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IN THE COURT OF APPEALS FOR THE STATE OF ALASKA

DAVID HAEG	)	
	)	
Appellant,	)	
	)	
vs.	)	
	)	
STATE OF ALASKA,	)	Case No.: A-09455
	)	
Appellee.	)	
	)	

Trial Court Case #4MC-S04-024 Cr.

MOTION FOR FULL COURT RECONSIDERATION

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 Pro Se Appellant, DAVID HAEG, in the above referenced case, in accordance with *Appellate Rule 503(h)*, and hereby files this motion for a full court reconsideration of this Courts 7/3/07 ruling.

INTRODUCTION

This is a motion for full court reconsideration of the 7/3/07 denial by Chief Judge Coats of David's 6/18/07 motion that the *trial court* be ordered to accept an application for post conviction relief, that his appeal be stayed pending a post conviction relief action, that all outstanding motions be ruled on, and that this Alaska Court of Appeals do

nothing that would preclude Haeg from suing both his attorneys and the State of Alaska for their actions in his case.

FACTS

On 3/5/04 big game hunting guide David Haeg was issued a permit by the Alaska Department of Fish and Game to help them with the Wolf Control Program (WCP) being conducted in Game Management Unit (GMU) 19D. David was licensed to conduct big game guided hunting trips in GMU *19C* and was *not* licensed to conduct big game hunting trips in GMU *19D*. The WCP required shooting wolves same day airborne. On 3/26/04 the State of Alaska began a prosecution of David for the crime of same day airborne hunting of big game by a big game hunting guide – the most severe charges a hunting guide can face. The State claimed they found evidence of David shooting wolves same day airborne in GMU *19C*, which would benefit his hunting guide business, and thus he should be charged with hunting guide violations instead of WCP violations – violations which were intentionally and specifically separate from game, hunting, and/or guiding violations because the conduct was control and had nothing to do with sport hunting. See AS 16.05.783 and 5 AAC 92.039. The differences in potential penalties between these two violations for an active hunting guide like David are extreme.

The evidence the State found was irrefutably in GMU 19D – even according to the State's own GPS recordings.

All search warrant affidavits the State used to seize David and Jackie Haeg's property contained the false and misleading information that the evidence found was in

GMU 19C - and that Haeg's hunting lodge was located in GMU 19C. The property seized was the primary means by which both David and Jackie provided a livelihood for their two daughters. Jackie owned much of the property herself and all the rest she had a 50% interest. No notice of the case for forfeiture was ever given in any warrant, information, or charge filed; no notice of the intent to forfeit was ever given in any warrant, information, or charge filed; and no notice of an opportunity to contest the seizure, deprivation, or forfeiture was ever given – not even notice of an opportunity to bond out the property.

Weeks after the seizure David and Jackie hired attorney Brent Cole (Cole). Cole stated the perjury on the search warrant affidavits "didn't matter", never told David he could seek suppression of evidence because of this, never told David or Jackie they could contest the deprivation of their property or even bond it out, never told them the state had to inform them of these rights "within days if not hours of seizure", and never told them that if the State failed to provide this procedural due process they were constitutionally entitled to the return of their property and for it to be suppressed as evidence. Cole subsequently testified under oath that the State never informed him of an opportunity to contest and that he did not know David could contest.

Cole had David give a 5 hour "interview" for a plea agreement, had David and Jackie give up guiding for an entire year in reliance on the same plea agreement, and had David and Jackie fly in witnesses from as far away as Illinois to testify when the plea agreement was presented to the judge. During his "interview" David told Prosecutor Scot

Leaders and primary investigating Trooper Brett Gibbens about the perjury on the search warrants claiming the evidence was found in GMU 19C when it was really in GMU 19D.

Then Cole, when the State broke the charges by filing an amended information changing the charges agreed to ones far more severe just 5 business hours before the plea agreement was to be presented to the judge (and after the plea agreement had been in place for 3 months), refused to ask for enforcement of the plea agreement. The guide season given up was already past, the witnesses had already been flown in, and Leaders used David's statements, made for the broken plea agreement, in the amended information as the only probable cause for most of the charges filed and as primary probable cause for all the rest – violating David's constitutional right against self incrimination and Alaska Rule of Evidence 410. The prosecution released David's statements, made for the plea agreement the State broke, to the press – which published them nationwide. When David asked if they should tell the Magistrate Cole replied, "no, because she (Margaret Murphy) will not do anything".

After this David started secretly taping Cole and then fired him about a month later and hired attorney Arthur Robinson. Robinson told David there was nothing to be done about all that transpired when Cole was representing David and told David he had "a no doubt" defense that since the State had not provided an affidavit to support the informations the court lacked jurisdiction to prosecute David. Robinson told David that for this "tactic" to work David must never reveal to the court there had been a plea agreement or that he had given up so much in reliance on it – because this would show

that David had voluntarily "submitted" to the courts jurisdiction. When Magistrate Murphy rejected Robinson's motion to dismiss, after the State called this "frivolous", Robinson recommended going to trial without putting on any evidence because Magistrate Murphy and the State were wrong about having jurisdiction when the information was not positively sworn to. Robinson stated this Court of Appeals would step in and stop the trial before it finished because there was no jurisdiction. Robinson also stated that on appeal David and Jackie would get their plane and equipment back and that any action on David's guide license would be stayed.

