Alaska's Constitutional Crisis

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

DAVID HAEG, Appellant,	)	
	)	
v.	)	
	)	Court of Appeals No. **A-13501**
STATE OF ALASKA, Appellee.	)	
	)	
	)	

Trial Court No. **3KN-10-01295 CI**

APPELLANT'S OPENING BRIEF

Appeal from a final judgment of the Superior Court
Third Judicial District at Anchorage
Presiding Judge William Morse

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I have personally written this document and swear it is true under penalty of perjury:

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Filed in the Alaska Court of Appeals on: December 3rd, 2019

By: Sarah E. Anderson
Deputy Clerk

OVERVIEW

In 2004 the State of Alaska approached me (as a master big game guide and commercial bush pilot) and claimed it needed my expertise to ensure the success of their controversial Wolf Control Program. State officials gave me a permit to shoot wolves from the air, told me where to shoot them, and then prosecuted and convicted me of shooting wolves inside my guide area to benefit my guide business - even though the state's own GPS coordinates proved this was false and further proved I shot them specifically where the state told me to. The resulting prison sentence, airplane forfeiture, fines, and revocation of my guide license destroyed our business, which was the sole means by which my wife Jackie and I provided for our two baby daughters.

A tape-recording obtained years after my conviction captured DA Scot Leaders and Trooper Brett Gibbens discussing, prior to trial, how and why they falsified their trial map and trial testimony, used to convict me. Evidence was obtained that Judge Margaret Murphy was chauffeured by Trooper Gibbens everywhere she went during my week-long trial and that at this time she removed my evidence (proving I killed the wolves where the state told me to) out of the official court record before my jury could see it. Evidence was obtained that Marla Greenstein, the only investigator of Alaska judges for the past 30 years, falsified an official investigation to cover up for Judge Murphy and Trooper Gibbens. Evidence was obtained that my attorneys were threatened and outright harmed to keep them from protesting - and that this led them to lie to me when I repeatedly asked what could be done. Evidence of a cover up since has continued to expand, implicating numerous officials and agencies, including this Court of Appeals - who has falsified facts and sworn affidavits in an attempt to keep the facts from being exposed.

Presiding Judge William Morse, whose specific conduct this appeal concerns: (1) assigned himself to my case without disclosing he was friends with my trial attorney Arthur

Robinson (who this court ordered I must prove ineffective/committed malpractice); (2) issued a written order that I could not depose Robinson because he was *"deceased"* (when in fact Robinson was, and still is, alive and well); (3) presided over a hearing where I was tased and imprisoned (video on Facebook/YouTube) for trying to present the false trial map and tape-recording of DA Leaders and Trooper Gibbens discussing, before trial, how and why they falsified it to convict me; (4) after I found out about his friendship with Robinson and motioned to disqualify him for this, refused to have his denial of my motion reviewed by an independent judge - as required by state statute; and (5) ruled Robinson was effective and I had a fair trial.

Alaska's Deputy Attorney General John Skidmore (DA Leaders supervisor) is the most recently implicated, with direct proof that he illegally and unconstitutionally stopped a grand jury who started investigating the above (see Alaska constitution, Article 1, Section 8: *"The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended."*) and then lied to state legislators to cover up his crime. Skidmore was tape-recorded telling legislators he stopped the grand jury because it never stated it was investigating systemic corruption concerning public safety/welfare – when the grand jury and Judge Jennifer Wells are specifically tape-recorded telling him exactly that. As longtime Alaskan attorney Dale Dolifka testified after reviewing the above evidence:

Your case has shades of Selma in the 60's, where judges, sheriffs, & even assigned lawyers were all in cahoots together. You have an appeals court sitting there looking at a pile of dung & if they do right by you & reveal you know you have the attorneys going down, you have the judges going down, you have the troopers going down. I walked over here & attorney A says 'My god they're violating every appeal rule ever. How can it be like this?' It's absolute, unadulterated, self-bred corruption that will get worse until the sleeping giant wakes up.

There is a cancer growing on Alaska's judicial system. And if the cancer is not removed, Alaska's judicial system itself will be destroyed by it. See **Justice Louis Brandeis** below.

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Constitutional Rights

U.S. Constitution, 4th Amendment *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*

U.S. Constitution, 5th Amendment *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

U.S. Constitution, 6th Amendment *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

U.S. Constitution, 14th Amendment *No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any 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.*

Alaska Constitution, Article 1, Section 1. Inherent Rights *This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal*

rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Alaska Constitution, Article 1, Section 7. Due Process *No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.*

Commentary: Here the famous "due process" clause of the Fourteenth Amendment of the Bill of Rights is enshrined in the Alaska Constitution. Through decades of decisions, the courts have given this clause a very broad and expansive meaning. It does not simply mean that a legislative body must pass a law before it may deprive someone of life, liberty, or property. It means that no government agency may treat a person arbitrarily or unreasonably. "Due process" demands justice and fair play at the hands of authority.

Alaska Constitution, Article 1, Section 8. Grand Jury *The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

Commentary: Grand juries may investigate crime, particularly cases of white-collar crime and political corruption where no victim is available to help police conduct an investigation. Investigative grand juries might also study the operation of public offices and institutions, for example, the condition of jails or mental hospitals. This type of grand jury still functions in many states, including some of those which have dropped the indicting grand jury. Delegates to the Alaska constitutional convention thought highly of the investigative grand jury, and assured its continuation in Alaska through the last sentence of this section.

Alaska Constitution, Article 1, Section 9. Jeopardy and Self-Incrimination *No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.*

Commentary: Constitutional protection from double jeopardy bars a prosecutor from repeatedly prosecuting a person for the same alleged offense. In the words of the Alaska Supreme Court: "The double jeopardy clause protects against a second prosecution for the same offense after acquittal; it protects against a second prosecution for the same offense after conviction; and it protects against multiple punishments for the same offense" (Calder v. State, 619 P.2d 1026, 1980).

Alaska Constitution, Article 1, Section 11. Rights of Accused *The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

Commentary: The right of an accused person "to have the assistance of counsel for his defense" protects a defendant from an unjust conviction that may result from a lack of understanding of the law and the workings of the judicial system. Without assistance of counsel, "even the

intelligent and educated layman . . . may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one" (Alexander v. City of Anchorage, 490 P.2d 910, 1971). The courts have said that this representation may not be perfunctory: "The mere fact counsel represents an accused does not assure this constitutionally guaranteed assistance. The assistance must be 'effective' to be of any value" (Risher v. State, 523 P.2d 421, 1974).

Alaska Constitution, Article 1, Section 14. Searches and Seizures *The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.*

Commentary: Evidence which has been seized unreasonably may not be used in court. This is the "exclusionary" doctrine that has thwarted many criminal convictions. The doctrine is not meant to protect against conviction of innocent people; it is rather, in the words of the Alaska Supreme Court, "a prophylactic 32 Article I device to curb improper police conduct and to protect the integrity of the judicial process" (Moreau v. State, 588 P.2d 275, 1978).

Cases

Adickes v. S. H. Kress & Co., 398 U.S. 144 (U.S. Supreme Court 1970) *Such, then, is the character of these outrages -- numerous, repeated, continued from month to month and year to year, extending over many States; all similar in their character, aimed at a similar class of citizens; all palliated or excused or justified or absolutely denied by the same class of men. Not like the local outbreaks sometimes appearing in particular districts, where a mob or a band of regulators may for a time commit crimes and defy the law, but having every mark and attribute of a systematic, persistent, well defined organization, with a fixed purpose, with a regular plan of action. The development of this condition of affairs was not the work of a day, or even of a year. It couldn't be, in the nature of things; it must be slow; one fact to be piled on another, week after week, year after year. . .Such occurrences show that there is a pre-concerted and effective plan by which thousands of men are deprived of the equal protection of the laws. The arresting power is fettered, the witnesses are silenced, the courts are impotent, the laws are annulled, the criminal goes free, the persecuted citizen looks in vain for redress.* 46

Albrecht v. United States, 273 U.S. 1 (U.S. Supreme Court 1927) The claims mainly urged are that, because of defects in the information and affidavits attached, there was no jurisdiction in the District Court and that rights guaranteed by the Fourth Amendment were violated... As the affidavits on which the warrant issued had not been properly verified, the arrest was in violation of the clause in the Fourth Amendment, which declares that 'no warrants shall issue but upon probable cause, supported by oath or affirmation.' Ex parte Burford, 3 Cranch, 448, 453; United States v. Michalski (D. C.) 265 F. 839. *But it does not follow that, because the arrest was illegal, the information was or became void.* 33

Anders v. California, 386 U.S. 738 (U.S. Supreme Court 1967) *[Defendant] has a right to an attorney who wants to protect the defendant's 'rear end', not the attorney's."* 30

Bracy v, Gramley, 520 U.S. 899 (U.S. Supreme Court 1997) *A trial judge's involvement with witnesses establishes a personal, disqualifying bias* 23

Brady v. Maryland, 373 U.S. 83 (U.S. Supreme Court 1963) *"Suppression by the prosecution of evidence favorable to an accused who has requested it violates due process where the evidence is material either to guilt or to punishment, irrespective of the good or bad faith of the prosecution."* 12, 13

Calder v. State, 619 P.2d 1026, (Ak.,1980) *The double jeopardy clause protects against a second prosecution for the same offense after acquittal; it protects against a second prosecution for the same offense after conviction; and it protects against multiple punishments for the same offense* 32

Closson v. State, 812 P.2d 966 (Ak. 1991) "Where an accused relies on a promise… to perform an action that benefits the state, this individual…will not be able to "rescind" his or her actions. *… In the plea bargaining arena, the United States Supreme Court has held that states should be held to strict compliance with their promises. ...courts consider the defendant's detrimental reliance as the gravamen of whether it would be unfair to allow the prosecution to withdraw from a plea agreement.* 32

Cuyler v. Sullivan, 446 U.S. 335 (U.S. Supreme Court 1980) *"[A] defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief.* An actual conflict of interest negates the unimpaired loyalty a defendant is constitutionally entitled to expect and receive from his attorney." 30

Elkins v. United States, 346 U.S. 206 (U.S. Supreme Court 1960) *Our people may tolerate many mistakes of both intent and performance, but, with unerring instinct, they know that, when any person is intentionally deprived of his constitutional rights, those responsible have committed no ordinary offense. A crime of this nature, if subtly encouraged by failure to condemn and punish, certainly leads down the road to totalitarianism.* 46

Franks v. Delaware, 438 U.S. 154 (U.S. Supreme Court 1978) *[I]t would be an unthinkable imposition upon [a judge's authority] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment.* 11

Gerstein v. Pugh, 420 U.S. 103 (U.S. Supreme Court 1975) *"The constitution does not require judicial oversight of the decision to prosecute by information,* and a conviction will not be vacated on the ground that the defendant was detained pending trial without a probable cause determination." 33

Giglio v. United States, No. 70-29 (U.S. Supreme Court 1972) *As long ago as Mooney v. Holohan, this Court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with 'rudimentary demands of justice.'*.10

Giles v. Maryland, 386 U.S. 66 (U.S. Supreme Court 1967) *The principle that a state may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, [is] implicate in any concept of ordered* liberty 10

Holloway v. Arkansas, 435 U.S. 475 (U.S. Supreme Court 1978) *[I]n a case of joint representation of conflicting interests, the evil -- it bears repeating -- is in what the advocate finds himself compelled to* refrain *from doing, not only at trial but also as to possible pretrial plea negotiations and in the sentencing process...to assess the impact of a conflict of interests on the attorney's options, tactics, and decisions in plea negotiations would be virtually impossible.* 30

In Re Johnstone 2 P.3d 1226 (AK Supreme Court 2000) *Alaska statutory law and the Code of Judicial Conduct hold judges to the highest standard of personal and official conduct .... [a] judge's unethical or seemingly unethical behavior outside the courtroom detracts from the efficient administration of justice and the integrity of the judicial office, as it diminishes respect for the judiciary in the eyes of the public. One way to protect the public is to remove the offending judge from office. Another way to protect the public is to keep it informed of judicial transgressions and their consequences, so that it knows that its government actively investigates allegations of judicial misconduct and takes appropriate action when these allegations are proved. Judicial discipline thus protects the public by fostering public confidence in the integrity of a self-policing judicial system* 17

Kastigar v. United States, 406 U.S. 441 (U.S. Supreme Court 1972) *The Government must do more than negate the taint; it must affirmatively prove that its evidence is derived from a legitimate source wholly independent of the compelled testimony* 32

Lacher v. Lacher, 993 P.2d 413 (AK 1999) *[A] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned* 2

Lewis v. State, 9 P.3d 1028, (Ak.,2000) *Once defendant has shown that specific statements in affidavit supporting search warrant are false, together with statement of reasons in support of assertion of falsehood, burden then shifts to State to show that statements were not intentionally or recklessly made. ... '[I]t would be an unthinkable imposition upon [a judge's authority] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment.'* 11

Mapp v. Ohio, 367 U.S. 643 (U.S. Supreme Court 1961) *[A]ll evidence obtained by searches & seizures in violation of the Federal Constitution is inadmissible in a criminal trial in a state. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.* 11

Mesarosh v. U.S., 352 U.S. 1 (U.S. Supreme Court 1956) *[T]he dignity of the U.S. Government will not permit the conviction of any person on tainted testimony. The government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them.* 10

Monroe v. Pape, 365 U.S. 167 (United States Supreme Court 1961) *[T]he local administrations have been found inadequate or unwilling to apply the proper corrective. Combinations, darker than the night that hides them, conspiracies, wicked as the worst of felons could devise, have gone unwhipped of justice. Immunity is given to crime, and the records of the public tribunals are searched in vain for any evidence of effective redress.*

Whenever, then, there is a denial of equal protection by the State, the courts of justice of the nation stand with open doors, ready to receive and hear with impartial attention the complaints of those who are denied redress elsewhere. Here may come the weak and poor and downtrodden, with assurance that they shall be heard. Here may come the man smitten with many stripes and ask for redress. Here may come the nation, in her majesty, and demand the trial and punishment of offenders, when all, all other tribunals are closed. . . .

The United States courts are further above mere local influence than the county courts; their judges can act with more independence, cannot be put under terror, as local judges can; their sympathies are not so nearly identified with those of the vicinage; the jurors are taken from the State, and not the neighborhood; they will be able to rise above prejudices or bad passions or terror more easily. The marshal, clothed with more power than the sheriff, can make arrests with certainty, and, with the aid of the General Government, can seize offenders in spite of any banded and combined resistance such as may be expected. Thus, at least, these men who disregard all law can be brought to trial.

