Mr. Cole: That's the one that has the ---

Mr. Leaders: Right I understand. Now. - will - the charges will be modified at change of plea.

Mr. Cole: What difference does that make?

Mr. Leaders: If that's the way the arraignment was there. I mean that's the actual charge violated.

Mr. Cole: Ok. I mean he's the one who makes the decision on what charges are brought. So we're entering not guilty pleas on that.

Magistrate Murphy: Ok.

Mr. Fitzgerald: Judge on behalf of Mr. Zellers, Kevin Fitzgerald. Mr. Zellers is going to be arraigned on the information we are reading and advised to enter a not guilty plea and um we haven't quite reached a resolution although I anticipate that further down the pike but we do request a calendar date on the present calendar.

Magistrate Murphy: Ok.

Mr. Leaders: It will be the same situation - Mr. Zellers will also be arraigned on the amended information Judge.

Magistrate Murphy: I don't think there's any difference in it. Or yeah they are. Nevermind. Ok. Sorry what's taking so long - I have to take my own notes. So I'm trying to catch up with what's been going on. I give this --- All right um well just - I do need some information from Mr. Haeg and Mr. Zellers. Mr. Haeg is your name spelled correctly or Mr. Cole is Mr. Haeg's name spelled correctly on the amended information?

Mr. Haeg: Yes.

Magistrate Murphy: And is that the correct date of birth and social security number?

Mr. Haeg: Yes.

Magistrate Murphy: Ok. And can I get a mailing address for Mr. Haeg.

Mr. Haeg: PO Box 123 Soldotna Alaska.

Magistrate Murphy: Ok wait a minute I can't ---

Mr. Haeg: 9

Magistrate Murphy: I got PO Box 123 where?

Mr. Haeg: Soldotna

Magistrate Murphy: Soldotna?

Mr. Haeg: Alaska. 99669

Magistrate Murphy: Ok and how about a home phone number.

Mr. Haeg: 907 262 9249.

Magistrate Murphy: I'm sorry what was the prefix?

Mr. Haeg: 907

Magistrate Murphy: No I know that.

Mr. Haeg: 262

Magistrate Murphy: 262 ok thank you. All right and Mr. Zellers is your name spelled correctly and your date of birth and social correct on the information and amended information?

Mr. Zellers: No your honor (*sic*)

Magistrate Murphy: So your last name is ZELLERS?

Mr. Zellers: That is correct.

Magistrate Murphy: Ok I will correct that on there. Is your date of birth and social correct?

Mr. Zellers: That is correct.

Magistrate Murphy: And a mailing address for your sir.

Mr. Zellers: 9420 Swan Circle Eagle River Alaska 99577.

Magistrate Murphy: Say again the street address.

Mr. Zellers: 9 4 2 0 Swan (S W A N) Circle.

Magistrate Murphy: Ok. And a home phone number.

Mr. Zellers: Area code 907 696 2319

Magistrate Murphy: Ok. Ok. Um I think just for court records and for ease Mr. Cole we should put Mr. Haeg's case on for the - for the next calendar call date and we can't afford to always change that. But the calendar call date for um - for both cases would be on - in January. Let me just make sure I get the right date here. January 7th at 10:30 for - for both cases that I think just so that I don't lose it off the calendar and have something that would be in the court records as far as the next court date - um - for both of them January 7th at 10:30. If there is any change between those of course you can always file a request and we can do a change of plea or for either case or both cases at any time if it is going to be telephonic whether I am here or in Aniak.

Mr. Fitzgerald: That's fine on behalf of Mr. Zellers' judge.

Magistrate Murphy: Ok.

Mr. Cole: And on behalf of Mr. Haeg.

Magistrate Murphy: Ok. All right we'll just plan on put both of those on then and we will do that and Rule 45 will start today of course November 9th and go to March 9th.

Mr. Fitzgerald: Finally judge on behalf of Mr. Zellers we request a or I don't think there's going to be a objection to that. He's neither a flight risk or dangerous to the public.

Mr. Leaders: State's not requesting bail on either matter judge.

Magistrate Murphy: Yeah I do both - release both OR I don't see any - the normal conditions would go on OR release is um are appear at all hearings, obey all laws, keep in contact with your attorney. Anything else?

Mr. Leaders: Not from the State Judge.

Mr. Fitzgerald: No there's generally uh no leaving either the 3rd judicial district or Alaska. We - we'd ask on behalf of Mr. Zellers that be waived - he's got family that he plans on attending Christmas with outside and so we don't want any restrictions on travel.

Magistrate Murphy: Since the case is in the court that wouldn't make sense to say not to leave the 3rd judicial district. Um I don't usually put that restriction on unless it's specifically requested by somebody.

Mr. Fitzgerald: All right - thank you.

Mr. Leaders: Judge we're not opposed to him leaving state. I know he has been in and out of state and has returned to deal with these matters - so.

Magistrate Murphy: Ok. Yeah and like I said it will be appear at all hearings as required which means telephonically is an appearance - and then obey - or no violations, obey all laws and keep in contact with the attorneys so that hearings can be scheduled and people notified - as long as Mr. Zellers keeps in contact with you Mr. Fitzgerald I don't have any problem with him leaving the State. I won't - won't - would not include that as condition.

Mr. Fitzgerald: Right thank you Judge.

Magistrate Murphy: Ok anything else we need to take up this morning?

Mr. Cole: No your honor. Not from Mr. Haeg.

Mr. Fitzgerald: Not on behalf of Mr. Zellers either Judge.

Magistrate Murphy: Ok.

Mr. Leaders: Not from the State Judge thank you.

Magistrate Murphy: All right gentlemen thank you very much.

Mr. Leaders: --- one week to request change of plea date would that occur before January Judge?

Magistrate Murphy: Sure yeah. Um the only thing that I know is that I will be out the beginning of the week of January or December 7th - or be gone most of that week. Other than that I should be available in either primarily in Aniak and any request should go to Aniak since that's where I am all of the time or most of the time. Um but that I think it's the 6th - 6th 7th 8th something like that I will be out of town. But other than that I should be available.

Mr. Leaders: Thanks Judge.

Magistrate Murphy: Ok. All right gentlemen then - I mean that's all we need to do today you can all go ahead and hang up then. Thank you.

Mr. Leaders: Thank you.

Magistrate Murphy: Bye.