David went to trial and the Court of Appeals never stopped it. Leaders, in front of David's judge and jury, suborned and accepted the known false testimony from Trooper Gibbens that the evidence was found in GMU 19C to convict David of the most severe hunting guide crimes possible. (They had taped themselves being told it was perjury during David's "interview".) David was convicted and in the months before sentencing David researched Robinson's "tactic" there was no jurisdiction. David found the last time this "tactic" worked was in two 1909 cases, *Salter v. State,* Okla. Crim. 464, 479, 102 P. 719, 725 (1909) and *Ex parte Flowers* OK CR 69, 2 Okl. Cr. 430, 101 P. 860 (1909). Since then it has been held by all courts, including the U.S. Supreme, that a prosecutor's signature on an information is sufficient to confer jurisdiction because of his oath of office. Leaders had signed all the informations in David's case and Alaska Criminal Rule 7 specifically states, "It [the information] shall be signed by the prosecutor" and "Defects of Form Do Not Invalidate."

Robinson, after David points this out, tells David that a couple "fresher" cases, *Gerstein v. Pugh*, 420 U.S. 103 (1975) and *Albrecht v. United States*, 273 U.S. 1 (1927) support his "tactic" that the court did not have jurisdiction. David researched these and found they specifically *proved*, beyond any possible doubt, that the court had jurisdiction even if the information was not sworn to. When David points this out Robinson tells David that he is not interpreting the cases correctly. *Albrecht*:

> "The [prosecutor] may file an information under his oath of office…[t]he invalidity of the warrant is not comparable to the invalidity of an indictment. A person may not be punished for a crime without a formal and sufficient accusation even if he voluntarily submits to the jurisdiction of the court. But a false arrest does not necessarily deprive the court of jurisdiction of the proceeding in which it was made. *Where there was an appropriate accusation either by indictment or information, a court may acquire jurisdiction over the person of the defendant by his voluntary appearance*."

David voluntarily appeared in front of the court while Cole was his attorney and was never arrested or issued a summons.

David then asked Robinson what was to prevent the State from bringing up the fact there was a plea agreement to defeat his "tactic" that the court did not have jurisdiction. Robinson could not answer. When David continued to demand answers Robinson replied that the State might have personal jurisdiction but would not have "subject matter" jurisdiction. David research this and found State statue determines jurisdiction and *AS 22.15.060* - Criminal Jurisdiction - provides such jurisdiction:

> **(a)** The district court has jurisdiction **(1)** of the following crimes: **(A)** a misdemeanor, unless otherwise provided in this chapter;

David was charged with misdemeanor crimes in the district court in which the crimes were alleged to have occurred – thus the court irrefutably had subject matter jurisdiction.

Because of all this David demanded Cole be subpoenaed to testify in person so David could, "look him in the eye as he gets sold out" and so Cole could testify about all he had David do for the plea agreement David and Jackie had relied upon for months to the detriment of nearly $1,000,000.00 before the State broke it at the last minute – with no one trying to enforce it or even telling the court what had happened. After David and Jackie had paid for a subpoena, paid for it to be delivered, paid for witness fees, and paid for a plane ticket and hotel, Cole never showed up to answer the 56 typed questions David demanded Robinson ask Cole while he was under oath. Robinson never told the court Cole failed to show up in response to a subpoena.

From here on out David tape-recorded nearly every conversation concerning his case - every attorney, State and federal official – so he has proof of every claim made.

When David asked Robinson how and why Cole could fail to show up to the *sentencing* in response to a subpoena Robinson replied, "Cole wasn't relevant guilt." (Cole was subpoenaed to David's sentencing.) David replied, "He would have been relevant to my *sentence* and you know it." Robinson could not respond.

At David's sentencing no one told the judge about all David had done for the plea agreement, nothing about the year given up for it, that the State broke it after David had paid for it in full, or that the State's case was based upon known perjury and David's

statements given for the plea agreement the State broke. The State remarked David had not guided for a year but stated they did not know why – *when this had been one of their specific requirements for the plea agreement*. The judge sentenced David to a five-year *revocation* of his guide license when revocations are allowed only if for life – otherwise action on a guide license must be a suspension. This five years was in addition to the year David and Jackie had already given up. The judge also gave David very nearly 2 years in jail, a $19,500.00 fine, and forfeited approximately $100,000.00 in property that neither David nor Jackie were ever afforded the constitutionally guaranteed opportunity to contest. The judge used the falsehood and perjury by the State that David had killed the wolves where he conducted guided hunting trips as the on record justification for the devastating sentence: "because most if not all the wolves were killed where Haeg hunts". No one objected to this justification. The judge never informed David he could appeal the sentence and Robinson specifically told him he could not appeal the sentence. The judge refused to stay David's guide license revocation pending appeal of the sentence or to return any property pending appeal – in direct opposition to what Robinson had guaranteed before David went to trial.