Does the grim shadow of the State step into the national court, like a goblin, and terrify us? Does this harmless and helpless ghost drive us from that tribunal -- the State that mocks at justice, the State that licenses outlawry, the State that stands dumb when the lash and the torch and the pistol are lifted every night over the quiet citizen? 46

Mooney v. Holohan, 294 U.S. 103 (U.S. Supreme Court 1935) *Requirement of 'due process' is not satisfied by mere notice and hearing if state, through prosecuting officers acting on state's behalf, has contrived conviction through pretense of trial which in truth is used as means of depriving defendant of liberty through deliberate deception of court and jury by presentation of testimony known to be perjured, and in such case state's failure to afford corrective judicial process to remedy the wrong when discovered by reasonable diligence would constitute deprivation of liberty without due process.* 10

Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959) *Conviction obtained through use of false evidence, known to be such by representatives of the State, is a denial of due process, and there is also a denial of due process, when the State, though not soliciting false evidence, allows it to go through uncorrected when it appears. Principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness.* 10

North Carolina v. Pearce, 395 U.S. 711 (U.S. Supreme Court 1969) *The basic Fifth Amendment guarantee against double jeopardy, which is enforceable against the States by the Fourteenth Amendment, is violated when punishment already exacted for an offense is not fully*

"credited". [T]he Constitution was designed as much to prevent the criminal from being twice punished for the same offence as from being twice tried for it. We hold that the constitutional guarantee against multiple punishments for the same offense absolutely requires that punishment already exacted must be fully "credited" in imposing sentence 31, 32

Osborn v. Shillinger, 861 F.2d 612 (10th Cir. 1988) "In fact, *an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition.* The performance of [defendant's] counsel was constitutionally unreasonable, but more importantly, the evidence presented overwhelmingly established that his attorney abandoned the required duty of loyalty to his client. *[Defendant's] attorney didn't simply make poor strategic choices; he acted with reckless disregard for his clients best interests and, at times, apparently with the intention to weaken his client's case.* Prejudice, whether necessary or not, is established under any applicable standard." 30

Risher v. State, 523 P.2d 421 (Ak Supreme Court 1974) *Defense counsel ... must conscientiously protect his client's interest, undeflected by conflicting consideration* 30

Shaw v. State, 816 P2d 1358 (AK 1991) *[A] convicted criminal defendant must obtain post-conviction relief as a precondition to maintaining a legal malpractice claim against his or her attorney. [T]he legal standards for ineffective assistance of counsel.. and for legal malpractice in this action are equivalent.* 43

Smith v. State, 717 P.2d 402 (Ak 1986) *We believe it self-evident that an indispensable component of the guarantee of effective assistance of counsel is the accused's right to be advised of basic procedural rights, particularly when the accused seeks such advice by specific inquiry. Without knowing what rights are provided under law, the accused may well be unable to understand available legal options and may consequently be incapable of making informed decisions.* 30, 36

State v. Davenport, 510 P.2d 78, (Ak.,1973) *State & federal constitutional requirement that warrants issue only upon a showing of probable cause contains the implied mandate that the factual representations in the affidavit be truthful....* 11

State of Alaska v. Gonzalez, 853 P2d 526 (Ak Supreme Court 1993) *Procedures and safeguards can be implemented, such as isolating the prosecution team or certifying the state's evidence before trial, but the accused often will not adequately be able to probe and test the state's adherence to such safeguards. One of the more notorious recent immunity cases, United States v. North, 910 F.2d 843 (D.C.Cir.) modified, 920 F.2d 940 (D.C.Cir.1990) illustrates another proof problem posed by use and derivative use immunity. First, the prosecution could use the compelled testimony to refresh the recollection of a witness testifying at North's criminal trial. The second problem, however, is more troublesome. In a case such as North, where the compelled testimony receives significant publicity, witnesses receive casual exposure to the substance of the compelled testimony through the media or otherwise. Id. at 863. In such cases, a court would face the insurmountable task of determining the extent and degree to which "the*

witnesses' testimony may have been shaped, altered, or affected by the immunized testimony." Id. The second basis for our decision is that the state cannot meaningfully safeguard against nonevidentiary use of compelled testimony. Nonevidentiary use "include assistance in focusing the investigation, deciding to initiate prosecution, refusing to plea-bargain, interpreting evidence, planning cross-examination, and otherwise generally planning trial strategy." United States v. McDaniel, 482 F.2d 305, 311 (8th Cir.1973). Innumerable people could come into contact with the compelled testimony, either through official duties or, in a particularly notorious case, through the media. Once persons come into contact with the compelled testimony they are incurably tainted for nonevidentiary purposes. This situation is further complicated if potential jurors are exposed to the witness' compelled testimony through wide dissemination in the media.

When compelled testimony is incriminating, the prosecution can "focus its investigation on the witness to the exclusion of other suspects, thereby working an advantageous reallocation of the government's financial resources and personnel." With knowledge of how the crime occurred, the prosecution may refine its trial strategy to "probe certain topics more extensively and fruitfully than otherwise." Id. These are only some of the possible nonevidentiary advantages the prosecution could reap by virtue of its knowledge of compelled testimony. Even the state's utmost good faith is not an adequate assurance against nonevidentiary uses because there may be "non-evidentiary uses of which even the prosecutor might not be consciously aware." State v. Soriano, 68 Or.App. 642, 684 P.2d 1220, 1234 (1984) (only transactional immunity can protect state constitutional guarantee against nonevidentiary use of compelled testimony). We sympathize with the Eighth Circuit's lament in McDaniel that "we cannot escape the conclusion that the [compelled] testimony couldn't be wholly obliterated from the prosecutor's mind in his preparation and trial of the case." McDaniel, 482 F.2d at 312. This incurable inability to adequately prevent or detect nonevidentiary use, standing alone, presents a fatal constitutional flaw in use and derivative use immunity. Because of the manifold practical problems in enforcing use and derivative use immunity we cannot conclude that [former] AS 12.50.101 is constitutional. Mindful of Edward Coke's caution that 'it is the worst oppression, that is done by colour of justice,' we conclude that use and derivative use immunity is constitutionally infirm. 32

State v. T.M., 860 P2d 1286 (AK 1993) *"In general, when a statute or rule specifies a... limit on the court's power...the court has no power to act outside this time limit. The rule is the same in civil cases 2*

Strickland v. Washington, 466 U.S. 668 (U.S. Supreme Court 1984) *[A] defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case. [P]rejudice is presumed when counsel is burdened by an actual conflict of interest. In those circumstances, counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties. Moreover, it is difficult to measure the precise effect on the defense of representation corrupted by conflicting interests. 30*

Tumey v. Ohio, 273 U.S. 510 (U.S. Supreme Court 1927) *No matter what the evidence was against him, he had the right to have an impartial judge. 3*

United States v. Cronic, 466 U.S. 648 (U.S. Supreme Court 1984) *"Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have."* 30

United States v. Harris, 501 F.2d 1 (9th Cir. 1974) *[A] trial court must be ever mindful of the sensitive role it plays in a jury trial & avoid even the appearance of advocacy or partiality*...23

United States v. Theodore F. Stevens, No. 08-231 (DC Cir. 2008) *The original prosecutors almost got away with it. Had an extraordinary trial judge, Emmet G. Sullivan, not presided over this case, the miscarriage of justice would not have been discovered. The investigation and prosecution of U.S. Senator Ted Stevens were permeated by the systematic concealment of significant exculpatory evidence which would have independently corroborated Senator Stevens's defense and his testimony, and seriously damaged the testimony and credibility of the government's key witness. Months after trial, when a new team of prosecutors discovered, in short order, some of the exculpatory information that had been withheld, the Department of Justice ("DOJ") moved to set aside the verdict and to dismiss the indictment with prejudice. The Report serves to remind that every citizen is at risk of wrongful conviction unless honest, skilled professionals perform their respective roles in the criminal justice system with diligence, zeal and respect for the rule of law. Needless to say, if this can happen to a United States Senator in a federal courtroom in Washington, D.C., it can happen to any citizen anywhere in America*...44

United States v. W.R. Grace, No. 05-07 (D. Mont. 2009) *Useful falsehoods are particularly dangerous in a criminal case, where the cost of a wrongful conviction cannot be measured in the impact on the accused alone. Such tainted proof inevitably undermines the process, casting a dark shadow not only on the concept of fairness, but also on the purpose of the exercise of the coercive power of the state over the individual. No man should go free nor lose his liberty on the strength of false, misleading, or incomplete proof.*

U.S. v. North, 910 F.2d 843 (D.C. Cir. 1990) *[N]one of the testimony or exhibits...became known to the prosecuting attorneys...either from the immunized testimony itself or from leads derived from the testimony, directly or indirectly...we conclude that the use of immunized testimony by witnesses to refresh their memories, or otherwise to focus their thoughts, organize their testimony, or alter their prior or contemporaneous statements, constitutes evidentiary use rather than nonevidentiary use. This observation also applies to witnesses who studied, reviewed, or were exposed to the immunized testimony in order to prepare themselves or others as witnesses.*

When the government puts on witnesses who refresh, supplement, or modify that evidence with compelled testimony, the government uses that testimony to indict and convict.

From a prosecutor's standpoint, an unhappy byproduct of the Fifth Amendment is that Kastigar may very well require a trial within a trial (or a trial before, during, or after the trial) if such a proceeding is necessary for the court to determine whether or not the government has in any fashion used compelled testimony to indict or convict a defendant. If the government chooses immunization, then it must understand that the Fifth Amendment and Kastigar mean that it is taking a great chance that the witness cannot constitutionally be indicted or prosecuted.

Finally, and most importantly, an ex parte review in appellate chambers is not the equivalent of the open adversary hearing contemplated by Kastigar. See United States v.

Zielezinski, 740 F.2d 727, 734 (9th Cir.1984) Where immunized testimony is used... the prohibited act is simultaneous and coterminous with the presentation; indeed, they are one and the same. There is no independent violation that can be remedied by a device such as the exclusionary rule: the...process itself is violated and corrupted, and the [information or trial] becomes indistinguishable from the constitutional and statutory transgression.

This burden may be met by establishing that the witness was never exposed to North's immunized testimony, or that the allegedly tainted testimony contains no evidence not "canned" by the prosecution before such exposure occurred. If the government has in fact introduced trial evidence that fails the Kastigar analysis, then the defendant is entitled to a new trial. If the same is true as to grand jury evidence, then the indictment must be dismissed." 32

Waiste v. State, 10 P.3d 1141 (AK Supreme Court 2000) *This court's dicta, however, and the persuasive weight of federal law, both suggest that the Due Process Clause of the Alaska Constitution should require no more than a prompt postseizure hearing... The State argues that a prompt postseizure hearing is the only process due, both under general constitutional principles and under this court's precedents on fishing-boat seizures, whose comments were not dicta...But given the conceded requirement of a prompt postseizure hearing on the same issues, in the same forum, 'within days, if not hours' the only burden that the State avoids by proceeding ex parte is the burden of having to show its justification for a seizure a few days or hours earlier... The State does not discuss the private interest at stake, and Waiste is plainly right that it is significant: even a few days' lost fishing during a three-week salmon run is serious, and due process mandates heightened solicitude when someone is deprived of her or his primary source of income... As the Good Court noted, moreover, the protection of an adversary hearing 'is of particular importance [in forfeiture cases], where the Government has a direct pecuniary interest in the outcome.' An ensemble of procedural rules bounds the State's discretion to seize vessels and limits the risk and duration of harmful errors. The rules include the need to show probable cause to think a vessel forfeitable in an ex parte hearing before a neutral magistrate, to allow release of the vessel on bond, and to afford a prompt postseizure hearing.* 28

Withrow v. Larkin, 421 U.S. 35 (U.S. Supreme Court 1975) *A fair trial in a fair tribunal is a basic requirement of due process. Circumstances and relationships must be considered. This Court has said, however, that 'Every procedure which would offer a possible temptation to the average man as a judge . . . not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.' Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But, to perform its high function in the best way, 'justice must satisfy the appearance of justice.'* 3

Alaska Statutes

AS 11.56.200 Perjury *A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true. Perjury is a class B felony*.....2, 11

AS 11.56.610 Tampering With Physical Evidence. (a) *A person commits the crime of tampering with physical evidence if the person (1) destroys, mutilates, alters, suppresses, conceals, or removes physical evidence with intent to impair its verity or availability in an*

official proceeding or a criminal investigation; (2) *makes, presents, or uses physical evidence, knowing it to be false, with intent to mislead a juror who is engaged in an official proceeding or a public servant who is engaged in an official proceeding or a criminal investigation;* (3) prevents the production of physical evidence in an official proceeding or a criminal investigation by the use of force, threat, or deception against anyone; or (4) does any act described by (1), (2), or (3) of this subsection with intent to prevent the institution of an official proceeding. (b) Tampering with physical evidence is a class C felony 11

AS 12.40.030 Duty of inquiry into crimes and general powers. *The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety* 37, 38

AS 12.40.040 Juror to disclose knowledge of crime. *If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it* 37, *38*

AS 12.55.088 Modification of Sentence *(a) The court may modify or reduce a sentence by entering a written order under a motion made within 180 days of the original sentencing.....* 42

AS 22.07.020 Jurisdiction (a) The court of appeals has appellate jurisdiction in actions and proceedings commenced in the superior court involving (1) criminal prosecution; (2) post-conviction relief. 1

AS 22.07.090 Compensation. *A salary disbursement may not be issued to a judge of the court of appeals until the judge has filed with the state officer designated to issue salary disbursements an affidavit that no matter referred to the judge for decision has been uncompleted or undecided by the judge for a period of more than six months* 45

AS 22.10.190 *A salary disbursement may not be issued to a superior court judge until the judge has filed with the state officer designated to issue salary disbursements an affidavit that no matter referred to the judge for opinion or decision has been uncompleted or undecided by the judge for a period of more than six months* 2

AS 22.15.060 Criminal Jurisdiction (a) *The district court has jurisdiction (1) of the following crimes: (A) a misdemeanor* 33

AS 22.20.020 (b) *A judicial officer shall disclose, on the record, a reason for disqualification ...at the commencement of a matter in which the judicial officer participates* 3

AS 22.20.020 (c) *If a judicial officer denies disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court*..... 2

Court Rules

Alaska Criminal Rule 6.1. Grand Jury Reports. *(a) Authority to Issue Reports. (1) A grand jury may investigate and make reports and recommendations concerning the public safety or welfare.* 38

Alaska Criminal Rule 16. Discovery (b)(3) Information Tending to Negate Guilt or Reduce Punishment. *The prosecuting attorney shall disclose to defense counsel any material or information within the prosecuting attorney's possession or control which tends to negate the guilt of the accused as to the offense or would tend to reduce the accused's punishment therefor* 15

Alaska Criminal Rule 17(g) Subpoena Contempt. *Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued* 31

Alaska Civil Rule 30(d)(1) *A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under paragraph (3)* 43

Alaska Rules of Appellate Procedure Rule 202 (b) Judgments from Which Appeal May Be Taken. (b) An appeal may be taken to the court of appeals from a final judgment entered by the superior court or the district court, in the circumstances specified in AS 22.07.020 1

Alaska Evidence Rule 410 Inadmissibility of Plea Discussions in Other Proceedings. (a)Evidence of a plea of guilty or nolo contendere, or of an offer to plead guilty or nolo contendere to the crime charged or any other crime, *or of statements or agreements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case or proceeding against the government or an accused person who made the plea or offer if: (i) A plea discussion does not result in a plea of guilty or nolo contendere* 34

Alaska Evidence Rule 804. Hearsay Exceptions – Declarant Unavailable. (a) **Definition of Unavailability** *Unavailability as a witness includes situations in which the declarant (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity;* 15, 16, 24, 25, 26

Judicial Canons

Alaska Code of Judicial Conduct: Canon 2. A Judge Shall Avoid Impropriety & the Appearance of Impropriety. *The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, & competence is impaired* 3, 23

Alaska Code of Judicial Conduct: Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently. E. Disqualification. *Unless all grounds of disqualification are waived as permitted by Section 3F, a judge shall disqualify himself or herself in a*

proceeding in which the judge's impartiality might be reasonably questioned...**Commentary.** *A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification....as soon as* practicable....3

Other

Black's Law Dictionary (9th Ed.2009). *"Transactional immunity" affords immunity to the witness from prosecution for the offense to which the compelled testimony relates.* 32

Cornell Law School, Subject-Matter Jurisdiction: *While litigating parties may waive personal jurisdiction, they cannot waive subject-matter jurisdiction*.....33

Webster's New World Law Dictionary, copyright 2010 *Transactional immunity – a grant of immunity to a witness by a prosecutor that exempts the witness from being prosecuted for the acts about which the witness will testify.*.....32

42 U.S.C. 1983 (Civil Rights Law) *[S]tate courts were being used to harass and injure individuals, either because the state courts were powerless to stop the deprivations or were in league with those bent upon abrogation of federally protected rights...Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it....[A]ll the apparatus and machinery of civil government, all the processes of justice, skulk away as if government and justice were crimes and feared detection. Among the most dangerous things an injured party can do is to appeal to justice* 46

Justice Louis Brandeis - U.S. Supreme Court: *In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example . . . . If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself.* iii

Winston Churchill (1874-1965) *If you won't fight for right when you can easily win without bloodshed; if you won't fight when your victory is sure & not too costly; you may come to the moment when you will have to fight with all the odds against you & only a precarious chance of survival. There may even be a worse case. You may have to fight when there is no hope of victory, because it is better to perish than to live as slaves.... There is only one duty, only one safe course, & that is to try to be right & not to fear to do or say what you believe to be right.... This is the lesson: never give in, never give in, never, never, never, never — in nothing, great or small, large or petty — never give in except to convictions of honour & good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy.... One ought never to turn one's back on a threatened danger & try to run away from it. If you do that, you will double the danger. But if you meet it promptly & without flinching, you will reduce the danger by half...It's not enough that we do our best; sometimes we have to do what's required.... If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back & hit it again. Then hit it a third time-a tremendous* whack.....49

Thomas Jefferson (1743-1826) *And what country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots & tyrants. It is its natural* manure.....49

Samuel Adams (1722-1803) *The liberties of our Country, the freedom of our civil constitution, are worth defending at all hazards: & it is our duty to defend them against all attacks. We have receiv'd them as a fair Inheritance from our worthy Ancestors: They purchas'd them for us with toil & danger & expence of treasure & blood; & transmitted them to us with care & diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle; or be cheated out of them by the artifices of false & designing men. Let us remember that 'if we suffer tamely a lawless attack upon our liberty, we encourage it, & involve others in our doom.' It is a very serious consideration, which should deeply impress our minds, that millions yet unborn may be the miserable sharers of the event.* 49

AUTHORITIES PRINCIPALLY RELIED UPON

I primarily rely on the United States and Alaska constitutions, including, but not limited to the rights: (a) to due process; (b) that no state shall deprive any person of life, liberty, or property without due process of law; (c) that no state shall deny to any person within its jurisdiction the equal protection of the laws; (d) to assistance of counsel free from conflicts of interest; (e) against self-incrimination; (f) against unreasonable searches and seizures; (g) that no warrants shall issue but upon probable cause, supported by oath or affirmation; (h) against a state threatening to harm private defense attorneys if they defend the rights of their clients to the full extent of the law; and (i) to protect citizens against corrupt judges, troopers, prosecutors, attorneys, investigators, and those who oversee them.

