

Clinton M. Champion  
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT HOMER

STATE OF ALASKA,

Plaintiff,

vs.

Case No. 3HO-23-00295 CR

MARGARET MURPHY,

Defendant.

**NOTICE REGARDING RE-INDICTMENT**

Independent Prosecutor Clinton M. Champion, on behalf of the Kenai Grand Jury (“Grand Jury”) respectfully submits this Notice Regarding Re-Indictment in accordance with the Order Granting Motion to Dismiss Indictment. In its Order Dismissing Indictment, February 27, 2024, the Court required the Independent Prosecutor to advise if a new indictment will be sought against the Defendant within ten days of the Order, or by March 8, 2024.

**I. BACKGROUND**

The Grand Jury heard testimony from Margaret Murphy in November 2022 regarding events that occurred in 2005. When the Defendant testified before the Grand Jury on November 3, 2022, she was not represented by counsel and was not a target of the grand jury’s investigation, i.e., the Grand Jury did not have probable cause to believe she had committed any criminal offenses at the time she testified.

When the Defendant testified, the Grand Jury had not yet received and reviewed any materials from the Alaska Commission on Judicial Conduct (ACJC) regarding Mr. Haeg's complaint about the Defendant. The Grand Jury did not receive such materials until January 31, 2023. Upon receipt of those materials, the Grand Jury identified discrepancies between the Defendant's testimony in November 2022, and a letter she had written to the ACJC in 2006.

As the Order Dismissing Indictment indicated, the indictment issued by the Grand Jury was ripe with technical and procedural problems. The Independent Prosecutor informed the Superior Court of these issues at the grand jury return hearing on April 28, 2023. The Superior Court advised the Independent Prosecutor that those issues needed to be addressed through a motion to dismiss. Those issues have been addressed through the litigation of Defendant's Motion to Dismiss and the subsequent Order Dismissing Indictment. The Independent Prosecutor must decide whether to seek another indictment against the Defendant which would not involve the procedural and technical obstacles presented in the prior proceedings.

## II. CRIMINAL RULE 45 SPEEDY TRIAL

The first question the Independent Prosecutor must resolve is whether seeking a new indictment would violate the Defendant's right to a speedy trial. A defendant charged with a felony must be tried within 120 days.<sup>1</sup> The 120-day speedy trial clock begins to run when a charging document is served upon the

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<sup>1</sup> Alaska Rule of Criminal Procedure 45(b).

defendant.<sup>2</sup> The period of delay resulting from a motion to dismiss is excluded in computing the time for trial.<sup>3</sup> Additionally, the period of delay resulting from a continuance granted at the request of the Defendant and the Defendant's Counsel is also excluded in computing the time for trial.<sup>4</sup> No pretrial motion shall be held under advisement for more than 30 days and any time longer than 30 days shall not be considered as an excluded period.<sup>5</sup>

The Independent Prosecutor served the Defendant with a copy of the indictment on May 2, 2023 and informed her that the arraignment had been scheduled for May 9, 2023. The Defendant advised the Independent Prosecutor that she was out of the country and asked to re-schedule her arraignment until after June 15, 2023. The Independent Prosecutor then filed a non-opposed motion to continue the arraignment in this matter on May 3, 2023. The Court granted the motion and rescheduled the arraignment to June 23, 2023.

The Defendant was arraigned on June 23, 2023. The Court scheduled and held pretrial conferences on August 18, 2023 and on October 4, 2023. At both pretrial conferences, the Defendant's Counsel requested and secured continuances to permit completion, filing, and litigation of her motion to dismiss the indictment.

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<sup>2</sup> Alaska Rule of Criminal Procedure 45(c)(1).

<sup>3</sup> Alaska Rule of Criminal Procedure 45(d)(1).

<sup>4</sup> Alaska Rule of Criminal Procedure 45(d)(2).

<sup>5</sup> Alaska Rule of Criminal Procedure 45(d)(1).

On October 30, 2023, the Defendant, through her counsel, filed a motion to dismiss the indictment. The Court ruled on her motion to dismiss the indictment on February 27, 2024.

The Independent Prosecutor has calculated the speedy trial clock for the Defendant will expire on May 2, 2024. This calculation is based on the following:

- The period from May 2, 2023 to June 23, 2023 is excluded pursuant to Rule 45(d)(2);
- The period from June 23, 2023 to August 18, 2023 constitutes 56 days;
- The period from August 18, 2023, to October 30, 2023, is excluded pursuant to Rule 45(d)(2);
- The period from October 30, 2023, to February 27, 2024, is excluded pursuant to Rule 45(d)(1);
- The time for trial is running pursuant to Rule 45(c)(1) as of February 28, 2024.

If the Court or the Defendant object to this calculation, the Independent Prosecutor respectfully requests notice of any such objection.

### III. USE OF ALASKA COMMISSION ON JUDICIAL CONDUCT MATERIALS

All investigative records, files, and reports of the Alaska Commission on Judicial Conduct (ACJC) are confidential, and no disclosure may be made except as permitted by AS 22.30.060.<sup>6</sup> The Grand Jury received and relied upon confidential information from the ACJC pursuant to an Order on Stipulation to

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<sup>6</sup> Judicial Conduct Commission Rule 5(a).

Disclose issued on January 19, 2023 by the Kenai Superior Court in Case No. 3KN-22-00003 GC.

The Independent Prosecutor would need to present materials from the ACJC in order to seek a new indictment against the Defendant. In order to determine whether to seek a new indictment against the Defendant, the Independent Prosecutor requests a determination from the Court that he may present the materials produced by the ACJC in a new grand jury proceeding.

The Independent Prosecutor has enclosed a proposed order authorizing the use of the materials produced by the ACJC as part of the effort to seek a new indictment against the Defendant. Additionally, the Independent Prosecutor is serving a copy of this notice on counsel for the ACJC and its Executive Director and invites any objection from that counsel or Defendant's counsel to the proposed use of ACJC materials. If Defendant's Counsel and/or file an objection to the Independent Prosecutor's use of the ACJC materials at a subsequent grand jury proceeding, the Court should exclude any resulting period of delay pursuant to Rule 45(d)(1).

The Independent Prosecutor cannot fully examine whether to seek re-indictment of the Defendant until the Court determines that the use of otherwise confidential materials from the ACJC may be presented to a subsequent grand jury.

The Independent Prosecutor does not believe that he is required to seek a new indictment from the Grand Jury. Rather, the Independent Prosecutor would only be required to seek an indictment from a grand jury in Kenai.<sup>7</sup>

DATED this 8th day of March, 2024 at Anchorage, Alaska.

SEDOR, WENDLANDT, EVANS & FILIPPI, LLC  
Independent Prosecutor

By:                   /s/ Clinton M Campion                    
Clinton M Campion, Alaska Bar No. 0812105

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent by email this 8th day of March, 2024 to:

**Timothy Petumenos**  
*Counsel for Defendant*  
***timp@tpaklaw.com***

**Jeffrey Robinson**  
*Counsel for Defendant*  
**RobinsonJW@LanePowell.com**

**Jonathon A. Katcher**

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<sup>7</sup> Criminal Rule 18(b).

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*Counsel for Executive Director Marla  
Greenstein and Alaska Commission on  
Judicial Conduct*

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/s/ Clinton M. Campion  
Certification Signature

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