David fired Robinson and hired attorney Mark Osterman for "$3,000.00 to $5,000.00 per point of appeal - $12,000.00 total for the appeal" after Osterman had looked at the case and stated "it was the biggest sellout he had ever seen", that Robinson's points of appeal (no jurisdiction because the information wasn't sworn to) were no good, that David would be able to successfully sue his former attorneys because

David “didn’t know they were going to load the dice so the State would always win” and that the Court of Appeals would have to reverse his conviction. A month later Osterman stated, “ I can’t do anything because it will affect the lives and livelihoods of your attorneys”, “Robinsons points are good”, and “I need another $28,000.00 in addition to the $12,000.00 you already paid me because I charge $8000.00 per point of appeal.”

David fired Osterman and asked to proceed pro se. During the representation hearing David’s cross examination of Osterman was cut short by Osterman’s claim he had to go to a meeting. (Osterman was being forced to admit his and the other attorneys sellout of David under oath – because of the secretly made tapes David had made of him before hiring him when he said it was the biggest sellout he had seen and after hiring him, when he stated he could not do anything because it would harm David’s first two attorneys along with increasing his billing rates by 100%.) The court ruled David reserved his right to recall Osterman. David asked the court to recall Osterman and the court refused. After a 14-page opposition by the State and a 2-hour examination by Alaska Psychiatric Institute Psychologist Tamara Russell (Magistrate Woodmancy declared David had delusions of conspiracy by his attorneys – even though Osterman told Woodmancy under oath even he could see why David thought this) this was granted. Russell concluded David was almost certainly correct that his attorneys had sold him out. David attempted to file an application for post conviction relief with the *trial court* claiming ineffective assistance of counsel and the *trial court* refused to accept the application – ruling that David must file it with the Alaska Court of Appeals. David filed

a motion for reconsideration to no avail. David filed many motions with this Court of Appeals to order the Kenai district court, where virtually all the witnesses were located, to accept the constitutionally guaranteed application for post conviction relief – and, if this Court of Appeals refused this change of venue, to order the *trial court* to accept an application for post conviction relief. David also asked this Court of Appeals to stay his appeal pending the outcome of this post conviction relief proceeding claiming ineffective assistance of counsel – as they had required be done in all other cases. This Court of Appeals refused to rule on numerous motions for these – stating each time David must file his application for post conviction relief with the *trial court* – and ignoring the fact David wanted to do so but the *trial court* had ruled David could not do so and would hold David in contempt of court if he did so.

David and others filed sworn complaints of the perjury by Troopers under oath in David's case. Each time the investigation was assigned to the very same State attorney that was representing the State against David in David's appeal. David contacted the Alaska Bar Association and the Ombudsman and they both said this was a direct and unacceptable conflict of interest. David and many others contacted Colonel Julia Grimes, Director of Alaska State Troopers, by certified letter, to ask for her help. She refused to do anything and ordered her staff to hang up on David when he called to ask for help. David and many others contacted Commissioner of Public Safety Bill Tandeske, by certified letter, to ask for his help. He refused to do anything and ordered his staff to hang up on David when he called for to ask for help. David and many others contacted

Attorney General David Marquez by certified letter and he refused to respond. David and many others contacted Lieutenant Governor Loren Leman by certified letter and he refused to respond. David eventually reached Deputy Chief of Staff Russ Kelly by phone and he stated they never got the letter, even though David had the signed return receipt. Lieutenant Governor Leman then refused to do anything, commenting by email, "why are you bringing me into this?" David and many others contacted Governor Murkowski by certified letter and he refused to respond. His staff claimed they had not received the letter, even though David had the signed returned receipt. Governor Murkowski's staff would not immediately hang up on David when he called to ask for help – they just would not do anything. During one phone call Murkowski's secretary David was told that the Governor's office was having a meeting with Attorney General David Marquez at that very time about David's concerns of corruption and that David should immediately fax the new information he had so the secretary could present it to those in the meeting. David did so. A week later former Trooper Wendell Jones personally talked to Attorney General Marquez about David's case when Marquez was visiting Cordova, where Wendell lives. Marquez denied ever hearing of David's problem. David and others have had numerous contacts with the Department of Justice and FBI about David's case. At David's first face-to-face meeting with the FBI nearly two years ago, also attended by former Trooper Wendell Jones, it was explained that David had one more step to exhaust his State remedies before the federal government could step in. David was told that for complaints of Trooper perjury he must contact the Internal Affairs Division of the Alaska

State Troopers. David and Wendell did so immediately after leaving the Anchorage FBI building. They eventually reached Lieutenant Keith Mallard by phone, the sole Trooper assigned to Internal Affairs. Lieutenant Mallard told David and Wendell that David's complaint was a waste of his time, that he would not meet with them, and that he would not provide a mailing address so David could send him a complaint. Wendell expressed his disbelief at this, and suggested David deal exclusively with the Department of Justice and FBI in the future.

David contacted all State legislators for their help. Senator Bettye Davis, Rep. Mike Chenault, Rep. Gabrielle LeDoux, Rep. Kurt Olson, and Senator Tom Wagoner were the only responses – mostly wishes of "good luck".