JURISDICTIONAL STATEMENT

I appeal the August 5, 2019 final decision issued by Presiding Judge William Morse. This Court of Appeals has jurisdiction under **AS 22.07.020** and **Appellate Rule 202 (b)**.

STATEMENT OF ISSUES/CASE AND ARGUMENT OF ISSUES PRESENTED

1. **Judge William Morse is corrupt and actively covering up systemic corruption within Alaska's judicial system.** He has committed crimes, made false statements, falsified orders, and failed to obey court rules and orders by this court (see above and below). This proves Judge Morse is now directly involved in a rapidly expanding cover up of corruption in Alaska's judicial system – criminally implicating numerous judges (including those on this Court of Appeals); DA Leaders; private defense attorneys; state troopers; Marla Greenstein (Alaska's only investigator of judges for the past 30 years); and most disturbing of all, evidence that the entities tasked with policing them (Commission on Judicial Conduct, Bar, trooper internal affairs, Department of Law, etc.) are covering up instead of investigating/prosecuting them.

2. **Judge Morse has committed crimes to keep himself assigned to my case and to keep my evidence suppressed - so he could protect his friend Robinson and cover up corruption in Alaska's judicial system.** After Judge Morse finally admitted he was friends with attorney Arthur Robinson (who this court ordered I must prove ineffective/guilty of malpractice), I filed a motion to disqualify Judge Morse because of this. [Tr.171] Judge Morse denied my motion and continued to conduct my evidentiary hearing as if nothing happened [Tr. 171-574], and 6 months later issued a decision that Robinson was effective and my trial was fair. Judge Morse did all this while never having his denial reviewed by an independent judge, as required by Alaska law. See transcription of evidentiary hearing and this court's footnote #25 on page 11 of its remand:

*Under Alaska law, when a judge denies a motion to recuse, the judge's decision is automatically subject to immediate review by the next highest court. See **AS 22.20.020(c)** (providing that "[i]f a judicial officer denies disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court.").*

AS 22.20.020 (c) *If a judicial officer denies disqualification the question shall be heard and determined by another judge assigned for the purpose by the presiding judge of the next higher level of courts or, if none, by the other members of the supreme court.*

During the evidentiary hearing Judge Morse admitted he knew that Alaska law required a disqualification denial to be reviewed by an independent judge [Tr. 423] – which proves he intentionally and knowingly violated **AS 22.20.020**.

In addition, Judge Morse has falsified multiple sworn pay affidavits (attached - each a separate felony per **AS 11.56.200**) so he will be paid while not deciding, after 6 months, my 2-21-19 Motion to Compel Discovery [R.3698-3699] – which I need to find out why he had me tased and imprisoned when I tried to present the false trial map and the tape recording of DA Leaders and Trooper Gibbens discussing, before trial, how and why they falsified the map to convict me at my later trial. See my 2-21-19 Motion to Compel Discovery [R.3698] and copies of Judge Morse's sworn pay affidavits for August and September 2019 – attached.

AS 22.10.190 *A salary disbursement may not be issued to a superior court judge until the judge has filed with the state officer designated to issue salary disbursements an affidavit that no matter referred to the judge for opinion or decision has been uncompleted or undecided by the judge for a period of more than six months.*

AS 11.56.200. Perjury (a) *A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true. Perjury is a class B felony.*

3. Judge Morse had no power or authority to conduct my evidentiary hearing, or issue a decision, after he violated AS 22.20.020 and illegally failed to have his recusal denial immediately (or ever) reviewed by an independent judge. See #2 above. In other words, Judge Morse's decision is fraudulent and not worth paper it is written on:

State v. T.M., 860 P.2d 1286 (AK 1993) *[W]hen a statute or rule specifies a... limit on the court's power... the court has no power to act outside this. The rule is the same in civil cases.*

4. Knowing he was friends with Robinson and thus could not preside over my case, Judge Morse corruptly assigned himself to my case anyway so he could protect his friend Robinson. [R. 3594] This violates caselaw and the Code of Judicial Conduct:

Lacher v. Lacher, 993 P.2d 413 (AK 1999) *[A] judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...*

Withrow v. Larkin, 421 U.S. 35 (U.S. Supreme Court 1975) *A fair trial in a fair tribunal is a basic requirement of due process. Circumstances and relationships must be considered. This Court has said, however, that 'Every procedure which would offer a possible temptation to the average man as a judge . . . not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.' Such a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But, to perform its high function in the best way, 'justice must satisfy the appearance of justice.' See also* **Tumey v. Ohio.**

Alaska Code of Judicial Conduct: Canon 2. A Judge Shall Avoid Impropriety & the Appearance of Impropriety. *The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, & competence is impaired.*

And to keep his friendship from being found out until he was sure to have been able to cover up for everyone, Judge Morse didn't admit to his friendship with Robinson until 19 months (over a year and a half) after he assigned himself to my case. He waited until I found and subpoenaed Robinson to the witness stand to start questioning him about his relationships – including that with Judge Morse. This also violates Alaska law and Code of Judicial Conduct:

AS 22.20.020 (b) *A judicial officer shall disclose, on the record, a reason for disqualification ...at the commencement of a matter in which the judicial officer participates.*

Alaska Code of Judicial Conduct: Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently. E. Disqualification. *Unless all grounds of disqualification are waived as permitted by Section 3F, a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might be reasonably questioned...***Commentary.** *A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification....as soon as practicable.*

5. Judge Morse corruptly scheduled my evidentiary hearing in Anchorage when it was a Kenai case and should have been heard in Kenai – as it always has. This disadvantaged me in trying to get numerous witnesses, most of which live on the Kenai Peninsula, to Anchorage. Not only did some not make it (an avalanche closed the Seward Highway, forcing me to charter a helicopter and airplane out of Girdwood so some witnesses and I could make it to the hearing on time), I had to pay for travel and hotel rooms for those who did make it. [R. 3281 & 3297]

6. **Judge Morse corruptly limited the hearing to 10 hours when I had asked for a full week.** This meant I was unable to question numerous critical witnesses or present a mountain of additional evidence of corruption gathered over the last 15 years. Proof this was inadequate time is Superior Court Judge Stephanie Joannides ruling that I was entitled to 2 full days on the single issue of Judge Murphy being chauffeuring by the main trial witness against me. [R.3159] I had 8 issues - one of which was the chauffeuring – to prove to Judge Morse. In other words, according to Judge Joannides, I should have had 16 days in which to conduct my evidentiary hearing.

7. **Judge Morse, in violation of Judge Jennifer Wells 5-16-17 order that proceedings in my case would be stayed until December of 2017 - because I would be out of town working 7 days a week up to 18 hours a day, [R.3300-05] assigned my case to himself on 6-14-17.**

8. **Judge Morse, after I filed an untimely motion to preempt him by citing the fact that I was out of town working 7 days a week up to 18 hours a day and relying on Judge Wells order that proceedings would be stayed until December, denied my preempt. [R.3292-98]** He ruled it was unreasonable for me to rely on Judge Wells' order and to have not made arrangements to file a preempt within the allowed 5 days of him assigning himself to my case.

9. **Judge Morse had state troopers tase and imprison me** (see video of courtroom tasing and arrest on Facebook page Alaska, State of Corruption and YouTube) **for trying to present evidence I had a legal right to submit: (a) a map that DA Leaders and Trooper Gibbens falsified before giving it to my jury as evidence, leading to my conviction; (b) a tape-recording of DA Leaders and Trooper Gibbens discussing, before trial, how and why they were falsifying their trial map; (c) direct evidence that Marla Greenstein, Alaska's only investigator of judges for the past 30 years, is falsifying official judicial conduct investigations to exonerate corrupt judges (sworn affidavits from every single witness Greenstein claimed, in a certified document, to have contacted during her investigation of Judge Murphy – all swearing under penalty of perjury that Greenstein had never contacted them and had falsified the testimony they would have given had she contacted them. This is backed up by 77-pages of recordings and transcriptions, put together in this**

case and certified as true by Superior Court Judge Stephanie Joannides [R.799-984 & 1005-1076], independently proving that Greenstein falsified an official investigation to cover up that Judge Murphy was chauffeured full time during my trial by Trooper Gibbens - while Judge Murphy removed the evidence that would exonerate me out of the official court record before my jury could see it.) and (d) proof this Court of Appeals issued a fraudulent order to try to keep me from presenting the forgoing legal evidence. This court ruled I didn't give enough briefing to be able to present evidence and have an evidentiary hearing on the forgoing issues [R.3390-3439], while ruling I gave enough briefing on the issue of Robinson not protesting Judge Murphy's use of the false evidence to justify my sentence. [R.3390-3439] I carefully counted the briefing and found I had given this court 25 pages of briefing on DA Leaders conspiring with Trooper Gibbens to manufacture false trial evidence (not counting a copy of the tape that captured Leaders and Gibbens discussing how and why they were doing this – which I also gave this court) [R.2762-2861] and 54 pages of briefing on judge investigator Greenstein falsifying official investigations to cover up for corrupt judges (not counting the 77 pages of additional evidence proving this that Judge Joannides put together and certified as true – which I also gave this court) . [R.2762-2861] *On the issue of Robinson not protesting Judge Murphy's use of false evidence to sentence me, I could not find a single word of briefing to this court* [See record] *- proving this court outright lied to cover up for DA Leaders, Trooper Gibbens, Judge Murphy, and judge investigator Greenstein.* Based on this, it appears this Court of Appeals entered into a criminal conspiracy with DA Leaders, Trooper Gibbens, Judge Murphy, and judge investigator Greenstein to steal, using the color of law, my freedom; my career; thousands in fines; the business on which both Jackie and I depended to provide for our daughters; and the airplane, lodge, and other property used to conduct that business.

10. Judge Morse, only after 2.5 million people watched him having me tased in court for simply trying to admit the map/recordings/affidavits proving DA Leaders, Trooper Gibbens, Judge Murphy, and judge investigator Greenstein's corruption - reversed his order that I could not present the evidence against them. [Tr.35-36] This demonstrates the depth of corruption and cover up involved in my case.

11. After allowing me to prove crimes, corruption, and cover up by DA Leaders and Trooper Gibbens, none of which was refuted by AAG Peterson, Judge Morse corruptly never ruled on it [see record] – even though it proved my conviction was invalid. Even after he asked for, and I gave him, the recordings of DA Leaders, Gibbens, and Zellers discussing, prior to trial, how no wolves were killed in my guide area and discussing, prior to trial, how their trial map had been falsified to prove this [3700-03] – proving Leaders and Gibbens falsified physical evidence before trial, gave my jury evidence that they knew was false, and then committed trial perjury to back up their false physical evidence. Sworn testimony and physical evidence given to Judge Morse, none of which was refuted by the state:

MR. HAEG: Okay. The -- one more question I'd like to ask Mr. Robinson kind of on this issue, is was part of Leaders' and Gibbens' case against me at trial that I was eliminating wolves in my guide area to improve my guide business?

A. Yes. [Tr. 218]

THE COURT [Judge Morse]: Mr. Zellers, will you take the stand?

DIRECT EXAMINATION BY MR. HAEG: Q. Were you a trial witness for the state [Tr. 376] against me?

A. Yes.

Q. On or about June 23, 2004, did you, Prosecutor Scot Leaders and Trooper Gibbens have a meeting?

A. Yes, we did.

Q. Did Leaders and Gibbens tape record this meeting?

A. Yes.

Q. Is this -- MR. HAEG: Can I approach and have him look at this, see if it's an accurate transcript of the meeting?

THE COURT: Yeah.

Q. Does this look like an accurate transcription of that meeting? [Tr. 377]

A. This looks like the meeting.

Q. Okay. During this meeting, did Leaders and Gibbens show you an aeronautical map?

A. Yes, they did.

Q. Can I approach and see if you agree that this is a copy of what you were shown?

THE COURT: Sure.

A. This is a copy. The only thing that's slightly different is the green line on it.

Q. Okay.

THE COURT: That's Exhibit 25?

MR. HAEG: Yes, Trial Exhibit 25.

THE COURT: Hang on. Hang on just a second. When -- that thing has, for example, indications where wolves were killed?

THE WITNESS: Yes, Your Honor.

THE COURT: So when they showed you this map, did the map -- was it exactly the way it is there with the wolf kills on there?

THE WITNESS: Yes, it was.

THE COURT: Okay. But the only thing that was not on there, and correct me if I'm wrong, is the color highlight of some kind of a boundary unit? [Tr. 378]

THE WITNESS: Yes.

THE COURT: That was not there?

THE WITNESS: The boundary unit was drawn on there, but it wasn't highlighted.

THE COURT: The highlight wasn't there?

THE WITNESS: Right.

BY MR. HAEG: Q. Did Prosecutor Leaders and Trooper Gibbens tell you that I had marked the wolf kill locations on this map when they interviewed me during my plea negotiations with them?

A. Yes, they did.

Q. Did you prove to Prosecutor Leaders and Trooper Gibbens that that map had false hand-drawn game management unit boundaries on it?

A. Yes, I did.

Q. Did you use the Alaska Department of Fish and Game game management unit's physical description to do this?

A. I'm pretty sure I did use the -- the written description of the game management units.

Q. Okay. Is this description published in all Alaska hunting regulations?

A. Yes, it is. [Tr. 379]

Q. Can you point out to –

THE COURT: Hang on. Let me just ask a question, make sure I understand what you just said. You were shown this map, and the map had preexisting unit boundary lines marked on it; right?

THE WITNESS: Yes.

THE COURT: Okay. And you looked at those lines and said that they were in error?

THE WITNESS: I looked at the lines and said they were in error. There was a discussion between Trooper Gibbens and myself about he wanted to say the wolf kills were in 19C. I said, no, they were in 19D. And I quoted the boundary line and how this was wrong, to him.

THE COURT: So you -- you told him at the time that the boundary lines shown in the map were inaccurately drawn?

THE WITNESS: Yes.

THE COURT: Okay. Go ahead.

BY MR. HAEG: Q. Can you point out to the Court or me what boundary was falsified and where the correct boundaries should have been? [Tr. 380]

A. Using the map here, 19C area doesn't have what I'll just call is this toe area that encompasses and circles these wolf kills down here. So 19C's western boundary is where the Babel flows into the Swift. And then everything downstream on the Swift is actually 19D. And upstream is 19C. All the wolf kills were downstream of that point.

Q. Okay. Do the false boundaries –

THE COURT: So downstream of Swift is 19D, as in David?

THE WITNESS: 19D is downstream of where the Babel River flows into the Swift River.

MR. HAEG: And the North Fork.

THE WITNESS: And the North Fork, yes, of the Swift.

THE COURT: Go ahead.

Q. Did the false boundaries on that map corruptly make it seem as if the wolves were killed in my game management unit 19C guide area, instead of being killed in game management unit 19D?

A. Yes. [Tr. 381]

Q. Okay. Did Prosecutor Leaders and Trooper Gibbens and you discuss how I was not allowed to guide in 19D but was allowed to guide in 19C?

A. Yes, we had that discussion, so –

Q. Okay. Did Prosecutor Leaders, Trooper Gibbens and you discuss how my killing wolves in 19D would not benefit my guide business?

A. Yes, we had -- I had the discussion with the trooper that because these were killed outside your guide unit, they were not directly related to your guide, so –

Q. Did Prosecutor Leaders, Trooper Gibbens, and you discuss how my killing wolves in 19C would benefit my guide business?

A. Yes.

Q. Was the wolf control program actually taking place in 19C or 19D?

A. As I recall, there was nothing in 19C, but there were parts of 19D that had.

Q. Okay. During this meeting, did you point out to Prosecutor Leaders and Trooper Gibbens that their search warrant affidavits also falsified the wolf kill locations to my 19C guide area? [Tr. 382]

A. Yes. The affidavits listed the wolf kills in 19C. And I pointed out to them that that was incorrect information.

Q. And you may not know this, but did Prosecutor Leaders and Trooper Gibbens tell my jury that I killed the wolves in 19C area to benefit my guide business?

A. I can't testify to what, or the reason why they testified that, but Trooper Gibbens did testify under direct from -- from Prosecutor Leaders that the wolves were killed in 19C.

Q. Did Prosecutor Leaders and Trooper Gibbens [Tr. 383] use the map upon which I placed the wolf kill locations during plea negotiations against me at trial?

A. Yes.

Q. Did Prosecutor Leaders and Trooper Gibbens know the map had been falsified to support their case against me when they presented it to my jury as the reason to convict me?

