

## DISMISSAL MEMO

Anthony Paul 18-1-01376-5

Kirby Manzanares 18-1-01375-7

Joseph Hatch Sr 18-1-01377-3

Joseph Hatch Jr 18-1-01378-7

Originally a Sgt with Fish and Wildlife wanted to meet with Kate and I about a case in November of 2017. The meeting did not happen until sometime in January 2018. The file and information was not given to us to charge until late March/early April 2018. The event happened May 23, 2015 and were running up against statute of limitation (3 years). Fish and Wildlife originally presented this case to us, but did not include information about any other jurisdiction charging the case or considering charging the case. Based on the information we had, we charged all 4 with 1 count of trafficking shellfish based on an act which occurred in Pierce County on 5/23/15.

After charging the case, arraignment was set in late April 2018. The arraignment was continued on defense counsel's motion and they filed a bill of particulars. Around this same time, we were given notice by the Tulalip Tribe that both Hatch defendants were prosecuted by the Tribe for harvesting the crab surrounding our charges.

At the same time, we had another meeting with Fish and Wildlife and their representative from the AG's office. At this time, they confirmed the Hatch defendants had been prosecuted by the Tulalip Tribe. They also informed us that this case had been presented to the Snohomish County Prosecutors Office and King County Prosecutors Office. None of that information was previously disclosed to us. During that meeting, the AAG was presented with the option of being designated a special deputy prosecutor on the case since they claimed it was important. The AAG declined that option first saying he would have to check with the elected AG. He then said that he did not think his unit had time to do it because they only had 8 attorneys and were a small unit. It was pointed out that my unit had fewer attorneys.

The arraignment was set over a 2<sup>nd</sup> time by agreement of parties. Defense counsels on the case requested a meeting with us and Tulalip Tribe. A meeting was set up, the defense attorneys were present, 2 members on the Tulalip Tribal Prosecutor's Office, and the Pierce County Tribal Liaison. The Tulalip Tribal Counsel also submitted a letter for our consideration. At this meeting we learned additional information, that was not provided to us prior to considering this case. (1) That Fish and Wildlife had signed an MOU with the Tulalip Tribe. As part of the MOU, it says that Fish and Wildlife must bring cases that involve tribal members to the Tribe's Prosecutor first. If that office prosecutors, plea bargains or uses its discretion in filing or not filing charges, Fish and Wildlife is prohibited from taking the case to another prosecutor's office. Tulalip Tribal Prosecutor's office had been given all the information (including the trafficking) when they filed the case against the Hatches. The Hatches later pled as part of a plea bargain which resolved the case. The Tribal Prosecutor's Office and Tribal Counsel view Fish and Wildlife presenting the case to us as a violation of the MOU that was signed by those parties. The MOU had the parties signature and appears valid. It had the signature of the AAG that we

have previously meet with. The Tribal Liaison, who use to work in the Tulalip Tribal Prosecutor's Office, said their practice would be to review the entire case and determine everyone that should be charged and not charged and take action at that time.

(2) Defendant Manzanares is a member of the Puyallup Tribe. The action in Pierce County happened on Puyallup Tribal land and the case should have been presented to the Puyallup Tribe. As far as we know that was not done.

(3) In addition, we learned all defendants have a viable defense that we were not told about. The shellfish season was only 5/22/15. The Hatches had a boat issue on that day, which Fish and Wildlife confirms. The Hatches claim they had permission to harvest late from the Tribal Shellfish manager because of the boat issue. Paul and Manzanares also contacted the Tribal Shellfish manager to confirm that could purchase the crab in this case and were given authorization because of the boat issue. Defense presented a letter for the Shellfish manager saying the shellfish tickets were legal in this case. We are told the Shellfish manager does not specifically remember these conversations and the custom within the tribe is not to physically document. However, the Shellfish manager and others would say allowing this would not be unusually. This would be a complete defense in the case.