David and many others contacted Senator Ted Stevens, Senator Lisa Murkowski, and Representative Don Young by certified letter. Stevens and Murkowski refused to do anything while Young and especially his Deputy Director Greg Kaplan have been of significant and continuing help.

David contacted Trooper Lieutenant Steve Bear in Soldotna in an attempt to have the Troopers confirm where the GPS coordinates of the evidence was that Trooper Gibbens himself took, placed in his search warrant affidavits as being in GMU 19C where David guided hunters, and later testified before David's judge and jury were in GMU 19C. Lieutenant Bear received a letter from Gibbens himself candidly admitting all evidence was found in GMU 19D, and that even his own GPS coordinates confirmed the

evidence was found in GMU 19D – the GMU in which the WCP was taking place – and the GMU in which David was *not* licensed to conduct guided hunts.

David and other witnesses in his case have had many contacts with the Department of Justice in Washington D.C. and Anchorage, including four in-person meetings – the most recent followed by a request for all present and future documents filed in his case. In one high level, taped conversation, it was revealed that there had been a number of prior investigations by the Alaska FBI into judicial system corruption that were nearly identical to David's and that in every case the investigations grew rapidly, implicating more and more people until "a call came from D.C. to pull the plug." When David asked if these calls were instigated by one or more of Alaska's three U.S. Congressmen it was stated, "I wouldn't know."

David contacted Governor Palin's office after she was elected to ask for help. David has so far talked to John Bittney, Anna Kim, Suzan Davis, and Ivy Frye – with no help yet. David reached new Attorney General Talis Colberg – who, after David explained what had and was happening, stated, "there are two sides to every story." David asked Colberg to talk to the State attorney who was representing the State against him and to get back to him. That attorney, Roger Rom, was taken off David's case less than a week later – and Colberg has yet to contact David. He was replaced by attorney Andrew Peterson, who has steadfastly refused to support his factual (mostly false) claims with the affidavit required by *Rule 503(b)(2)*, even after asked to do so.

After a meeting attended by over a hundred of David's friends the website www.alaskastateofcorruption.com was started to expose the corruption in David's case and elsewhere. All filings and rulings in David's case may be found on this website.

David filed for fee arbitration against Cole and during this proceeding Cole and his one witness, attorney Kevin Fitzgerald, irrefutably perjured themselves numerous times to cover up what happened to David. This perjury was proven by numerous witnesses and most irrefutably by tape recordings David had secretly made of Cole after Cole refused to enforce the plea agreement the State broke after David had placed nearly $1,000,000.00 detrimental reliance on it. Most of "official" record recording this perjury on tape then came up "blank". When David wished to supplement the "official" record with tapes made with his three (3) tape recorders, made at the very same time as the now blank tapes, this was refused. David asked that his appeal be supplemented with this proceeding and this Court of Appeals refused to do so.

David filed motions for the return of he and Jackie's property and to suppress as evidence in both the trial court and the court in the district in which the property was seized (Kenai), with both courts refusing to rule - holding this Court of Appeals had jurisdiction. David filed numerous motions for the return of property and to suppress as evidence with this Court of Appeals and included the district courts refusals to do so. This Court of Appeals refused to rule on these motions – holding that the district court had jurisdiction and ignoring the fact the two district courts had refused to rule "because the Court of Appeals had jurisdiction". After 16 motions spread out over very nearly a

year, David finally told this Court of Appeals that since all courts refused to rule, by blaming the other court, that on the 3rd anniversary of the illegal property seizure and deprivation he would physically go get his and Jackie's property back from the Trooper impound yard – placing his life in jeopardy to try to force this Court of Appeals to consider his motion. Immediately after this Court of Appeals issued an order remanding jurisdiction to the district court for them to conduct any proceedings necessary to decide the merits of David's motion for the return of property and to suppress as evidence. This Court of Appeals specifically stated this would not change the briefing schedule in David's criminal appeal. The trial court (McGrath) took jurisdiction over David's objections that according to Rule 37(c) the court in the district where the property was seized (Kenai) should receive jurisdiction. The trial court then refused to allow David confrontation, cross examination of adverse witnesses, evidence presentation, and/or oral argument so he could make his case for the return of property and to suppress as evidence. These proceedings have been held by the U.S. Supreme Court to be constitutionally required for an effective opportunity to determine a motion for the return of property. David appealed the trial court ruling depriving him of an effective opportunity to make his case and this Court of Appeals refused to hear David's appeal.

David was ordered to file "a couple lines why you think you should get each item back." David filed his motion on 6/2/07, the State filed an opposition on 6/22/07, and David filed a reply on 7/3/07. See appendix – which includes the stunningly deficient opposition by the State.

David motioned for this Court of Appeals to change the 5-year revocation of his guide license, not allowed by law, to the 5-year suspension allowed by law. David stated, under oath, that unless this was changed immediately the land holders of his hunting camps were going to force him to destroy nearly $100,000.00 of hunting camps because his hunting guide license was revoked instead of suspended. The State agreed the confusion was the pre-printed judgment form, which stated license revocation instead of suspension by the box checked. This Court of Appeals ruled that although they could correct this error they would not do so until David's appeal was over.