A. Yes. [Tr. 384]

This sworn testimony supports the fact that my conviction was based on false evidence and testimony. This means my conviction is invalid, which Judge Morse never even mentions:

Napue v. Illinois, 360 U.S. 264 (U.S. Supreme Court 1959) *Conviction obtained through use of false evidence, known to be such by representatives of the State, is a denial of due process.*

Mesarosh v. U.S., 352 U.S. 1 (U.S. Supreme Court 1956) *[T]he dignity of the U.S. Government will not permit the conviction of any person on tainted testimony. The government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them.*

Mooney v. Holohan, 294 U.S. 103 (U.S. Supreme Court 1935) *Requirement of 'due process' is not satisfied by mere notice & hearing if state, through prosecuting officers acting on state's behalf, has contrived conviction through pretense of trial which in truth is used as means of depriving defendant of liberty through deliberate deception of court & jury by presentation of testimony known to be perjured.*

Giles v. Maryland, 386 U.S. 66 (U.S. Supreme Court 1967) *The principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, [is] implicate in any concept of ordered liberty...*

Giglio v. United States, No. 70-29 (U.S. Supreme Court 1972) *As long ago as Mooney v. Holohan, this Court made clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with 'rudimentary demands of justice.'*

It also means that DA Leaders and Trooper Gibbens committed the felony crimes of tampering with physical evidence, presenting evidence to a jury while knowing it was false, and perjury - which Judge Morse never mentions either:

AS 11.56.610. Tampering With Physical Evidence. *(a) A person commits the crime of tampering with physical evidence if the person (1) destroys, mutilates, alters, suppresses, conceals, or removes physical evidence with intent to impair its verity or availability in a official proceeding or criminal investigation; (2) makes, presents, or uses physical evidence, knowing it to be false, with intent to mislead a juror who is engaged in an official proceeding or a public servant who is engaged in an official proceeding or a criminal investigation; (b) Tampering with physical evidence is a class C felony.*

AS 11.56.200. Perjury. *(a) A person commits the crime of perjury if the person makes a false sworn statement which the person does not believe to be true.... (c) Perjury is a class B felony.*

Yet the most chilling issue, by far, is that you three Court of Appeals judges provably lied in an official document in a blatant attempt to cover up the forgoing evidence of felony corruption and constitutional violations by government officials.

12. Judge Morse corruptly did nothing after being presented evidence that DA Leaders and Gibbens falsified search warrant affidavits. [Tr.382 & 429]

Franks v. Delaware, 438 U.S. 154 (U.S. Supreme Court 1978) *[I]t would be an unthinkable imposition upon [a judge's authority] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment.*

Lewis v. State, 9 P.3d 1028, (Ak.,2000) *Once defendant has shown that specific statements in affidavit supporting search warrant are false, together with statement of reasons in support of assertion of falsehood, burden then shifts to State to show that statements were not intentionally or recklessly made. ... '[I]t would be an unthinkable imposition upon [a judge's authority] if a warrant affidavit, revealed after the fact to contain a deliberately or recklessly false statement, were to stand beyond impeachment.'*

Mapp v. Ohio, 367 U.S. 643 (U.S. Supreme Court 1961) *[A]ll evidence obtained by searches & seizures in violation of the Federal Constitution is inadmissible in a criminal trial in a state. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.*

State v. Davenport, 510 P.2d 78, (Ak.,1973) *State & federal constitutional requirement that warrants issue only upon a showing of probable cause contains the implied mandate that the factual representations in the affidavit be truthful.*

13. Judge Morse, to again cover up Leaders/Gibbens/Robinson's corruption, corruptly claims Robinson testified that, prior to trial, DA Leaders gave Robinson a copy of the false map used against me at trial. Robinson's actual testimony in front of Judge Morse:

Q [MR. HAEG]. Did you file a pretrial discovery request while you represented me?

A [MR. ROBINSON]. Yeah.

Q. Was it violated?

A. In what way?

Q. Did you ask, for anything that would be used against me at trial, to be given a copy of it to you before trial?

A. I believe, Mr. Haeg, what I did in your case, as I did in all of my criminal cases, is that I sent a standard broad request to the District Attorney's Office to reveal to me any and all evidence that it had in its possession regarding the charges against you. So I sent them a letter, yeah.

Q. Okay. Is it true that they used a map against me at trial that we, you and I, never got a copy of before trial?

A. I learned that later. [Tr. 174-175]

The fact that DA Leaders did not provide the falsified map after Robinson's discovery request for it also means my conviction is invalid, which demonstrates why Judge Morse falsely claims DA Leaders provided Robinson a copy before trial:

Brady v. Maryland, 373 U.S. 83 (U.S. Supreme Court 1963) *We hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.*

It is also clear why DA Leaders violated Robinson's discovery request by not providing Robinson and I a copy of the falsified map – DA Leaders didn't want me to discover he and Gibbens had falsified it to frame me. Now Judge Morse and this Court of Appeals are trying to cover this up - now that I finally got a copy of the falsified trial map years after my conviction.

14. Judge Morse corruptly never overturns my conviction after Robinson testifies that, prior to trial (and in violation of Robison's pretrial discovery request), he was never given

a copy of the tape-recording/transcript that captured DA Leaders and Trooper Gibbens discussing, prior to trial, how they falsified evidence to convict me: [R.3702-3703]

THE COURT [JUDGE MORSE]: -- so, Mr. Robinson, did you get a transcription of this tape that supposedly shows the state and the -- the prosecutor and the trooper talking about falsification or something like that?

A. Prior to trial?

THE COURT: Ever.

A. I didn't get anything prior to trial. And most recently, probably within the last year or so, Mr. Haeg showed me a transcript of an interview that Trooper Gibbens and Scott Leaders had --

THE COURT: -- is an interview of Leaders, Gibbens, and Zeller [sic]?

A. Correct. But, I mean, I -- by the time Mr. Haeg showed that to me, I'd already retired. I retired in January --

THE COURT: Right.

A. -- 2011.

THE COURT: You may be coming back. But you got it way back when. And this is nothing that you had seen prior to trial?

A. Prior to trial, no. (Tr. 209-210)

DA Leaders not providing the pretrial recording after Robinson's discovery request for it also means my conviction is invalid – see **Brady v. Maryland** above.

Again, it is clear why DA Leaders violated Robinson's discovery request by not providing Robinson and I a copy of the tape-recorded pretrial meeting – he didn't want me to hear he and Trooper Gibbens discussing, before trial, how they knew the wolves were not killed in my guide area and how they were conspiring to falsify physical evidence (the map) to frame me for this at trial. Now Judge Morse and this Court of Appeals are trying to cover this up after I finally got a tape-recording copy years after my conviction. Here is a transcript of Robinson's tape-recorded statements after being shown the false map and tape-recording that DA Leaders failed to provide before trial as required by Robinson's pretrial discovery request:

Since I was not provided a map copy, so I could check it for accuracy, I cannot be blamed for the jury's use of this map to convict Mr. Haeg and I cannot be blamed for Judge Murphy's use of the map's falsified GMU 19-C/19-D boundaries to sentence Mr. Haeg. Since I was not provided a tape-recording copy prior to trial or during trial, I did not know there was evidence of an intent to falsify the location of where the wolves were taken. Because of Mr. Leaders failure to abide by my discovery request this evidence was withheld and I only found out about it many years after trial. [R.3145 & 3170]

When I asked what he would have done had DA Leaders provided the required discovery:

I would have argued you didn't get a fair trial because they were using false evidence to convict you. I could have proved they were intentionally lying at trial. And you would have had evidence of their motive to do so. [R.3145 & 3170]

These statements from my trial attorney again makes it perfectly clear I was intentionally and undoubtably deprived of my right to a fair trial.

15. Judge Morse unjustly ruled: *"Haeg never told Robinson about these alleged errors during the trial."* First the tape-recording of DA Leaders and Trooper Gibbens proves their conspiracy was no "error". It was intentional evidence and testimony falsification meant to frame me, put me in prison for 2 years, and give the state my family's guide business, lodge, out buildings, runway, airplane, and $20,000 in fines. Second, I didn't find out about it until many years after my trial/conviction – because DA Leaders violated a discovery request to keep me from finding out. Third, it was Robinson's duty, who Jackie and I paid about $30,000 to defend me, to discover these "errors" – by obtaining a copy of the false map before trial (especially after he filed a pretrial discovery request for it), a copy of the tape-recording capturing Leader/Gibbens discussing how/why they falsified it (which he had also filed a pretrial discovery request for), and/or to figure out I was being framed. At the time of trial I knew nothing about discovery, didn't know Robinson had filed a discovery request (I found out long after I was convicted, fired Robinson, and obtained my file from him – in which was a copy of the discovery request he sent DA Leaders), and didn't even know DA Leaders had an obligation, even without a discovery request, to turn over anything that would prove I wasn't guilty. A pretrial tape-recording of DA Leaders and Trooper Gibbens discussing how and why they were outright falsifying physical trial evidence and trial testimony to frame me proves I wasn't guilty.

Alaska Rule of Criminal Procedure 16. Discovery (b)(3) Information Tending to Negate Guilt or Reduce Punishment. *The prosecuting attorney shall disclose to defense counsel any material or information within the prosecuting attorney's possession or control which tends to negate the guilt of the accused as to the offense or would tend to reduce the accused's punishment therefor.*

Judge Morse tries to blame then ignorant me for not figuring out how I was framed – to protect his friend Robinson. Jackie and I cashed in our retirement/kids college funds/assets/went into debt to pay for Robinson's expertise because we had no expertise. And it doesn't even matter if Robinson or I figured it out during trial – DA Leaders and Gibbens intentionally falsifying evidence and testimony and then giving it to my jury while knowing it was false means I didn't get fair trial – period. See **Napue**, **Mesarosh, Mooney**, **Giles**, and **Giglio** above.

16. Judge Morse corruptly ruled Trooper Gibbens never chauffeured Judge Murphy during my trial because there was no protest by DA Leaders – who would have protested to prevent a mistrial. There is a tape-recording capturing DA Leaders conspiring with Trooper Gibbens to falsify the trial map. The court record then proves they admitted this evidence to my jury while knowing it was false. The tape-recording also proves DA Leaders solicited and accepted trial testimony from Trooper Gibbens that both knew was false when given. All these felony actions would result in a mistrial – and would bring into question DA Leaders professional ethics. If DA Leaders was willing to commit multiple felonies to convict me, he would not think twice about not protesting the chauffeuring, which wasn't even a crime.

17. Judge Morse unjustly ruled that the sworn testimony by all 5 separate witnesses (that Judge Murphy was chauffeured by Trooper Gibbens every morning, noon, and night of my 7-day trial and 2-day sentencing) was *"not credible."* This is in the face of not a single defect found during cross-examination by AAG Peterson; neither Judge Murphy nor Trooper Gibbens being willing to testify that the chauffeuring did not happen; zero testimony from anyone else that it didn't happen; zero other evidence that it didn't happen; Judge Morse's illegal exclusion of the testimony of a sixth witness who seen Judge Murphy being chauffeured by Trooper Gibbens every morning, noon, and night (deceased trooper Wendell Jones' prior sworn testimony – which Judge Morse said could not be used as it was "hearsay" – yet see **Evidence**

Rule 804, which proves Trooper Jones' testimony had to be admitted); Judge Murphy admitting on the official tape-recording of my case that *"I'm going to commandeer Trooper Gibbens and his vehicle because I don't have any transportation"*; and Gibbens sworn affidavit not denying he chauffeured Judge Murphy and admitting that he frequently gives rides to anyone who needs one because there is no public transportation in McGrath (Judge Murphy flew in to McGrath, population 300, from Aniak to conduct my trial in a Iditarod Sled Dog Race checkpoint building and thus had no transportation of her own). The truth was proven when neither Judge Murphy nor Trooper Gibbens took the stand to deny it happened – if they did cross-examination would prove they were committing perjury.

18. After allowing me to present evidence and testimony proving it [Tr.36-566], Judge Morse corruptly never ruled on the evidence of crimes, corruption, and cover up by judge investigator Greenstein – even though it proved there was a high-level cover up of Judge Murphy being corruptly chauffeured during my trial by the main trial witness against me (Trooper Gibbens) – at that during this time Judge Murphy removed evidence (proving I killed the wolves where the state told me to) out of the official court record before my jury could see it. Evidence that Judge Morse (and this court) is covering up incredibly serious corruption stems from my complaint against Judge Murphy to Alaska's sole investigator of judges for the past 30 years, Alaska Commission on Judicial Conduct executive director Marla Greenstein. Greenstein is tape-recorded stating she exonerated Judge Murphy because she (Greenstein) contacted all the witnesses I provided her in my written complaint and stating that none observed Trooper Gibbens chauffeuring Judge Murphy. [R.3719-67] However, when Judge Joannides told me to contact the witnesses afterward, every single one swore out an affidavit stating that Greenstein had never contacted them and that each personally witnessed Gibbens chauffeuring Judge Murphy continuously during my prosecution. [R.3719-67] When Judge Joannides ordered Greenstein to produce her "investigative report" of my complaint, Greenstein refused to provide it as ordered. Judge Joannides ruled that Gibbens chauffeured Judge Murphy during my prosecution [R.1282-84]; certified the evidence against Judge Murphy and Greenstein and placed it in the record of my case [R.1005-76]; and sent it to the Alaska Commission on Judicial Conduct (all nine members individually – who are supposed to review Greenstein's

investigations), Judicial Council, Bar, Department of Law, and Ombudsman. [R.1282-84]; Not one agency investigated (the Ombudsman stated she "*didn't have the horsepower to go up against Greenstein*"). When I filed a Bar complaint against Greenstein (an attorney), she wrote a certified response stating that she didn't just contact the witnesses I gave her, she also contacted Robinson, my trial attorney. [Ex. 6 & R.3937] Yet Robinson testified that Greenstein had never contacted him either [Tr.285]. So Greenstein falsified a certified document (felony perjury) to cover up that she falsified an official investigation to cover up for Judge Murphy and Gibbens.

I gave this evidence of Greenstein's' perjury to the Bar – who did nothing. The witnesses (whose testimony Greenstein falsified) asked to testify to the ACJC about Greenstein's corruption. The ACJC refused to allow them to testify even though ACJC rules state it encourages public testimony. When the witnesses showed up hoping to testify anyway, they were met at the door by a trooper SWAT team [3160]. I gave Greenstein's certified written response to Judge Morse [Ex. 6 & R.3937-39] and had Robinson and all other witnesses Greenstein claimed to have contacted (other than deceased Trooper Jones) testify to Judge Morse that Greenstein falsified her investigation of Judge Murphy and then falsified a certified document to cover up. [See all transcription] All witnesses were cross-examined by AAG Peterson without a single flaw found. Judge Morse said that proving Greenstein falsified an official investigation to corruptly cover up for Judge Murphy's corruption during my trial means nothing [Tr.529] – in exact opposition to what the Alaska Supreme Court ruled:

In Re Johnstone 2 P.3d 1226 (AK Supreme Court 2000) *Alaska statutory law and the Code of Judicial Conduct hold judges to the highest standard of personal and official conduct .... [a] judge's unethical or seemingly unethical behavior outside the courtroom detracts from the efficient administration of justice and the integrity of the judicial office, as it diminishes respect for the judiciary in the eyes of the public. One way to protect the public is to remove the offending judge from office.* ***Another way to protect the public is to keep it informed of judicial transgressions and their consequences, so that it knows that its government actively investigates allegations of judicial misconduct and takes appropriate action when these allegations are proved. Judicial discipline thus protects the public by fostering public confidence in the integrity of a self-policing judicial system.***

Some of the sworn testimony before Judge Morse that proves the falsified investigation and felony coverup by judge investigator Greenstein:

MR. HAEG: Q. Does this recollect your -- can you read this and tell me if this is a true –

A [MR. ROBINSON]. What is it, David?

Q. It is a response, a certified response by Marla Greenstein to the Alaska Bar Association. And in it she says, in Mr. Haeg's matter, I interviewed Mr. Haeg's attorney, Arthur Robinson. Is that a true statement, Mr. Robinson?

A. I -- I was never interviewed by her. [Tr. 285]

MR. PETERSON: -- So what's –

MR. HAEG: Okay.

MR. PETERSON: -- the purpose of this?

MR. HAEG: This is a proof –

THE COURT: I have no idea.

MR. HAEG: -- that there was a cover-up by the Alaska Commission on Judicial Conduct that my judge was chauffeured by the main witness against [Tr. 286] me during my trial. And I, as an American citizen, has a constitutional right to an unbiased judge. And not only was my judge running around full-time with the main witness against me –

THE COURT: Mr. Haeg, let me help you out here.

MR. HAEG: -- the only person that investigates judges in this state falsified an official investigation. And not only did she do that, when I filed a bar complaint, she then falsified a certified document to cover up her corrupt investigation. And I want it on the record.

MR. PETERSON: So it's irrelevant, and it shouldn't be admitted.

