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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.

OPPOSITION TO STATE'S MOTION TO STRIKE APPELLANT'S MOTION TO DESIGNATE RECORD FILED SEPTEMBER 10, 2007

VRA CERTIFICATION: 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 and hereby files this Opposition to State's Motion to Strike Appellant's Motion to Designate Record Filed September 10, 2007.

FACTS

Pro Se Appellant David Haeg first utilized the entire district court electronic record to file his opening brief. The State then did the same to file its brief. This Court of Appeals then rejected the State's brief because it failed to oppose David's claims of error. This Court of Appeals then ordered David to designate the portion of the district

court electronic record which supported his claims. David did so. The State then moved to strike David's designation and replace it with their own. This Court of Appeals granted this. David claimed this was unfair and on 9/5/07 this Court of Appeals ruled David could supplement the State's designation of record with any proceedings he needed to make his case. On 9/10/07, or just 5 days after the order, David did so. On 9/19/07 the State moved to strike this second designation by David by claiming:

1. David's designation was "almost 2 months late" and therefore "untimely";
2. David designated "improper court proceedings";
3. David failed to "identify in which courts the proceedings took place";
4. David's designation was "unnecessarily duplicative."

ARGUMENT

It is clear any appellant must be able to designate the record he needs to make his appeal. If there are any restrictions he will probably be unable to effectively do so. If it is the appellee who gets to designate what record the appellant must use there is the very real possibility they will designate only the portions of the record without error or that supports their position. The conflict of interest is clear and inescapable. An appellee and appellant are necessarily in opposition to each other.

This is the exact case now before the Court of Appeals. David, to show the extent of plain error and corruption in his case, must utilize the entire electronic record of *all* district court proceedings in his case. Anything less is not acceptable. After all, it is David's appeal and he must be allowed to choose the tools he needs to build his case.

The State is systematically seeking to exclude the district court proceedings proving plain error and a fundamental breakdown in justice – with the only possible reason being to prevent David from effectively making his case for reversal. To do so they first make the false claim David had no authority to file his second designation (filed on 9/10/07) because it was "almost two months late" and thus "untimely". Yet on 9/5/07 this Court of Appeals clearly and specifically gave David a second opportunity to supplement the record – *after this Court of Appeals, at the State's request, had struck David's first timely designation*.

> "Because it does not appear that there were any other pertinent hearings, the State's designation of the electronic record, along with the entire district court file, ensures that all of the appropriate district court proceedings are part of the appellate record. *But, if there were substantive hearings in this case that were not designated as part of the electronic record by the State – for example, evidentiary hearings to resolve any motions – then Haeg may identify these district court proceedings and move to designate them as part of the electronic record."*

On 9/10/07 David took *timely* advantage of this second opportunity (which was demanded by constitutional due process and fundamental fairness after his first designation was stricken) only *five days* after it was offered – not "almost two months" after. David took advantage of this opportunity because just about every hearing not designated by the State contains discussion, record, and proof of the plain error and injustice David needs to make his case for reversal – far more so then David's trial and/or sentencing – which is the only record the State wishes to allow David to use.

The State next falsely claims that David attempted to designate "improper court proceedings" in his second request to supplement the record - and then claims that any

proceedings after sentencing were not part of the record of David's appeal because they were not part of David's trial. Yet David is appealing his *conviction* and not his trial – and thus any proceeding in district court pertaining to his conviction, including those other than trial and/or sentencing, is the record he must be able to use in making his case to reverse his conviction. In addition *Appellate Rule 217(c)*, which governs appeals from district court, specifically states:

> "[T]he record on appeal shall consist of the entire district court file, together with cassette recordings of the parts of the electronic record designated by the parties."

This means *all* of the electronic record before the district court may be utilized - including that before or after trial and/or sentencing, which is when most of the plain error and fundamental breakdown in justice in David's case occurred, was proved, and/or was documented. See also *Appellate Rule 210(a)*, which governs appeals from superior court:

> "Composition of Record. The record on appeal consists of the entire superior court file, including the original papers and exhibits filed in the superior court, and the electronic record of the proceedings before the superior court."

David must be able to use the electronic record of *all* the proceedings before the district court, including those before or after trial and/or sentencing – otherwise he will not be able to effectively present the appeal of his *conviction*.

The State then claims David's designation is improper because it "failed to identify in which courts the proceedings took place." Yet, because David was promptly responding to this Court of Appeals stated opportunity for him to supplement the State's

designation of the electronic record before the "district court", it is beyond any doubt David was referring to the electronic record of the proceedings before that same district court. If this is in any way unclear David S. Haeg hereby swears under penalty of perjury that the proceedings he designated in his 9/10/07 Motion to Designate Record were those before the district court.

Finally the State claims David's second attempt to supplement the designation of record, after his first was stricken, is "duplicative and unnecessary" because of the State's designation. As already indicated not one of the proceedings designated by David on 9/10/07 as necessary for his appeal were designated by the State. How on earth can David's designation be "duplicative" then? How on earth can the State claim David's designation of the record is "unnecessary"? Unnecessary for whom?

CONCLUSION

The State again affirmatively misleads this Court of Appeals in order to continue their policy of using conspiracy and/or the color of law to deprive David of his rights and privileges under statute, regulation, law, and constitution. These most recent deprivations will be included with all the others in David's federal lawsuit under *USC Title 42, Sections 1983 and 1985*.

Because of the continuing and fundamental breakdown in justice outlined above David respectfully asks this Court of Appeals deny the State's Motion to Strike Appellants Motion to Designate Record Filed September 10, 2007.

This motion is supported by the accompanying affidavit. 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 parties:

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

U.S. Department of Justice

By: _____