David filed the opening brief in his criminal appeal on 1/22/07 and the State filed its brief on 5/18/07. On 6/8/07 this Court of Appeals rejected the State's brief, ruling that it failed to address David's claims or to comply with *Appellate Rules 212(c)(1)[G] & [I] and 217(g)*. This Court of Appeals then ordered David to designate precise portions of the electronic record which supported his claims of prosecutorial misconduct and errors by the trial court so the State could adequately respond to David's claims prosecutorial misconduct and errors by the trial court – ignoring David's primary claim of ineffective assistance of counsel and judicial corruption. On 6/18/07 David supplied the precise portions of the record which supported his claims of prosecutorial misconduct and errors by the trial court – and included another request that this Court of Appeals order the *trial court* to accept an application for post conviction relief, stay his appeal pending outcome of a post conviction relief action, to rule on all outstanding motions, and to do nothing that would prevent him form suing both his attorneys and the State for their malicious

actions. The outstanding motions David wished to have ruled on were for stay of his guide license pending appeal, for correction of guide license revocation to suspension, clarification of all decisions, for reconsideration, and a motion for ruling. On 6/26/07 the State opposed David's motion, moved to strike David's precise designation of record, and moved to counter designate the entire jury trial and sentencing.

On 7/3/07 this Court of Appeals denied David's motions, again ignoring the fact the *trial court* will not accept an application for post conviction relief, ruling David must file for post conviction relief in the *trial court* when that isn't possible – and again denying stay of David's appeal.

LEGAL ARGUMENTS

1. Summary:

The duty of the courts and judges are to be the referees that keep everything fair, just, on a level playing field, and in compliance with law, rule and constitution – which is especially important considering the overwhelming power wielded by the State prosecution that can be used to distort or destroy fairness. This duty of the courts and judges doubles in importance when a defendant, ignorant of the law as David is, opposes the State unrepresented. The duty of the courts doubles again when, as in David's case, the defendant claims to have proof his own attorneys were actively representing interests in direct conflict with his. The potential for a fundamental breakdown in the adversary process, unless carefully scrutinized, is nearly assured under these conditions.

David will show how this courts actions and denials fail to provide him with the fundamental fairness guaranteed by both the U.S. and Alaska constitutions.

2. Analysis:

A. This courts refusal to *order the trial court* to accept an application for post conviction relief so David may utilize the mountain of evidence not yet on the record and to stay David's appeal pending the outcome of this action is fundamentally unfair and is severely harming David.

The refusal to order the *trial court* to grant David his constitutional right to post conviction relief, after the *trial court* has refused to accept this constitutionally guaranteed proceeding, means David is being denied his constitutional right to post conviction relief. Again Haeg is placed in the same exact situation as he was with his Motion for Return of Property and to Suppress as Evidence. Each court refuses to accept responsibility for granting him his rights and thus Haeg is left with no access to his constitutional rights. How can Haeg make this anymore clear? Haeg wants post conviction relief; Haeg has a constitutional right for post conviction relief. The actions of these two courts are breaking Haeg's constitutional right to post conviction relief. It also means he is unable to utilize the mountain of evidence not yet on the record to make the case for all of his claims. The direct result is that David is forced to proceed with an extremely expensive and time-consuming appeal with an inadequate record. This will eventually break David financially without ever having his concerns effectively addressed. The U.S. Supreme Court has held receiving an ineffective appeal is like receiving no appeal at all. See Motion for Return of Property and to Suppress as

Evidence. Is this the Court of Appeals rational to deny David an effective appeal until he is so broke he can no longer afford an effective one? Is this why this court refuses to give David the rational behind their decision to reverse both this Court of Appeals and the Alaska Supreme Court prior published rulings in:

> *State v. Jones*, 759 P.2d 558 (Ak 1988): "Jones also filed a direct appeal challenging his conviction & sentence on unrelated grounds. The appeal was stayed pending resolution of the post-conviction procedure."

> *Barry v. State*, 675 P.2d 1292 (Ak 1984): "[W]e observed that in appeals raising the issue of ineffective assistance of counsel, the trial record will seldom conclusively establish incompetent representation, because it will rarely provide an explanation for the course of conduct that is challenged as deficient. We concluded that, 'henceforth we will not entertain claims of ineffective assistance of counsel on appeal unless the defendant has first moved for a new trial or sought post-conviction relief'"

> *Grinols v. State*, 10 P.3d 600 (Ak 2000): "But many states – including Alaska – generally forbid a defendant from raising ineffective assistance of counsel claims on direct appeal. Instead, Alaska & these other states require a defendant to pursue post-conviction relief litigation if they want to attack the competence of their trial attorney".

> Alaska Supreme Court in *Risher v. State,* 523 P.2d 421 (Ak 1974): "Whether counsel is incompetent usually can be ascertained only after trial ... it may be necessary to remand for an evidentiary hearing on this issue. For example, if on appeal it is contended that trial counsel could have discovered helpful evidence, we might remand for a hearing on that issue. In most such cases, however, the necessity of an appeal & remanded may be avoided by first applying at the trial court level for a new trial or moving for post-conviction relief."