THE COURT: It's admitted. (Exhibit 6 admitted)

MR. HAEG: It proves there was a cover-up.

THE COURT: Mr. Haeg, I'm admitting it.

MR. HAEG: Okay. Thank you, Your Honor. [Tr. 287]

THE COURT: Mr. Haeg, rather than spend time convincing me that Gruenstein -- Greenstein made some sort of false allegation, it would be more helpful to your case if you put the witnesses on who saw Judge Murphy driving around with the trooper.

MR. HAEG: Okay.

THE COURT: That's the important part. Not that the judicial conduct commission is a fraudulent entity. Not that Marla is a lying –

MR. HAEG: But you –

THE COURT: -- person.

MR. HAEG: -- see, Your Honor –

THE COURT: What's important –

MR. HAEG: -- you -- what you –

THE COURT: -- for your case in this hearing is for you to prove that, in fact, Judge Murphy drove around with the trooper. So if you have witnesses of that, those are more important witnesses.

MR. HAEG: What I believe –

THE COURT: But your –

MR. HAEG: -- is more important –

THE COURT: But –

MR. HAEG: -- for the citizens of this state to know that the only investigator of judges for the past 30 years, and that's investigator of you –

THE COURT: Mr. Haeg.

MR. HAEG: -- and every other judge in this state –

THE COURT: Mr. Haeg.

MR. HAEG: -- is falsifying –

THE COURT: Mr. Haeg.

MR. HAEG: -- investigations to cover up for corrupt judges. [Tr. 289-290]

MR. HAEG: Q. Were you a state witness during my trial in McGrath?

A [MR. ZELLERS]. Yes.

Q. Did you also attend my sentencing in McGrath on 9/29/05 and 9/30/05?

A. Yes.

Q. On these days, were you present -- at both trial and sentencing, were you present in court every hour that court was in session?

A. After I was called as a witness, I was present in court. Prior to being called as a witness, I was held at the trooper office until going up, Your Honor.

Q. Okay. On 7/28/05 [sic] and 9/29/05, did you personally observe Judge Margaret Murphy being shuttled in a white trooper pickup truck driven by Bret Gibbens?

A. Yes. Q. Did you observe them leave -- did you observe Judge Margaret Murphy leaving and returning with Trooper Gibbens in the same truck during breaks, lunch, and dinner, and finally leave with Trooper Gibbens when court was finished for the day?

A. Yes.

Q. Did nearly all the rides that you witnessed -- were nearly all of them -- did most of them happen before I was sentenced?

A. Yes.

Q. And, just to be clear, a lot of them that you seen was during trial; correct?

A. Correct.

Q. Because you were a state witness, and you were at the –

A. Correct.

Q. Was Trooper Gibbens the primary witness against me at trial?

A. Yes.

Q. At any point ever, during both trial and sentencing, did you ever see Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens?

A. No.
Q. Has anyone, other than myself, ever contacted you about whether or not Trooper Gibbens gave Judge Murphy rides during my trial?

A. No. [Tr. 385-387]

BY MR. PETERSON: Q. So, Mrs. Haeg, you testified that you heard on the record the Court asked about getting a Diet Coke from the trooper; right?

A [MS. Haeg]. She ask- --

Q. Or say that he was getting -- that she was going to commandeer his vehicle to get a Diet Coke; right?

A. She wanted him to take her to the store. I did hear that, yes.

Q. And then when they came back on the record, she explained that no ex parte communication occurred?

A. I don't remember that.

Q. You don't remember that?

A. I don't remember that, no.

Q. Okay. Are you aware that she filed an affidavit in this matter, stating that the only ride that she ever received from Trooper Gibbens was after the sentencing, because it was late at night –

A. Yes, I'm aware –

Q. -- in McGrath?

A. -- of that. I am aware of that, yes. [Tr. 472-473]

MR. HAEG: Can I ask one more question?

THE COURT: Sure.

Q. The affidavit that Judge Murphy swore to under penalty of perjury that she only got one ride and it was after I sent -- after our sentence, is there any doubt whatsoever in your mind that that is a false affidavit?

A. Not -MR. PETERSON: Objection; calls for speculation.

THE COURT: Overruled. You can answer that question.

A. I believe her statement was false. No doubt.

Q. Based on personal –

A. Based –

Q. -- observation?

A. -- on everything I saw, yes. [Tr. 475]

[Tr.477-487] Another witness to: (1) Judge Murphy being chauffeured by Trooper Gibbens before I was sentenced; (2) judge investigator Marla Greenstein falsifying an official investigation to corruptly exonerate Judge Murphy; and (3) Judge Murphy falsifying a sworn affidavit to cover up her corruption.)

[Tr.502-510]Another witness to: (1) Judge Murphy being chauffeured by, and eating with, Trooper Gibbens before I was sentenced; (2) judge investigator Marla Greenstein falsifying an official investigation to corruptly exonerate Judge Murphy; (3) judge investigator Marla Greenstein falsifying a certified document to cover up her own corruption and (4) Judge Murphy falsifying a sworn affidavit to cover up her own corruption.)

[Tr.514-566] Another witness to: (1) Judge Murphy being chauffeured by, and eating with, Trooper Gibbens during my trial; (2) Judge Murphy destroying properly admitted evidence; (3) judge investigator Marla Greenstein falsifying an official investigation to corruptly exonerate Judge Murphy and (4) Judge Murphy falsifying a sworn affidavit to cover up her corruption.

Superior Court Judge Stephanie Joannides' ruling on the chauffeuring [R.1282-84]:

"On July 28, 2010, this court issued an order narrowing the issue of whether Judge Murphy should recuse herself to the question of whether her contacts with prosecution witness Trooper Gibbens during the trial and sentencing proceedings warranted recusal on the appearance of impropriety. ***I found that, at a minimum, there was an appearance of impropriety."***

19. Judge Morse corruptly ruled that Robinson never seen Judge Murphy riding with Gibbens during my trial. Robinson testified to Judge Morse that he in fact stated (in a tape-recording) this on February 4, 2011: *"I remember seeing Margaret [Murphy] riding around with Trooper Gibbens in the trooper car...during your trial."* [R.256-63 & Tr.1986-2005]

20. Judge Morse corruptly ruled that he is taking *"judicial notice of the fact that Haeg did not raise a claim that Murphy and Gibbens had inappropriate interaction at any time during the trial, at sentencing, or on his direct appeal."* This is bizarre as I claimed over and over the full time chauffeuring of Judge Murphy by Trooper Gibbens during my trial and sentencing was inappropriate and that at this time Judge Murphy removed my evidence (proving I killed the wolves where the state told me to) out of the court record before my jury could see it:

Haeg alleged/provided independent witness affidavits that, (a) while Murphy presided over Haeg's trial she was chauffeured full time by, & had meals with, the main trial witness against Haeg (Gibbens); (b) Murphy, at Gibbens request, eliminated Haeg's evidence out of trial record; (c) Murphy refused to do anything about Gibbens trial perjury; (d) knowing it was false, accepted & used Gibbens perjury against Haeg; (e) Murphy made conflicting orders to harm Haeg; (f) Murphy refused to do anything about violations of Haeg's rights after they were pointed out to her; (g) Murphy/Gibbens falsified testimony to cover up their trial contacts; (h) that if Murphy/Gibbens falsified testimony to cover up their trial contacts they must have conspired to harm Haeg; (i) Murphy/Gibbens conspired with investigator Greenstein to cover up their trial contacts; (j) Murphy/Gibbens falsified affidavits to cover up their trial contacts; (k) Greenstein falsified her investigation of contacts; & (l) Greenstein committed perjury to cover up her corrupt investigation. (Haeg provided tape recordings, certified by Judge Joannides as true, which prove forgoing) No reasonable person can claim Haeg didn't already prove appearance of impropriety or that Haeg didn't make a prima facie [requiring an evidentiary hearing] case. Judge Joannides already ruled Haeg has done both. [R. 00032 46, 01335-1421, 01434-1439, 01475-1514, 02518-2523, 02531-2563, 03063-3105]

"A trial judge's involvement with witnesses establishes a personal, disqualifying bias." ***Bracy (U.S. Supreme Court 1997)***

"[A] trial court must be ever mindful of the sensitive role it plays in a jury trial & avoid even the appearance of advocacy or partiality." ***United States v. Harris, 501 F.2d 1 (9th Cir. 1974)***

Alaska Code of Judicial Conduct: Canon 2. A Judge Shall Avoid Impropriety & the Appearance of Impropriety. *" The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, & competence is impaired."*

Main witness against Haeg chauffeuring /dining with Murphy while she presided over Haeg's trial violated all of the above – then Murphy & Gibbens made it a thousand times worse by lying to cover it up.

21. Judge Morse corruptly ruled: *"The testimony that Murphy and Gibbens drove together, at every break and to and from the courthouse, proves too much. If this would have*

occurred this frequently, then Haeg would not have remained silent about it. He would have protested the conduct of Murphy and Gibbens to Robinson or directly to Judge Murphy in open court. One of the witnesses or Haeg would have taken pictures of this behavior. I did not remain silent about it. I protested to Robinson and he told Jackie and I that this was the way it was in the villages and that there was nothing he could do. [Tr. 515] Judge Morse ruled my and Jackie's sworn testimony - that I protested the chauffeuring to Robinson – *"was not credible"* - then Judge Morse rules the proof the chauffeuring didn't occur is that I never protested. This is unbelievably twisted and corrupt logic. As for taking pictures we, and all the witnesses, had flown to McGrath for my trial and sentencing, which took place in 2004 – before any of us had cell phones with cameras in them. And, after Robinson told Jackie and I (when I complained) that *"this is the way it is in villages"* we didn't even know what was happening was prohibited/should be photographed – until we started researching long after my conviction.

22. Judge Morse corruptly issued a written order that I could not depose attorney Robinson because he was *"deceased"*, when in fact Robinson was, and still is, alive and well. See Judge Morse's 1-16-18 written order [R.3089]; Robinson's 1-17-19 video stating he was alive and well (on Facebook page Alaska, State of Corruption and YouTube); and Robinson's appearance at my 1-28/29-19 hearing. [Tr. 173-316 & 320-375]

23. Judge Morse falsified court rules to keep me from presenting witness testimony in my favor at my evidentiary hearing. When I tried to present prior testimony from a now deceased witnesses Judge Morse told me that the death of a witness was not an exception to the hearsay rule when in fact it is. [Tr. 509] See **Alaska Rule of Evidence 804:**

Rule 804. Hearsay Exceptions – Declarant Unavailable. (a) **Definition of Unavailability**
Unavailability as a witness includes situations in which the declarant (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity;

When AAG Peterson brought in Judge Murphy's affidavit stating that she never rode with Trooper Gibbens during my trial or sentencing, Judge Morse allowed it although she is still alive and able testify in person. It is clear why the state never brought in Judge Murphy or

Trooper Gibbens to personally refute the testimony from the 5 witnesses (6 if you include deceased Trooper Jones) that Trooper Gibbens chauffeured Judge Gibbens every morning, noon, and night of my 7-day trial and 2-day sentencing – Murphy and Gibbens would have had to commit perjury to do so – although Judge Murphy's affidavit proves she committed perjury anyway. So Judge Morse allowed the state to bring in hearsay statements from witnesses who are alive and available to testify (meaning there is no hearsay exception) while telling me I cannot bring in hearsay statements from witnesses who are deceased (and thus actually have a valid exception). This is further proof of Judge Morse's actual bias against me and in favor of the state. A statement Judge Morse did not allow in (in violation of **Evidence Rule 804**) was from deceased Alaska State Trooper Wendell Jones – who stated the following in his affidavit that was placed into the record of this case by Superior Court Judge Stephanie Joannides on August 27, 2010 [R.1005-76] – along with numerous other affidavits stating virtually the same:

AFFIDAVIT

1. My name is Wendell Jones and I am a former Alaska State Trooper.
2. I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued straight through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks and dinner; and leave with Trooper Gibbens when court was finally finished on 9-30-05. Nearly all the rides I witnesses Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.
4. Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.
5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.
6. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY
I, WENDELL JONES, swear under penalty of perjury that the statements above and information included are true to the best of my knowledge.

Mr. Jones signed the affidavit in front of Alaska Notary Public Cully Wooden on July 26, 2010 – who subscribed and certified Mr. Jones' signature.

Testimony from deceased attorney Mark Osterman (who researched the entire record of my prosecution to write an appeal) that Judge Morse also refused in violation of **Rule 804**:

"It's the biggest sellout I've ever seen...you [Haeg] didn't know Cole and Robinson were goanna load the dang dice so the state would always win. Scot Leaders stomped on your head with boots...he violated all the rules & your attorney allowed him, at that time, to commit all these violations" [R.174-263]

24. Judge Morse asked for attorney testimony on whether I received ineffective assistance from my attorneys – but then never addressed the testimony from attorney Mark Osterman above [R.174-263] **or that from 35-year Alaskan attorney Dale Dolifka, who testified that after he read everything about my prosecution it was his opinion that both Cole and Robinson gave me ineffective assistance:**

MR. HAEG: Q. I'd just like to say thank you for coming, Mr. Dolifka. After what happened in my case with Brent Cole and Chuck Robinson, did you start reading documents in my case and became so confused and concerned that you contacted Judge Hanson?

A. That's true.

Q. And what did you and Mr. Hanson talk about?

A. Well, your case. I was very puzzled. And I had total faith in him. He had been my mentor as a superior court judge. He was appalled, and he was disgusted, and he was confused, which left me –

THE COURT [JUDGE MORSE]: Now, wait. Wait.

MR. PETERSON: Objection. What's going on?

THE COURT: Slow down.

MR. PETERSON: I'm going to object to relevance. I'll start there.

THE COURT: What are we doing here? Explain to me what you want Mr. Dolifka to say. That he read some stuff, he wasn't happy, he talked to Judge Hanson?

MR. HAEG: Yes.

THE COURT: Judge Hanson's statements to him are not admissible.

MR. HAEG: Okay. Q. Is it -- is it true that Alaska's attorneys have banded together against me?

MR. PETERSON: Objection; relevance.

THE COURT: You're going to have to do a little more than that just to simply ask him some opinion.

MR. HAEG: Okay. Well –

THE COURT: You've got to show a basis for opinion. You've got to show –

MR. HAEG: I'm sorry. Q. Are you an attorney licensed in this state?

A. Yes. [Tr. 407-409]

Q. Have you been involved with this case, or familiar with this case?

A. Yes.

THE COURT: How so?

THE WITNESS: Well, Mr. Haeg was my client. He had a corporation with an airplane in it. So do you want me to say more? Or that's –

THE COURT: That's not much. That's got little to do with –

THE WITNESS: Well, that's –

THE COURT: My assumption is that you know something about the prosecution. And I want to know, were you part of the prosecution? Were you -- attend the trial? Did you read the transcripts? You tell me what you seem to know about this. Where did you get your –

THE WITNESS: Well, I read, probably, everything about the case.

VOIR DIRE BY THE COURT: Q. My question to you is, you apparently have made an -- after the conclusion of Mr. Cole's representation have done an investigation of some sort and have come to a conclusion about the quality of that representation. Am I correct so far?

A [MR. DOLIFKA]. Yes.

Q. Did you make your opinion about the quality of the representation during his representation or only after it was concluded?

A. Well, both.

Q. Do you think Mr. Cole gave ineffective assistance of counsel?

A. Based on what I've seen and what I'm allowed -- I'm not a criminal attorney -- I would say, yes, it was ineffective counsel.

Q. Okay. Do you have an opinion about whether Mr. Robinson gave ineffective assistance of counsel to Mr. Haeg?

A. Yes.

Q. What is that opinion?

A. It was ineffective. [Tr. 412-418].

A. Well, there's that. You got to remember I sat in the courtroom just like this one other time with the judge, went through this same process. And certainly appeared to me that that judge thought you'd been ineffectively represented. So I guess I added that to it. Went with you to the FBI. I mean, again, I'm just speaking as a layperson. I don't have to be a lawyer to read these things and believe that something was inherently wrong. So – [Tr. 420-421]

Q. Did you ever read in the court documents and find out from Mr. Robinson or Mr. Cole, that the warrants, the affidavits used in the warrants to seize my airplane had been falsified; that all the evidence locations had been falsified, my guide area?

A. Well, when I talked with Robinson about representing you, I think the issues about the airplane were probably the most egregious. That's how I remember it. [Tr.429]

[MR. HAEG] Q. Can I ask you this Mr. -- is it true, Mr. Dolifka, you have been a criminal defense attorney at one point?

A. I did misdemeanors for the Teamsters, DUIs. I did not do felonies. [Tr. 433]

BY MR. HAEG: Q. Is it true that when they seized my airplane, which I used for my business, they were required to give me a prompt post-seizure hearing; is that your understanding?

A. Yes, that was my understanding. **[See Waiste v. State, 10 P.3d 1141 (AK Supreme Court)]**

THE COURT: Do you have any cross-examination?

MR. PETERSON: I do. Q. So, Mr. Dolifka, you just said there was a question about the outrageous process with which Mr. Haeg was prosecuted. What was outrageous about it?

A. Well, you've got to remember my state of mind during this whole process. That was a very dark time on the Kenai Peninsula. And a lot of my concern with Haeg's cases was a concern for everything that was going on down there. And I know that's irrelevant, but that would answer that question. It was not just David Haeg's case.

Q. Okay. So with respect to his case specifically, there was nothing that was outrageous about the prosecution. It's just, generally, what you say was happening made you feel that way; is that right?

A. I think a lot of us in the Kenai Peninsula during that era, felt that our judicial system down there was becoming unmoored –

Q. I didn't ask for a colloquy about the judicial system, generally.

A. I had concern about the judicial system, in general.

Q. But not specifically about Mr. Haeg's case?

A. Well, included Haeg's.

Q. So any case, any prosecution was outrageous on the Kenai Peninsula at that time?

A. Not any. Some.

Q. Some. How many?

A. Well, you got to remember, I served on a grand jury during this era, which –

Q. We're not going to get into that.

A. Okay. Well, then I can't answer your question. I was concerned about the system at the time, not every single case; some cases. And his case was one of them. [Tr. 440-442]

25. Judge More never addressed the evidence (testimony from attorneys that they were subject to threats and harm) that the state was threatening to harm, and actually harming, attorneys who tried to protect the forgoing – and that this led them to lie to me and not protect what was happening to my family and I. [R.1970-86, 2839-45, 3195, & 3575-87]

Anders v. California, 386 U.S. 738 (U.S. Supreme Court 1967) *[Defendant] has a right to an attorney who wants to protect the defendant's 'rear end', not the attorney's."*

Cuyler v. Sullivan, 446 U.S. 335 (U.S. Supreme Court 1980) *[A] defendant who shows that a conflict of interest actually affected the adequacy of his representation need not demonstrate prejudice in order to obtain relief. An actual conflict of interest negates the unimpaired loyalty a defendant is constitutionally entitled to expect and receive from his attorney.*

Holloway v. Arkansas, 435 U.S. 475 (U.S. Supreme Court 1978) *[I]n a case of joint representation of conflicting interests, the evil -- it bears repeating -- is in what the advocate finds himself compelled to* refrain *from doing, not only at trial but also as to possible pretrial plea negotiations and in the sentencing process...to assess the impact of a conflict of interests on the attorney's options, tactics, and decisions in plea negotiations would be virtually impossible.*

Osborn v. Shillinger, 861 F.2d 612 (10th Cir. 1988) In fact, *an attorney who is burdened by a conflict between his client's interests and his own sympathies to the prosecution's position is considerably worse than an attorney with loyalty to other defendants, because the interests of the state and the defendant are necessarily in opposition. [Defendant's] attorney didn't simply make poor strategic choices; he acted with reckless disregard for his clients best interests and, at times, apparently with the intention to weaken his client's case. Prejudice, whether necessary or not, is established under any applicable standard.*

Risher v. State, 523 P.2d 421 (Ak Supreme Court 1974) *Defense counsel ... must conscientiously protect his client's interest, undeflected by conflicting consideration.*

Strickland v. Washington, 466 U.S. 668 (U.S. Supreme Court 1984) *[P]rejudice is presumed when counsel is burdened by an actual conflict of interest. In those circumstances, counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties. Moreover, it is difficult to measure the precise effect on the defense of representation corrupted by conflicting interests.*

United States v. Cronic, 466 U.S. 648 (U.S. Supreme Court 1984) *Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.*

Smith v. State, 717 P.2d 402 (Ak 1986) *We believe it self-evident that an indispensable component of the guarantee of effective assistance of counsel is the accused's right to be advised of basic procedural rights, particularly when the accused seeks such advice by specific inquiry. Without knowing what rights are provided under law, the accused may well be unable to understand available legal options and may consequently be incapable of making informed decisions.*

26. Judge Morse never discussed the evidence that Cole and Robinson conspired together to harm me. I gave Judge Morse a letter found in Robinson's file on me after I fired him and obtained access to it. [Ex. 8 & R.3946-47] The letter was from Cole to Robinson. In the letter Cole informed Robinson that Cole did not intend on complying with the subpoena I had

Robinson serve Cole so Cole must testify at my sentencing. Testimony was given to Judge Morse that I had given Robinson written questions to ask Cole at my sentencing [Tr.324, 481-82, 508 & R.168-71] – about how Cole and DA Leaders had Jackie and I give up a year of guiding for a plea agreement with minor charges (made before I found out Cole was lying that the state telling me to kill the wolves where I did was not a legal defense), how DA Leaders filed severe charges never agreed to after Jackie and I had already given up a year of guiding for the minor charges, and how Cole said nothing could be done about it. [Tr.453-55, 479-80, & 505-06] Robinson never told me about Cole's letter, but did tell me there was nothing that could be done when Cole didn't appear as subpoenaed (when **Criminal Rule 17(g)** proves something could be done), and now testified he didn't have to protest Cole not obeying the subpoena because it was up to the court to do so even if he didn't protest. Yet this is patently false – if someone doesn't obey a subpoena it is up to the issuing person to ask the court to enforce it. Had Cole testified at my sentencing as the subpoena required, it would have been proven I had paid for charges far less severe than what I was convicted of – meaning my trial was again invalid according to all U.S Supreme Court caselaw. It would have proved DA Leaders committed prosecutorial misconduct by breaking the agreement after I paid for it. It would have proved Cole had committed ineffective assistance/malpractice by not trying to enforce it. So Robinson protected everyone but my family after we paid him $30,000 to protect us. I didn't even get credit for the year of guiding already given up (as U.S. Supreme Court caselaw requires) when I was sentenced to a 5-year license revocation (with Leaders and Gibbens outright testifying on the record that they had no idea why Jackie and I had given up guiding for a year before I was convicted – to make sure I didn't get credit – and in exact opposition to Cole, who testified in his deposition that DA Leaders knew I gave up the guide year for a plea agreement).

Alaska Criminal Rule 17(g) Subpoena Contempt. *Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued.*

North Carolina v. Pearce, 395 U.S. 711 (U.S. Supreme Court 1969) *The basic Fifth Amendment guarantee against double jeopardy, which is enforceable against the States by the Fourteenth Amendment, is violated when punishment already exacted for an offense is not fully "credited". [T]he Constitution was designed as much to prevent the criminal from being twice punished for the same offence as from being twice tried for it. We hold that the constitutional*

guarantee against multiple punishments for the same offense absolutely requires that punishment already exacted must be fully "credited" in imposing sentence...

Calder v. State, 619 P.2d 1026, (AK 1980) *The double jeopardy clause... protects against multiple punishments for the same offense.*

Closson v. State, 812 P.2d 966 (AK 1991) *Where an accused relies on a promise... to perform an action that benefits the state, this individual...will not be able to "rescind" his or her actions. ... In the plea bargaining arena, the United States Supreme Court has held that states should be held to strict compliance with their promises. ...courts consider the defendant's detrimental reliance as the gravamen of whether it would be unfair to allow the prosecution to withdraw from a plea agreement.*

27. Judge Morse never ruled on the evidence that I was given immunity that prohibited prosecution. Attorneys Cole and Kevin Fitzgerald testified under oath that DA Leaders had given me *"transactional immunity"* for the statement that DA Leaders and Trooper Gibbens required me to give concerning my participation in the Wolf Control Program. [R.3148] It was during this "statement" that Leaders and Gibbens required me to place wolf kill locations on their map – the same map they later falsified with corrupt boundaries. Fitzgerald also testified that after I had given the statement and kill locations DA Leaders affirmatively told Cole and Fitzgerald that he *"was not going to honor the immunity"*. [R.68-72 & 3148] Transactional immunity, the only type allowed in Alaska (see **State of Alaska v. Gonzalez)**, means you cannot be prosecuted for anything discussed during the related statement. Yet not only was I prosecuted when I could not be, DA Leaders and Trooper Gibbens used the kill locations they got from me to do so – violating my right against self-incrimination. See also **Kastigar** and **North.**

Black's Law Dictionary (9th Ed.2009). *"Transactional immunity" affords immunity to the witness from prosecution for the offense to which the compelled testimony relates.*

Webster's New World Law Dictionary, copyright 2010 *Transactional immunity – a grant of immunity to a witness by a prosecutor that exempts the witness from being prosecuted for the acts about which the witness will testify.*

28. Judge Morse never ruled on a specific issue remanded by this Court. See page 3 of this court's order, if Robinson was ineffective for *"failing to properly advise Haeg regarding the strength of his defense."* See also page 50 of this court's order, if Robinson was ineffective *"for providing incompetent advice about the strength of Haeg's defense."* [R.3390-439]

Robinson testified that my only defense during my trial and on appeal was that the court did not have subject-matter jurisdiction because DA Leaders did not swear an affidavit to the charging information. [R.123 & Tr.227-56] Yet subject-matter jurisdiction is set by state statute and **AS 22.15.060** states this:

AS 22.15.060 Criminal Jurisdiction. (a) *The district court has jurisdiction (1) of the following crimes: (A) a misdemeanor*

Since I was charged in district court with misdemeanors it is irrefutable that the court had subject-matter jurisdiction - no matter what DA Leaders did or did not do.

Robinson testified that he told me the U.S. Supreme Court cases **Albrecht v. U.S.** and **Gerstein v. Pugh** supported the defense that Leaders not swearing an affidavit to the charging information deprived the court of subject-matter jurisdiction. [Tr.236] First, both these cases concern pretrial arrest/detention and "personal" jurisdiction exclusively – *and have nothing at all to do with "subject-matter" jurisdiction.* Second, both hold that a prosecutor not swearing an affidavit to the charging information does *not* invalidate a court's jurisdiction over a defendant.

Robinson told me not to bring up defenses other than subject-matter jurisdiction, as this would *"waive"* subject-matter jurisdiction. [Tr.514-564] Yet subject matter jurisdiction *cannot* be waived. (See **Cornell Law School, Subject-Matter Jurisdiction:** *While litigating parties may waive personal jurisdiction, they cannot waive subject-matter jurisdiction.*)

So for a defense that was undoubtably and provably no good, Robinson had me sacrifice all other valid defenses. This is exactly like your doctor giving you a pill for a deadly infection – and telling you for the pill to work you must not take any antibiotics or penicillin. And when you ask for proof the pill is good, giving you bogus proof – and when you start investigating the pill yourself, finding out it is nothing but a sugar pill. In other words to make sure you would die, your doctor gave you something he knew wouldn't cure the infection - and to make sure you didn't take any antibiotics or penicillin that might save you (as you instinctively would if a doctor didn't tell you different), tell you that this would jeopardize his miracle pill.

29. During my hearing (and in his written decision) Judge Morse ruled that during plea negotiations I had marked the wolf kill locations on the map which was then used against me at trial (after DA Leaders and Trooper Gibbens falsified the boundaries on it). When

Judge Morse asked AAG Peterson if the state disputed this, Peterson couldn't. [Tr.405-07] This again means my trial is invalid. Period. Yet Judge Morse never overturned my conviction.

Alaska Rule of Evidence 410. Inadmissibility of Plea Discussions in Other Proceedings. *(a) Evidence of ...statements or agreements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case or proceeding against the government or an accused person who made the plea or offer if: (i) A plea discussion does not result in a plea of guilty or nolo contendere...*

30. Judge Morse corruptly claims that Robinson never recommended that I go to trial and had nothing to indicate he should seek enforcement of the plea agreement Cole made. Numerous documents from Robinson himself, prove this is false. Two of them: (1) Robinson's billing statement to me which states: *"Recommend David go to trial."* [R.3150] (2) a letter from Joe Malatesta (Robinson's private investigator) to Robinson – a letter which I found out about only after I fired Robinson and got my file from him. [Ex. 7 & R.3940-45] In this letter Malatesta states he investigated what happened with the plea agreement Cole had made for me; stated that Cole admitted DA Leaders had broken my plea agreement and stated that he (Malatesta) recommended that Robinson file a motion to enforce the agreement – something Robinson never did and never told me he could do – telling Jackie and I that everything Cole had done *"was water under the bridge"* and he couldn't do anything about it.

31. Judge Morse's decision falsified this court's order. Judge Morse claimed I was required to, and never did, question Robinson *"for failing to correct the apparent inaccuracies regarding the location of the kill sites and for failing to move for a new sentencing on that basis."* Yet this court's order [R.3390-3439], on page 44, proves it was Judge Morse who was supposed to question Robinson and never did – no doubt to again cover up for his friend:

"Accordingly, on remand, we direct the district court to have Robinson provide an explanation for why he did not challenge the apparent factual inaccuracies presented at sentencing, especially once it became clear that the judge was relying on these inaccuracies in imposing Haeg's sentence."

32. Judge Morse ignored that fact that every issue I provided physical evidence and sworn witness testimony to prove was never refuted by the State – and ignored that fact that each of these proves my conviction is invalid. This includes the fact that DA Leaders and

Trooper Gibbens falsified evidence before trial (proven by a pretrial tape-recording of Leaders/Gibbens discussing how/why they did this); Leaders/Gibbens presented this evidence to my jury while knowing it was false; Leaders/Gibbens suborned/committed trial perjury (proven by the pretrial tape-recording of Leaders/Gibbens); Judge Murphy, after I submitted it for my defense, corruptly destroyed my evidence (proving I killed the wolves where the state told me to) before my jury seen it; that Gibbens chauffeured Judge Murphy during my entire trial and had Judge Murphy destroy my evidence so Leaders/Gibbens/state could frame me; that during plea negotiations I placed the wolf kill locations on the map that was then used against me at trial (after DA Leaders and Trooper Gibbens falsified the boundaries on it to make it corruptly seem as if I killed the wolves in my guide area instead of where the state told me to); etc; etc.

33. Judge Morse and this Court of Appeals have corruptly stated that I admitted I was guilty of killing the wolves in my guide area to benefit my guide business. I have never admitted this. What I have admitted to is that the state approached me and told me they needed my expertise as a master big game guide and bush pilot to ensure the success of their controversial Wolf Control Program, that the state gave me a permit to kill wolves, and that I killed the wolves exactly where the state told me to.

The probable reason for the frame job and resulting massive coverup is the fact that the state was not authorized to have wolves killed where they told me to kill them. And rather than admit their mistake (which may have ended the Wolf Control Program forever, as animal rights activists were suing in court to stop it by claiming the state was running it fraudulently), they went in and removed my evidence (proving I killed the wolves where the state told me to) out of the court record before my jury could see it, and then manufactured the case I was killing the wolves in my guide are to benefit my guide business – to provide a motive (other than me following their instructions) for me to kill wolves outside the authorized area.

34. Judge Morse never addressed the sworn testimony from my own attorneys that they told me it was not a legal defense that the state told me to kill the wolves where I did – when in fact it is a complete defense. [Tr.137] In fact, in his decision, Judge Morse blamed me for not bringing it up - after my attorneys testified under oath to him that they told me it wasn't a

legal defense. It was only at our business attorney's advice that we submitted the proof of what I had been told – the same proof that Judge Murphy and Trooper Gibbens removed out of the court record before my jury could see it. Proof it was submitted and then corruptly removed is the evidence's cover letter, proving the evidence had been properly admitted, remains in the official court record [R.471] while the evidence itself is missing.

35. Judge Morse never addressing the numerous times Cole and Robinson were proven, with their own documents, to have committed perjury during their testimony in front of Judge Morse – all to cover up their sellout and lies to me when I asked them of the rights that should have protected me. [Ex. 5 & R.3932-36, Ex.9 & R.3948-58, Ex.11 & R.3965-67, Ex.12 & R.3968-70] See also transcript of evidentiary hearing – especially 516-556.
See **Cuyler**, **Holloway**, **Osborn**, **Risher**, **Strickland**, **Cronic**, and **Smith** above.

36. Judge Morse never addressed the sworn testimony from long-time Alaskan attorney Robinson that in Alaska there is a "*good old boys system of judges, lawyers, and troopers who protect their own*". [Tr.292] This explains exactly all the puzzling events, actions, inactions, rulings, orders, crimes, and rights violations that have occurred in my case.