> The American Bar Association even supports David's requests:

> *AMERICAN BAR ASSOCIATION CRIMINAL JUSTICE SECTION STANDARDS*: *Part 1 – General Principles*: *Standard 22-1.4. Jurisdiction and venue; assignment of judges (b)* "An action for post conviction relief should be brought in the court in which the applicant's challenged conviction and sentence was rendered. For efficient management of a

> pending case, the court should be authorized in extraordinary circumstances to conduct proceedings in any place within the state. In addition, *provision should be made for transfer of a case to another court if that is appropriate for the convenience of the parties* or to guard against undue prejudice in the proceeding. (c) Neither a general rule favoring nor one disfavoring submission of a post conviction application to the same trial judge who originally presided is clearly preferable. If by rule or practice ordinary assignment to the same judge is adopted, there should be a declared policy permitting the judge freely to recuse himself or herself in a particular case, whether or not formally disqualified."
>
> *Standard 22-2.2. Prematurity of applications for post conviction relief; postponed appeals* (a) "When an application for post conviction relief is filed before the time for appeal from the judgment of conviction and sentence has lapsed, the trial court should have the power to extend the time for taking such appeal until the conclusion of the post conviction proceeding. When an application for post conviction relief is filed while an appeal from the judgment of conviction and sentence is pending, the appellate court should have the power to suspend the appeal until the conclusion of the post conviction proceeding or to transfer the post conviction proceeding to the appellate court immediately. *The trial court or appellate court should exercise these powers to enable simultaneous consideration of the appeal, if taken, from the judgment of conviction and sentence and an appeal, if taken, from the judgment in the post conviction proceeding, where joinder of appeals would contribute to orderly administration of criminal justice."*

David wishes to address his strongest claim first, ineffective assistance of counsel/ judicial corruption. David wishes to be able to appeal both his judgments of conviction and any appeal from his post conviction relief proceeding simultaneously – so he doesn't have to bear the cost and time of conducting two entirely separate appeals – and especially when the current record on appeal contains very little of the mountain of evidence to support his claims and thus is not near as likely to succeed as post conviction relief. Thus David needs to conduct his post conviction action before continuing his appeal and is greatly prejudiced if not allowed to do so.

Haeg did not realize that his attorneys were intentionally representing the State's interests that were necessarily in direct conflict with his until *after* one of them had filed his appeal. This is the reason Haeg's appeal was filed before he realized the true problem was corruption in the judicial system and ineffective assistance of counsel – and thus is the reason for his request his appeal be stayed pending a post conviction relief action claiming judicial corruption and ineffective assistance of counsel and the errors that resulted from and compounded this corruption and ineffectiveness.

B. This courts refusal to timely address David's motion for return of property and to suppress as evidence, and then to refuse to order the constitutionally guaranteed effective opportunity to present his case, was fundamentally unfair and severely prejudiced David.

David and Jackie filed 16 motions for the return of their property, used as the primary means to provide a livelihood, over a period of very nearly one year. The deprivation of their ability to provide a livelihood during this time devastated them financially. In this entire time both the district covert and this Court of Appeals refused to rule – with each stating the other court had jurisdiction – even when each court had been provided the motions filed in the other court and the denials of jurisdiction. In other words the courts knowingly worked together to deprive David and Jackie of any opportunity to have their claims of an illegal seizure, deprivation, and forfeiture addressed – with the result that David and Jackie would be broke and go away before getting their property back. It was only David's laying his life on the line – telling this Court of Appeals that since they would not rule on the numerous motions he would

physically go to the Trooper impound yard and get his and Jackie's property. It was only the possibility of a very newsworthy and unexplainable event at the Troopers that forced this court to order the district court to give David his constitutional right to have his concerns addressed.

This Court of Appeals refused to stay briefing in David's appeal pending the outcome of the decision of his motion for Return of Property and to Suppress as Evidence. This is extremely prejudicial to David as the return of any property would also mean it could not have been used as evidence against David, something that David has every right to include in his appeal brief as justification for reversal. In other words this Court of Appeals intentionally stripped the effectiveness of David's appeal by not allowing him to include the irrefutably pertinent evidence being currently addressed by the trial court.

After this Court of Appeals remanded jurisdiction to the district (trial) court for them to conduct any proceedings necessary to address the merits of David's motion, the district court refused to provide the confrontation, cross examination of adverse witnesses, evidence presentation, witness testimony, and oral argument that the U.S. Supreme Court has required for an effective opportunity to contest a deprivation of property. When David appealed this refusal by the district court to provide an effective opportunity this Court of Appeals refused to even accept the appeal.

How can this possibly be fair or just to cost a family so much time and money to get their constitutional right to an opportunity to contest the deprivation of the property

they used to provide a livelihood and then, when you do give it to them, you make it so ineffective it is like no opportunity at all? (The U.S. Supreme Court has held an ineffective hearing is the equivalent to no hearing at all.) See appendix.