37. Judge Morse reversed Judge Bauman's order that I must have a new sentencing - in the face of Judge Murphy's "on record" statement that the reason she was sentencing me to 2 years in prison, revocation of my guide license, $20,000 fine, and forfeiture of our business airplane was that I killed the wolves in my guide area – the exact case that DA Leaders and Trooper Gibbens tape-recorded themselves corruptly manufacturing with false physical trial evidence and false trial testimony. [R.3702-03 & Tr.376-384]

38. Judge Morse refused to do anything about DA Leaders and Deputy Attorney General John Skidmore illegally and unconstitutionally stopping a grand jury who started investigating the above very great concern to the public's safety and welfare. [Ex.1 & R.3776-3921] This violates Alaska's constitution and law:

Alaska Constitution, Article 1, Section 8: *The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

AS 12.40.030 *The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.*

AS 12.40.040 *If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.*

The document given to all Alaskan legislators in response to this:

Alaska's Constitutional Crisis Implicates Deputy Attorney General John Skidmore

Alaska's Deputy Attorney General John Skidmore has joined those implicated in covering up systemic corruption within Alaska's justice system. Evidence appears to show that Skidmore illegally and unconstitutionally stopped an independent grand jury investigation into the corruption. Then it appears he lied to Alaska state legislators to justify his actions.

On July 11, 2018 concerned legislators from the house and senate met with Skidmore (then the Dept. of Law's Criminal Division Director) in a tape-recorded meeting about why he and DA Scot Leaders stopped a March 2018 grand jury from independently investigating: (1) evidence that Alaska Commission on Judicial Conduct Executive Director Marla Greenstein (the only investigator of Alaska state judges for the past 30 years) is falsifying official investigations so corrupt judges can remain on the bench; (2) evidence that Greenstein falsified certified documents to cover up her corrupt judge investigations; (3) a pretrial tape recording that captured DA Leaders and Alaska state troopers discussing how and why their physical trial evidence had been falsified to obtain a jury conviction; (4) evidence DA Leaders and troopers, knowing their physical evidence was false, gave it to a jury to obtain a conviction; (5) evidence of DA Leaders suborning, and troopers committing, trial perjury to back up their false physical trial evidence; (6) evidence Alaskan judges are conspiring with troopers and tampering with official court records to remove exonerating evidence before a jury can see it; (7) evidence that judges, including those on the Alaska Court of Appeals, are falsifying sworn affidavits to keep the corruption covered up; (8) testimony from private defense attorneys that they are being threatened and outright harmed so they don't protest the corruption; (9) evidence the forgoing type of corruption is occurring in multiple, independent cases; and (10) evidence that the entities tasked with stopping this type of corruption (Department of Law, trooper internal affairs, Bar Association, Commission on Judicial Conduct, etc.) are covering up instead of investigating or prosecuting it.

To justify stopping the March 2018 independent grand jury investigation, Skidmore explained to the legislators that a grand jury can do two separate things: (1) look into crimes and that this must be done through a prosecutor and (2) independently investigate concerns to "public safety and the general welfare", such as "systematic" corruption. Skidmore then told the legislators he never before heard there was a concern of systematic corruption. Ray Southwell (who was present and was a grand juror on the March 2018 grand jury that Skidmore and Leaders

stopped) protested that this was not true. Grand juror Southwell claimed that at a March 21, 2018 court hearing both he and Judge Jennifer Wells specifically told Skidmore there was a concern of "systemic" corruption. Skidmore continued to deny this occurred.

Prior to the July 11, 2018 legislator meeting, courts refused to provide a tape-recording of the March 21, 2018 closed-to-the-public hearing between Skidmore, Leaders, Judge Wells, and grand juror Southwell. After the legislator meeting grand juror Southwell succeeding in obtaining a copy. The recording captures grand juror Southwell stating there was evidence and a concern of widespread judicial corruption and that a "Rule 6.1" independent grand jury investigation and report was needed.

Skidmore is recorded responding that "Grand jury reports have to do with public safety and welfare and Mr. Southwell has yet to articulate or identify an overall systematic issue."

The recording captures Judge Wells responding to Skidmore, "He [grand juror Southwell] has alleged reasons to believe there is system wide corruption."

The recording captures grand juror Southwell also responding to Skidmore, "It is a systemic issue. It is widespread and I believe systemic."

The March 21, 2018 recording proves Skidmore lied to our legislators on July 11, 2018.

***Alaska Constitution, Article 1, Section 8:** The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.*

***Alaska Statute 12.40.030. Duty of inquiry into crimes and general powers.** The grand jury shall inquire into all crimes committed or triable within the jurisdiction of the court and present them to the court. The grand jury shall have the power to investigate and make recommendations concerning the public welfare or safety.*

***Alaska Statute 12.40.040. Juror to disclose knowledge of crime.** If an individual grand juror knows or has reason to believe that a crime has been committed that is triable by the court, the juror shall disclose it to the other jurors, who shall investigate it.*

***Criminal Rule 6.1. Grand Jury Reports.** (a) Authority to Issue Reports. (1) A grand jury may investigate and make reports and recommendations concerning the public safety or welfare.*

The forgoing rights, statutes, and rules prove Skidmore (and DA Leaders) illegally and unconstitutionally prevented a grand jury from investigating and reporting on something of very great concern to the public's welfare and safety – systemic corruption within Alaska's judicial system. This provides a compelling motive for Skidmore to later lie to our legislators – to cover up his illegal and unconstitutional act.

Damage that may be happening unchecked: judge investigator Greenstein gets about 20 complaints a month against judges. 20 times 12 months times 30 years equals a lot of corrupt judges that Greenstein may have covered up for. This may explain why there are so many complaints that judges in lawsuits, divorces, criminal trials, OCS determinations, etc, etc are corrupt - not following the rules or law, tampering with evidence, ruling competent evidence can't be presented, and outright lying about facts to decide cases.

Anyone wishing to have a copy of the March 21, 2018 Skidmore recording; a copy of the July 11, 2018 Skidmore recording; and/or the evidence against judge investigator Greenstein, DA Leaders, or others please contact us anytime. A copy of the Skidmore recordings, along with the evidence against Greenstein, DA Leaders, etc. is located at www.alaskastateofcorruption.com in the box "2019 Important Information".

Everyone please ask their legislators to request Alaska Attorney General Kevin Clarkson conduct an independent grand jury investigation, with independent counsel, into the above evidence. Ask your legislators for confirmation they have done so. If you can, include copies of the above evidence with your request. Everyone please seek out grand jury service (you may request grand jury service when you get a jury summons) and, if selected, exercise your right to independently investigate the evidence of corruption in our judicial system – a right you have even if state prosecutors or judges tell you otherwise. We will provide any and all grand jurors the evidence needed to prove the forgoing. The report "The Investigative Grand Jury in Alaska", pages 9-20 and B1 (ironically authored in part by judge investigator Greenstein), makes clear the primary and most important purpose of Alaska's grand juries is to, on the rare occasion it is needed, investigate wrongdoing by government officials without participation or interference by government officials. See also "The Alaska Grand Jury Handbook", pages 17 and 25-28.

Everyone please copy, forward, share, post, and/or publish this document everywhere possible.

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39. Judge Morse refused to give a grand jury the public petition, signed by about 500 Alaskans, asking for a grand jury investigation into DA Leaders, Trooper Gibbens, judge investigator Greenstein, and numerous judges. [Ex.1 & R.3776-3921] This violates Alaska's constitution, law, Grand Jury Handbook, and report *"The Investigative Grand Jury in Alaska"*:

Alaska Grand Jury Handbook: *Prosecutors also sometimes receive letters from the public, addressed to the grand jury, requesting investigations. In these situations, the prosecutor will probably conduct a preliminary investigation and make a recommendation to the grand jury about whether to take action. It will be up to the grand jury to decide whether to investigate the matter requested in the letter.*

The Investigative Grand Jury in Alaska 1987 report by the Alaska Judicial Council to *"study use of the power of the grand jury to investigate and make recommendations"*:

State grand juries have often acted on their own initiative in the face of opposition from a district attorney.

In response to instructions from the court or the district attorney, ***or in response to petitions or requests from the public****, or on the initiative of a majority of the members of the grand jury, the grand jury may investigate concerns affecting the public welfare or safety. These public welfare or safety concerns may arise from criminal or potentially criminal activity, or they may involve noncriminal public welfare or safety matters.*

'Public welfare or safety' has been interpreted very broadly and includes concerns with public order, health, or morals. Black's Law Dictionary defines general welfare as 'the governments concern for the health, peace, morals, and safety of its citizens.' 'Suspend' is defined in case law and by Black's as 'to cause to cease for a time; to postpone; to stay, delay or hinder.' ***In other words, the Alaska Constitution gives grand juries the power to investigate into and make recommendations addressing virtually anything of public concern. This broad general power can never be hindered or delayed.***

The Committee on the Preamble and Bill of Rights of the Alaska Constitutional Convention submitted a proposal entitled "Grand Juries, Indictments and Information". The clause that addressed the investigative function read:

...the power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended.

The commentary of the section stated: 'The grand jury is preserved, for all purposes, ***particularly for investigation of public officials.'***

'...I am against the use of a grand jury in criminal prosecution... ***I would say retain the grand jury all right for investigative purposes of officials in public institutions****...it serves no useful purpose except for just investigative purposes.' (Taylor, 1324)*

'The grand jury should certainly and definitely be preserved as an investigatory agency. There is no question about it at all...'(Hellenthal, 1325)

The debate suggests that some votes for mandatory grand jury indictment may have been cast to assure free exercise of the grand jury's investigative function:

'[I]t is true the investigative grand jury had been preserved in the bill as set forth here. However, an investigative grand jury will only be called under certain specific circumstances, and somebody is going to have to find conditions pretty bad before an investigative grand jury will be called. Whereas a grand jury which is empaneled regularly, once or twice a year in our division, has full investigative power as well as the power to consider indictments. The grand jury is there and may take any step that it feels may be necessary towards investigations'(Davis)

'...The grand jury in its investigative power as well as for the fact that it is sitting there as a panel sometimes is the only recourse for a citizen to get justice...' *(Kilcher, 1328)*

Other Confirmation of Systemic Corruption

1. The Alaska Supreme Court refused to review this case. [R.3327-44]

2. In 2014 I was given documents from Fed Sims prosecution. These included affidavits, motions, and emails between troopers and prosecutors including Trooper Gibbens and AAG Peterson – and prove beyond doubt there was a warrant violation and cover up that included perjury and discovery violations by troopers and AAG Peterson. [R.2874-76] Excerpts (in italics) from Sims' attorney William Ingaldson's affidavit protesting the corruption:

(a) Sims was first prosecuted by the State of Alaska but charges were dropped after Ingaldson/Sims filed motions to suppress/dismiss charges. (b) Sims was then prosecuted in federal court where Ingaldson/Sims filed similar motions. (c) *"U.S. Attorney's Office produced additional discovery consisting of numerous documents from the State of Alaska, which the state had not produced. Included in the discovery were numerous, exculpatory e-mails."* (d) E-mails between troopers state *"if Andrew [AAG Peterson] is ok with it, just tear them [e-mails] up & don't include them in discovery."* (e) *"One of the issues in the above-referenced underlying matter concerned a tracking device & video camera that were surreptitiously installed on my client's airplane. The search warrant allowing the installation of these devices specifically provided that the installation of the equipment not interfere with normal operation of the aircraft. In fact, the devices, which were wired directly to the airplane's battery, were draining the battery, placing my client at considerable safely risk. He not only had to hand prop his plane after the devices depleted his battery, he also ran the risk of an potential fatal crash should his engine stop while in flight, because he would not have been able to restart his engine"* (f) *"In opposition to our motion to suppress, the state [AAG Peterson] argued that my clients claims were not supported by any evidence; that '...the installation of the electronic equipment had no impact on the safe operation of [my clients] airplane...' This opposition was supported by an affidavit from Trooper Rogers who claimed 'to the best of my knowledge, the installation of the equipment had no adverse impact on the performance of [my clients] airplane.'"* (g) *"E-mails produced in the federal case (which the state did not produce) clearly & unequivocally demonstrated that, in fact, Trooper Rogers had actual knowledge that the equipment was draining the plane's battery."*

In one email AGG Peterson was asked by troopers if they should include emails capturing the troopers (including Rogers) discussing how their device killed the airplane battery and how Sims had to even buy/install a new one. The motion AAG Peterson wrote, and the affidavit that Trooper Rogers wrote, were written after this – proving that AAG Peterson knew his motion was false and proved he knew Trooper Rogers' affidavit was false when he used it to support his motion. It also proves Trooper Rogers knew he committed perjury in his affidavit.

3. This Court of Appeals claiming Robinson didn't have to call Cole at my sentencing because Cole and I were "*immersed in a contentious fee arbitration*" at the time – when I didn't file for fee arbitration against Cole until 5 months *after* I was sentenced. [Ex.2 & R.39922-25]

4. Judge Bauman falsifying sworn affidavits to cover up the corruption. [Ex.3 & 3926-29]

5. DA Leaders falsifying certified documents to cover up his corruption. [E.9 & Ex.10]

6. Judge Murphy's official statement for what she did to me: *"[I] take into consideration things that you [David Haeg] may not think of, such as the politics involved, such as effects to the wolf kill program."* [R.172] – more evidence my conviction had nothing to do with justice.

7. Long-time attorney Dolifka was asked by FBI section chief Colton Seale to testify for an entire day on other cases that Dolifka knew had been rigged like mine. [R.2801 & Tr.555]

8. Greenstein is recorded stating that she receives about 20 complaints against judges a month. 20 x 12 months x the 30 years that Greenstein had been the sole investigator of judges equals a lot of corruption complaints (7,200 to be exact) she may have covered up for. [R.3631]

9. The state filing a 14-page *opposition* (that's right, "*opposition*") to my representing myself – which I asked to do after we figured out (with Dolifka's help) that my own private defense attorneys had sold me out and were actively helping the state instead of me. [R.304-310] Nothing else is needed to prove my own attorneys were working for the state.

10. When I subpoenaed Judge Murphy to testify in person about her destroying my evidence and being chauffeured by the main witness against me when she did so, she hired Peter Maassen (now an Alaska Supreme Court justice) to quash her subpoena. [R.1866-71]

11. On April 4, 2011, over 5 years after my 2005 sentence, AAG Peterson motioned to modify my sentence to include the corporation Bush Pilot Inc. - stating he could not sell the airplane because the FAA refused to title it to the state as the sentence was imposed against me and not against the plane's owner (Bush Pilot Inc.). Even after I pointed out state law made it illegal to modify a sentence under a motion made more than 180 days after the original sentencing – Magistrate Woodmancy (who also hired Justice Maassen to quash my subpoena requiring him to testify about Gibbens chauffeuring Murphy during my trial) illegally modified my sentence to include Bush Pilot Inc, over 5-years after my original sentencing. [R.1147-1210]

AS 12.55.088 Modification of Sentence. *(a) The court may modify or reduce a sentence by entering a written order under a motion made within 180 days of the original sentencing.*

12. After Judge Bauman overturned my sentence and ruled I must be resentenced, AAG Peterson asked Magistrate Woodmancy for a protection or "gag" order that I could not present evidence or testimony at my own sentencing hearing. When Magistrate Woodmancy started to do so, I indicated this would be over my dead body. Magistrate Woodmancy changed his mind, refused to issue the gag order, and scheduled a 4-day sentencing hearing. [R.3162]

13. Before my resentencing I asked who the witnesses against me were. AAG Peterson stated he would only call *"Robert Fithian"* and stated that Fithian was going to testify that I told him I was going to kill wolves in my guide area to benefit my guide business. I called Fithian and tape-recorded my conversation with him. [R.3162] Fithian confirmed he was going to testify that I told him I was going to kill wolves in my guide area to benefit my guide business. I told Fithian I now had positive proof the state falsified trial evidence and trial testimony to corruptly make this case; then I asked Fithian why the state was going to have him commit perjury. Fithian replied that the state worked too hard to get the Wolf Control Program going to see my case end it. [Tr.562-564] This is when we realized the frame job wasn't to steal my family's assets – it was to protect the Wolf Control Program from being ended if it came out the state told me to kill wolves where the state couldn't. After I recorded Fithian telling me this, AAG Peterson appealed my sentence being overturned, asked my resentencing be cancelled, and this court granted both – even though Peterson appealed after the time limit for doing so had expired.

14. On August 23, 2011 AAG Peterson told me the state would give me back the airplane and other property if I agreed not to sue anyone. I declined. [R.02239-2242]

15. Cole was deposed and testified that his tactic for my defense was to have me *"fall on my sword"* – and then, at AAG Peterson's advice he not answer, refused to answer what *"fall on my sword"* meant or if I agreed to it (violating **Civil Rule 30(d)(1)**). Cole then testified the state would harm him/his business if he had tried to defend me. [R.3157]

16. Robinson stating **Shaw v. State** prohibited me from suing anyone until my conviction is overturned – explaining why in 15 years no one has overturned my conviction. [R.34-35]

Shaw v. State, 816 P2d 1358 (AK 1991) *[A] convicted criminal defendant must obtain post-conviction relief as a precondition to maintaining a legal malpractice claim against his or her attorney. [T]he legal standards for ineffective assistance of counsel.. and for legal malpractice in this action are equivalent.*

17. Testimony from both Cole and Trooper Gibbens that Governor Frank Murkowski was personally involved with my prosecution. [R.3156 & Tr.556-58]

18. After my 5-year license suspension was over, the state refused to give it back. [R.1547]

19. When, at the FBI's request I do so, I tried to give the evidence of trooper corruption to Alaska State Trooper internal affairs, Lieutenant Keith Mallard (AST's sole internal affairs investigator at the time) telling me he had heard of my case, telling me all I had were sour grapes over being convicted, and, just before hanging up on me, telling me that he would not dignify my evidence with an address to send it to. [R.3020]

Alaska's Judicial Corruption is Nothing Unique.