The brief the State filed to oppose David's motion is completely baseless; failing to refute any of David's claims, lacking any factual basis, and not even citing a single case that supports the possibility David and Jackie do not have a constitutional right to the return of their property and to suppress it as evidence or that the statutes authorizing the property forfeiture are constitutional. David cites a mountain of cases directly supporting all his factual claims and directly refuting the State's claims. The States claims are so false they do not even support them with the affidavit required by *Rule 503(b)(2)* to support factual allegations – even after requested to do so. See Motion for Return of Property and to Suppress as Evidence, State's Opposition, and David's Reply.

C. This courts refusal to correct David's sentence from the illegal 5-year revocation of hunting license to the legally allowed 5-year suspension was fundamentally unfair and severely prejudiced David.

David asked this Court of Appeals to correct the illegal revocation of his hunting guide license. This Court of Appeals ruled that although they could do so they would not until David's appeal was finished – which may be years away. Yet the very reason David asked for a prompt correction was the federal landholders of his hunting camps required him to destroy the camps because David's hunting guide license was revoked instead of suspended. The State did not oppose the correction – agreeing it was just a clerical error in the preprinted judgment form – able to be corrected under Criminal Rule 36. David

asked for reconsideration, clarification, and justification for this inaction – with no result. In other words this Court of Appeals deliberately cost David, Jackie and their two daughters $100,000.00 in camps through their knowing, intelligent, and malicious refusal to timely correct an illegal sentence – when even the State agreed it should be corrected. How is this fair, just, or constitutional? Is the courts policy to make a family pay dearly for something this court knows is wrong, illegal, and unconstitutional? What is going on? Is this Court of Appeals trying to bankrupt David and his family before he can expose the corruption he has found? What other reason is there for the inaction?

D. This courts refusal to stay David's suspension/revocation of his hunting guide license is fundamentally unfair and severely prejudiced David.

When David asked this Court of Appeals to stay the suspension/revocation of his hunting guide license they ruled David must first tell them the reason the sentencing court refused to do so. This was confusing to David because in his original motion he had explained to this Court of Appeals that the sentencing court had used the State's perjury that David "killed most if not all the wolves where Haeg hunts" as the reason. David also explained that the sentencing court was never told that he and Jackie had given up a whole year guiding for a plea agreement – and that to make sure the court was not told David's first attorney Cole refused to comply with a subpoena. David again explained the sentencing courts reason for not staying David's guide license suspension/revocation and this Court of Appeals still refused to make a ruling – even after many motions for them to do so. How then can this court claim they have ruled on all David's motions?

The State has not been able to refute any of David's claims and just opposes by asking this Court of Appeals to not second-guess the sentencing courts judgment. Yet what happens if David's appeal succeeds and his license revocation/suspension has not been stayed? David and Jackie will have paid the price for something not deserved. If David's appeal does not succeed he will still be required to have his license suspended/revoked for the same amount of time. How is it fair to make David and his family pay for something they almost certainly should not have to pay for? If it is decided he must pay he will be required to pay at that time. At present David has not been able to utilize his guide license for three years, when the plea agreement the State broke and the court was never told about only required one year be given up. How is this fair, just, or constitutional?

E. This courts refusal to clearly justify their actions in David's case or place essential findings on the record, even after numerous motions and requests they do so, is fundamentally unfair and severely prejudiced David.

David has asked this Court of Appeals time and time again to give justification, clarification, rational, and conclusions of law and fact for their decisions that do not appear to comply with constitutional due process. The failure to place clear justification, rational, and conclusions of law and fact and essential findings in their decisions severely harms David's ability to appeal these decisions to a higher court – as the higher court will not know what the basis was for the decision appealed. How is this fair, just, or constitutional?

CONCLUSION

The actions by the State of Alaska, David's own attorneys, and the courts in David's case have been incomprehensible. The extent of the fundamental breakdown in the adversary process is shocking – and is completely foreign to the U.S. constitution and to hundreds of years of caselaw painstakingly developed by the U.S. Supreme Court. To David and Jackie it is the incredible size of this breakdown that is the cause of the reluctance for anyone to expose the scope of the corruption.

Nearly every constitutional right of David's that guarantees a fair trial and fair proceedings has been knowingly broken during David's prosecution. Amendment IV, the right against unreasonable searches and seizures was broken when the Troopers used known and unbelievably devastating perjury to obtain the search and seizure warrants and seized the property David and Jackie used to provide a livelihood. Amendment V, the right against self incrimination (having David give an "interview" for a plea agreement the State broke yet continued to use the "interview") and the right to due process before being deprived of life, liberty, or property was broken numerous times: in the warrants; in the seizure, deprivation, and forfeiture of property; in the use of a plea agreement the State broke at the last minute to deprive David of his right against self-incrimination and a whole years income; and in using perjury known to the prosecution to convict and sentence David of something he was not guilty of. Amendment VI, the right to have a compulsory process for obtaining witnesses in his favor (Cole refusing to show up and testify about all David had done for the plea agreement the State broke) and to have the

assistance of counsel for his defense (the U.S. Supreme Court has held ineffective counsel is as bad or worse than no counsel at all – and all David's attorneys were representing interests in direct conflict with his). Amendment XIV, the right that no State shall deprive a person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Virtually every ruling has been against David, with both the State and the courts taking complete and unethical advantage of David's ignorance of the law. Now, however, David is not quite as ignorant and can start pointing out and proving the intentional efforts that were made by his own attorneys, the State, and even the courts to deprive him of fundamental fairness.