See Illinois' *"Operation Greylord"*, which indicted 17 judges, 48 attorneys, 18 cops, 8 court officials, and 1 State legislator - with nearly all pleading guilty before trial. See also **United States v. Theodore F. Stevens,** and New York City's *"Mollen Commission"* report:

To cover up their corruption, officers created even more: they falsified official reports and perjured themselves to conceal their misdeeds. In the face of this problem, the Department allowed its systems for fighting corruption virtually to collapse. It had become more concerned about the bad publicity that corruption disclosures generate than the devastating consequences of corruption itself. As a result, its corruption controls minimized, ignored and at times concealed corruption rather than rooting it out. Such an institutional reluctance to uncover corruption is not surprising. No institution wants its reputation tainted – especially a Department that needs the public's confidence and partnership to be effective. Since no entity outside the Department was responsible for reviewing the Department's success in policing itself, years of self-protection continued unabated until this Commission commenced its independent inquiries.

CONCLUSION

Again, this is my trial attorney Robinson's tape-recorded statement after looking at the discovery that DA Leaders was required to, and didn't, produce prior to my trial:

Since I was not provided a map copy, so I could check it for accuracy, I cannot be blamed for the jury's use of this map to convict Mr. Haeg and I cannot be blamed for Judge Murphy's use of the map's falsified GMU 19-C/19-D boundaries to sentence Mr. Haeg. Since I was not provided a tape-recording copy prior to trial or during trial, I did not know there was evidence of an intent to falsify the location of where the wolves were taken. Because of Mr. Leaders failure to abide by my discovery request this evidence was withheld and I only found out about it many years after trial. [R.3170]

Again, when asked what he would have done had he received the required discovery:

I would have argued you didn't get a fair trial because they were using false evidence to convict you. I could have proved they were intentionally lying at trial. And you would have had evidence of their motive to do so. [R.3170]

Again, I have proof this court lied to keep DA Leaders' felony falsification of trial evidence and testimony from being exposed – consisting of 25 pages of briefing to this court (not counting the tape-recording, which I also provided) on DA Leaders evidence/testimony falsification - and this courts written ruling I couldn't litigate this issue because I didn't provide briefing/evidence on it. There is even a video of me showing the evidence to you at oral arguments - see **David Haeg vs. State of Alaska** on YouTube. [R.3113]

How could anyone claim I got a fair trial or a fair appeal after this?

The audience for this brief is not just you three Court of Appeals judges. It is for the United States public. It is evidence my family and I have gathered and preserved over the past 15 years at very great personal cost – proving Alaska's judicial system has been taken over by systemic corruption and that this great concern to the public's welfare and safety is being actively, illegally, and unconstitutionally covered up by government officials.

I, and a growing number of others, look forward with great interest to this court's next *"cock and bull"* story to explain away and delay consideration of the overwhelming evidence of systemic corruption permeating my case. A past favorite (other than those discussed above):

That **AS 22.07.090** doesn't apply to court of appeals judges because it's a panel of 3 judges (after I asked how you could still file sworn pay affidavits and be paid when you didn't give me a decision after 6 months of my second appeal being completed and referred to you). This is puzzling when **AS 22.07.090** specifically states *"judge of the court of appeals"*.

AS 22.07.090 Compensation. *A salary disbursement may not be issued to a judge of the court of appeals until the judge has filed with the state officer designated to issue salary disbursements an affidavit that no matter referred to the judge for decision has been uncompleted or undecided by the judge for a period of more than six months.*

Even assuming each of you 3 judges got 6 months consecutively, this only gives 18 months. Yet you went 30 months past in my last appeal – 12 months beyond even an 18-month limit – after being notified you were breaking the law. This is 24 felony perjury counts

minimum per judge, as each of you filed pay affidavits every 2 weeks. I was sentenced to 2 years in prison for a misdemeanor I never committed – I will demand you each get at least this for each felony count against you. You may think it's funny that you have put my family through living hell for 15 years and counting to starve us out – but I and a growing number of others don't. The frame job you are covering up kept Jackie and I from having more kids and, at one point, forced us to discuss whether or not we should buy heating oil so our daughters would be warm or buy food so they wouldn't go hungry – as we no longer had the money to buy both. Around this time Jackie had to seek medical help for depression. To make ends meet I am now the oldest person on a road construction crew. All for something the state asked me to do. Our business brochure shows more of the life that has been stolen from us. (See attached brochure.)

I know you judges could care less about our struggles – but I want everyone else reading this to know why I am so hell-bent to make sure you don't do this to anyone else.

Adickes v. Kress, 398 U.S. 144 (U.S. Supreme Court 1970) *Such occurrences show that there is a pre-concerted & effective plan by which thousands of men are deprived of the equal protection of the laws. The arresting power is fettered, the witnesses are silenced, the courts are impotent, the laws are annulled, the criminal goes free, the persecuted citizen looks in vain for redress.* See also **Elkins v. United States** and **Monroe v. Pape.**

42 U.S.C. 1983 *[S]tate courts were being used to harass & injure individuals, either because the state courts were powerless to stop the deprivations or were in league with those bent upon abrogation of federally protected rights... Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it.*

How would you know if *"state courts... were in league with those bent upon abrogation of federally protected rights"?* Would the judge pick up a gun to help rob someone? Probably not. Would the judge ride around with the prosecution during trial & destroy a defendant's evidence – like Judge Murphy did? Yes. Would the judge overlook prosecution's trial perjury & then cite the perjury as reason to forfeit defendant's airplane to prosecution & sentence him to years in prison/thousands in fines/career destruction – like Judge Murphy did? Absolutely. *Is this a form of robbery using the color of law?* No doubt. Would the judges lie to justify eliminating the presentation of evidence that would prove DAs and troopers are outright framing people with false evidence and testimony - like you and Judge Morse did? Absolutely. Would the judges

order that no evidence can be presented proving prosecution is threatening defense attorneys to do all this – exactly as you and Judge Morse did? No doubt.

Would *"state courts... in league with those bent upon abrogation of federally protected rights"* need an oversight agency that will falsify official investigations to protect corrupt judges – exactly like the Alaska Commission on Judicial Conduct and its investigator Marla Greenstein are doing? Absolutely.

Would they taser someone 10 times just to keep the physical evidence proving the above from being presented in court – as Judge Morse did to me? No doubt.

Would they violate Alaska's constitution and law to stop a grand jury who started to investigate, as Judge Morse and Deputy AG Skidmore did? You bet.

If the courts close their doors to me without a new trial that is fair – as our constitution requires – I will travel to the locked trooper impound yard at 4825 Aircraft Drive, Anchorage, AK & start taking back the stolen airplane/property I used to provide for my family so long ago. I will request all those now following this to come watch - and help if they believe our constitution is worth fighting for. Those I will ask to come watch and/or help include:

Superior Court Judge Stephanie Joannides - who issued this ruling in my case:

On July 28, 2010, this court issued an order narrowing the issue of whether Judge Murphy should recuse herself to the question of whether her contacts with prosecution witness Trooper Gibbens during the trial and sentencing proceedings warranted recusal on the appearance of impropriety. ***I found that, at a minimum, there was an appearance of impropriety.*** [R.1282]

FBI Section Chief Colton Seale, who stated this after a meeting (set up by Congressman Don Young and attended by Young's assistant Greg Kaplan) about Leaders/Gibbens/Murphy's corruption that was facilitated by my own attorneys' lies:

We have had a number of complaints nearly identical to yours. In every case our investigation expanded rapidly and implicated nearly everyone. [R.3162]

FBI Section Chief Doug Klein - who stated this when we gave him the evidence of judge investigator Greenstein's corruption and cover up:

It's obvious why Greenstein falsified her investigation. No one would believe you got a fair trial if your judge was riding around with the main witness against you. [R.2801 & 3160]

FBI Assistant Special Agent in Charge David Heller, who, after looking at the forgoing evidence, called and told me to request a personal meeting with Alaska's Attorney General, the Director of the Alaska State Troopers, and the head of the Alaska Bar Association – and to tell them David Heller, the #2 FBI official in all Alaska, thought this meeting was necessary. This request was refused [R.609] – even though all knew ASAC David Heller thought it necessary.

Anchorage Police Deputy Chief Ken McCoy – who stated this after looking at the evidence: *"I think our Department should start investigating the troopers."* [R.3316-17]

Kenai grand juror Ray Southwell – who started presenting to his fellow grand jurors the evidence against DA Leaders and investigator Greenstein until illegally & unconstitutionally ordered to stop by DA Leaders and Deputy AG Skidmore. [Ex. 1 & R.3776-3921]

Senator Peter Micciche – who asked for an investigation into my tasing and introduced Senate Bill 15 to make it law that public petitions for a grand jury investigation must be given to, and investigated by, a grand jury. [R.3170]

The 500 people who signed the petition calling for a grand jury investigation into the above – a petition government officials refuse let a grand jury see. [Ex. 1 & R. 3776-3921]

I have thought hard about breaking into the trooper impound yard. Our babies when this started have turned into beautiful, strong, & intelligent young ladies – our eldest being senior Valedictorian in a class of 200 graduates with college already paid for by scholarships - our youngest a student pilot & accomplished huntress – taking a grizzly & caribou on the same day at 14 & taking over 60-inch antler-spread moose most every year since (each feeds our family for over a year). They no longer need my help or guidance to successfully navigate life. I have been with my beautiful wife for over 30 years. I will be proud, without regret, to die to expose the sophisticated evil we have found in Alaska's judicial system – in part because, after 15 years of diligent & exhaustive effort, it appears this is the only way it can be exposed & in part because those following this, many of whom I have never met before, have given their word to keep an eye on my beautiful ladies after I am gone. But mostly because I believe the best way for me to protect my family is to stop it before it grows – even if it takes my life to do so. As strong & as intelligent as my daughters are, I don't know if they could prevail if this evil gets stronger. Winston Churchill & Thomas Jefferson explain this truth better than I can:

If you won't fight for right when you can easily win without bloodshed; if you won't fight when your victory is sure & not too costly; you may come to the moment when you will have to fight with all the odds against you & only a precarious chance of survival. There may even be a worse case. You may have to fight when there is no hope of victory, because it is better to perish than to live as slaves.... There is only one duty, only one safe course, & that is to try to be right & not to fear to do or say what you believe to be right.... This is the lesson: never give in, never give in, never, never, never, never — in nothing, great or small, large or petty — never give in except to convictions of honour & good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy.... One ought never to turn one's back on a threatened danger & try to run away from it. If you do that, you will double the danger. But if you meet it promptly & without flinching, you will reduce the danger by half...It's not enough that we do our best; sometimes we have to do what's required.... If you have an important point to make, don't try to be subtle or clever. Use a pile driver. Hit the point once. Then come back & hit it again. Then hit it a third time-a tremendous whack. **Winston Churchill**

And what country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms. What signify a few lives lost in a century or two? The tree of liberty must be refreshed from time to time with the blood of patriots & tyrants. It is its natural manure. **Thomas Jefferson**

After I am killed, I ask the public demand that a grand jury, with independent counsel and power to subpoena/grant immunity, independently and publicly investigate Alaska's judicial corruption – especially the evidence that this Court of Appeals and Marla Greenstein are covering it up. And if proved, demand maximum punishment for offenders and demand that Alaska's court system, Commission on Judicial Conduct, Bar Association, Department of Law, & Troopers be placed into federal receivership – as done with corrupt agencies elsewhere in the U.S. Events, confirmed by the sworn testimony of attorney Dale Dolifka, have given me an unshakeable belief that, in the deciding of this one lowly case concerning the killing of wolves in remote Alaska, the integrity of Alaska's entire judicial system hangs in the balance.

The liberties of our Country, the freedom of our civil constitution, are worth defending at all hazards: & it is our duty to defend them against all attacks. We have receiv'd them as a fair Inheritance from our worthy Ancestors: They purchas'd them for us with toil & danger & expence of treasure & blood; & transmitted them to us with care & diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle; or be cheated out of them by the artifices of false & designing men. Let us remember that 'if we suffer tamely a lawless attack upon our liberty, we encourage it, & involve others in our doom.' It is a very serious consideration, which should deeply impress our minds, that millions yet unborn may be the miserable sharers of the event. **Samuel Adams**

Relief Requested

1. Order a public grand jury investigation, with independent counsel, into all the above.

2. Overturn my conviction.

3. Any other relief justice may require.

Will This Court of Appeals Grant Relief?

Attorney Dolifka: *The reason why you have still not resolved your legal problems is corruption ...if the appeals courts do right by you & reveal, you know, you have the attorneys going down, you have the judges going down, you have the troopers going down."* [R.1970-1986]

After this court first unjustly denied me relief, many more people/entities have been implicated – including this court. If this court didn't "*do right*" the first time it sure can't now.

Declaration Under Penalty of Perjury

I, David S. Haeg, declare under penalty of perjury that the above is true & correct.

/s/ David S. Haeg Executed at Browns Lake, Alaska on November 14, 2019.

David S. Haeg
PO Box 123
Soldotna, Alaska 99669
(907) 262-9249 home; (907) 398-6403 cell/text; haeg@alaska.net; Facebook, and
www.alaskastateofcorrupiton.com

Certificate of Service: I certify that on November 14 2019 a copy of the forgoing was served by mail to: AAG Peterson. By: /s/ David S. Haeg

Everyone please forward this on to all possible, by any means. It may be published and/or reproduced freely anywhere. If you want to donate money to help stop this corruption, we set up a PayPal account linked to our email (haeg@alaska.net) and cell (907) 398-6403.

Please seek out grand jury service (when you get a jury notice you may request grand jury service) and if selected, present the evidence above to your fellow grand jurors and ask they investigate. Ask your legislators to call for an independent and public grand jury investigation. Please follow this on Facebook page "Alaska, State of Corruption" and group "Stop Alaska's Judicial Corruption". Most physical evidence proving the corruption is on the website www.alaskastateofcorruption.com, YouTube, and Facebook in "#1 EVIDENCE PACKET", "#2 EVIDENCE PACKET", etc., etc.

116078

ALASKA COURT SYSTEM
AFFIDAVIT

For the pay period ending on the Last Day **of** August, 2019.

I, being first duly sworn, state that ~~to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.~~

Signature _____ Date Aug 29, 2019

Title Presiding Judge 3rd District Address 825 W. 4th Ave.

Print Name William F. Morse Anchorage, AK 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 08.29.19

Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: with office

(notary seal)

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date _____ Signature _____

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

An affidavit must be completed at the end of each pay period. Pay periods end on the 15th day and the last day of each month. The completed affidavit must be sent to the Division of Finance in Juneau at the end of each pay period:

Mail:
P. O. Box 110204
Juneau, Alaska 99811-0204

Fax:
(907) 465-5639

Scan and Email:
doa.dof.pr.affidavit.mailbox@alaska.gov

116078

ALASKA COURT SYSTEM
AFFIDAVIT

For the pay period ending on the 15th **of** September, 2019.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature _____ Date Sept 13, 2019

Title Presiding Judge 3rd District Address 825 W. 4th Ave.

Print Name William F. Morse Anchorage, AK 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 09.13.19

Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: with office

(notary seal)

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

Date _____ Signature _____

INSTRUCTIONS

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Scan and Email:
doa.dof.pr.affidavit.mailbox@alaska.gov

116078

ALASKA COURT SYSTEM
AFFIDAVIT

For the pay period ending on the Last Day **of** September, 2019.

I, being first duly sworn, state that to the best of my knowledge and belief no matter currently referred to me for opinion or decision has been uncompleted or undecided by me for a period of more than six months.

Signature _____ Date Sept 30, 2019

Title Presiding Judge 3rd District Address 825 W. 4th Ave.

Print Name William F. Morse Anchorage, AK 99501

Subscribed and sworn to or affirmed before me at Anchorage, Alaska, on 09.30.19

_____, Ellen Bazzell
Signature of Notary Public, Clerk of Court, or other person authorized to administer oaths.

My commission expires: with office

(notary seal)

I certify under penalty of perjury that the foregoing is true, that this statement is being executed at _____, Alaska, and that no notary public or other official empowered to administer oaths is available.

_____ _____
Date Signature

INSTRUCTIONS

This affidavit must be signed before a notary public, postmaster, or any other person authorized by AS 09.63.010 to administer oaths. If there is no one available who is authorized to administer oaths, you should sign and date the statement certifying that the affidavit is true (AS 09.63.020).

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