David, with an ever growing knowledge of what should have happened had the rules and constitutions been complied with, has very carefully considered all the actions taken in the course of his case. He believes it started out to railroad him into being a martyr for the Wolf Control Program and morphed into an immense effort to cover this up once he balked at the unfairness and started uncovering evidence of the railroading. Every single action since, even by this Court of Appeals, has the direct effect of concealing the actions of David's own attorneys to sell him out to the State prosecution. When you combine this with David's tape recordings of his own lawyers, supposedly the best in Alaska: "the good old boys club of attorneys, prosecutors, judges, and Troopers will make sure nothing happens to each other", "I can't do anything because it will affect the lives and livelihoods of your former attorneys", "you didn't know they were going to

load the dice so the State would always win", and "it is the biggest sellout I have ever seen" and the picture becomes quite clear.

An intelligent person looking at these facts could easily come to the conclusion that there is corruption in Alaska's judicial system – especially when the courts give no justification for their actions. When you consider the depth and breadth of corruption that is just beginning to be exposed in the Alaska Legislature and in Alaska's U.S. delegation it makes it that much more believable. When you consider Duke Lacrosse prosecutor Michael Nifong's actions (who did virtually nothing compared to what Leaders did in Haeg's case) it becomes even more believable. Even the Peninsula Clarion paper printed on March 2, 2007 that Leaders was rebuked by Judge Card in the recent murder trial of Shawn Rogers:

> "A debate rose to a crescendo pitch as Card told assistant district attorney Scot Leaders, in the nearly 14 years Card has been a judge, he has never seen as many discovery violations in a most-serious case — murder. 'The defense has a constitutional right. This is not Iraq,' said retired Anchorage Superior Court Judge Larry Card, who is serving as judge pro-tem in the trial. "I find it shocking we have these numerous violations," Card said."

The Alaska Bar Association, after Judge Card's statement, and after receiving all the evidence of Leaders misconduct and criminal acts in David's case, claims there is no cause to investigate Leaders. Then, in a recent KFQD radio interview, ABA Chief Counsel Steve Van Goor stated no Alaska prosecutor has ever done anything like prosecutor Michael Nyfong did in the Duke Lacrosse case. This is after David and many others had numerous meetings with Van Goor, all presenting evidence of Leaders crimes and misconduct.

David has talked at length with Ray Metcalfe (Metcalfe), who championed the cleanup of corruption in the legislature. Metcalfe told David he ran into the same thing David has – no one will investigate government corruption in Alaska – that it's policy to not act.

VECO brass strike plea deal on charges of bribing lawmakers

by John Tracy – KTUU CHANNEL 2 - Monday, May 7, 2007

> "There were clear bribery laws that were being broken here. I took it to the state troopers, I took it to the district attorney, I took it to David Marquez, who was the attorney general," Metcalfe said. "I took it to APOC I took it to every single agency the state of Alaska has that's responsible for enforcing the law; 100 percent of them, to the man, said no."

Everyone, Governor Palin included, has wondered why the federal government had to step in to clean up the corruption. The answer is obvious and simple – the corruption has reached a level where it is standard government policy to not take action against anyone in government, otherwise known as "systemic corruption" - just as Robinson said on tape and David and Metcalfe found out in real life. Now David has irrefutable proof this policy extends to the courts, defense attorneys and, at least in the past, to the Alaska FBI.

The evidence David has of many obvious constitutional violations *caused and/or concealed by a combination of the State and/or his own attorneys* is irrefutable and overwhelming. The exposure of this collusion/conspiracy between defense attorneys, the State, and now the courts to intentionally deprive Alaskan citizens of their constititutional rights will eclipse the corruption scandal in the legislature. Is it any wonder no one will

give David his constitutional right to expose this through post conviction relief by claiming ineffective assistance of counsel and prosecutorial misconduct – where he can use the mountain of evidence not yet on the record? David again respectfully requests an order from this Court of Appeals ordering the *trial court* to accept an application for post conviction relief. David again respectfully requests this Court of Appeals to stay his appeal pending the outcome of his post conviction relief action. David again respectfully requests this court for an order correcting the revocation of his guide license to a suspension of his guide license. David again respectfully requests this Court of Appeals to stay the suspension/revocation of his guide license pending the outcome of his appeal. David again respectfully requests all record developed during Alaska Bar Association proceedings are made a part of his record on appeal. David again respectfully requests this court to place all essential findings for the decisions of these motions on the record so that he may appeal these decisions to a higher court if he wishes. This is David's constitutionally guaranteed right to fundamentally fair procedures.

This motion is supported by the accompanying affidavit and appendix. RESPECTFULLY SUBMITTED this _____ day of _____2007.

_____

David S. Haeg, Pro Se Appellant

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 party:

Andrew Peterson, Attorney, O.S.P.A.
310 K. Street, Suite 403, Anchorage, AK 99501

By: _____