

# UAF professor grilled in Fairbanks Four case

State attorney confronts veteran journalist over his 'relationship' with men.

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Alaska Dispatch News

Brian O'Donoghue, a veteran journalist and professor at the University of Alaska Fairbanks, found himself in the uncomfortable position of answering questions instead of asking them in a confrontational session in Fairbanks Superior Court Tuesday.

The questions and answers reflect a larger pattern of contradictory

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claims and points of view that have highlighted an unusual five-week hearing over whether the Fairbanks Four should be exonerated. The four men, convicted in the 1997 beating

death of John Hartman, are asking Superior Court Judge Paul Lyle for a declaration of "actual innocence." The hearing may wrap up this week, but the judge won't rule until he reviews the case record in detail, a massive undertaking.

Three of the men listen daily by phone from jail, while one of them, Marvin Roberts, attends in person, sitting with the six or seven attorneys who are usually present to represent the four men. There are more than a dozen empty seats near the front of the courtroom, since there is no jury, just the judge, who has called the hearing to order every day in

front of a full house in the fifth-floor courtroom.

O'Donoghue had been summoned to appear by the state, against his wishes, to answer questions about some of the research that led to articles he wrote in the Fairbanks Daily News-Miner.

State attorney Adrienne Bachman raised questions about whether his work went beyond investigation and became an attempt to influence witness testimony, a claim that O'Donoghue denied in a contentious hour-long session.

O'Donoghue, a journalist for 30 years, was a reporter and editor at

the Daily News-Miner and has been researching the case since 2001, not long after he joined the UAF faculty. He has said he thought a one-semester UAF course in investigative reporting 14 years ago might clear up some unanswered questions about how the justice system treated the four men. His students over the years have uncovered important information, he will say, but questions remain.

I've known him for many years and worked alongside him at the News-Miner. Never one to give up on

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# COLE: Attorney says professor ‘instructed’ witness

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a story or a cause, he has kept pushing on this case because he believes an injustice took place. In a presentation in August at UAF, he explained why he believes the men were wrongfully convicted and added, “I really think the arrests were not racial.” Others have said otherwise — in part because three of the convicted men are Alaska Natives and the fourth is of Native American descent.

But O'Donoghue also said that if his son or the son of public defender landed in a similar situation — someone with a different economic background — “Hell no, they would not have been convicted.”

In the questioning Tuesday, Bachman, the state prosecutor defending the original verdicts, pressed for details on the relationship that O'Donoghue developed with the men, particularly Marvin Roberts and Eugene Vent.

She asked if they are now friends. He objected to her use of the word “relationship,” a statement that prompted a comment by Judge Lyle for the two to refrain from arguing. O'Donoghue described the men as sources.

“Marvin Roberts is a source and Marvin Roberts is someone I've been in touch with working on a story for a

long period of time,” he said.

“Are you pen pals?” she asked.

“I would never use that definition for my correspondence with a person I'm working with on a story,” he said.

“Do you consider him a friend?” she said.

“To the extent that things he's told me have generally checked out and he's been very informative, I would say we have a closer relationship than I would with some sources,” he said.

He said he shared information with Roberts about “the progress I thought we were making in fleshing out the story.”

Asked if he sought at one point to arrange a polygraph for Roberts, he said he had looked into it. He also said he shared information with Roberts about the status of appeals and offered his views. She wanted to know why he had once sent Roberts information about land for sale between Fairbanks and Nenana. Roberts had expressed the hope, he said, that he might want to get land if he ever got out of jail. He said it was a way of “facilitating continuing conversations” with a source.

As part of his research, O'Donoghue taped phone calls he had with prisoner Arlo Olson, a state witness in the case, without telling Olson

he was doing so. In court, O'Donoghue said three times the calls were recorded lawfully — only one party has to have knowledge of a recording in Alaska to make it lawful — but he refused to acknowledge it was done “secretly.”

“My editor was aware of what I was doing and it's consistent with journalistic practice. Secret has maybe an implication of disagreement,” he said. The UAF professor also said both he and Olson figured the jail would be taping the call.

Olson has given conflicting stories over the years about seeing the four men together before the Hartman was killed. He provided eyewitness testimony against the men in their trials but he has changed his statement multiple times.

In one of the conversations, which was played at the hearing, Bachman alleged O'Donoghue was “instructing” Olson about what to say and offering him advice about the impact of a change in testimony.

“The only kind of thing that would really persuade them about this, apparently, is for you to really persuade them that you were scared about the whole perjury thing,” O'Donoghue said on the phone call. “I mean, persuade them that the police and the prosecutor really gave

you no choice. In doing that, though, that does put you in some jeopardy, because you're basically admitting that you perjured yourself, if you were to do this.”

During questioning in court, O'Donoghue said at other places and times he told Olson he was not a lawyer and not advising him. She asked him why he stated so emphatically that Olson needed to persuade the police.

“Why are you instructing him?” she asked.

“Sometimes the person is asking you for advice. I think other places, other times, I say, ‘I'm not a lawyer, I shouldn't advise you on anything.’ Arlo went back and forth all the time,” he said.

Bachman claimed that O'Donoghue had used the “ruse” of telling Olson he would publish his life story.

“I don't think it's a ruse. I think I have already published a big chunk of his life story and I expect that I'll expand on that in a book,” he said.

“You told him that you wanted to be able to tell his side of the story, right?” she asked.

“Absolutely. That's pretty much the approach that I would use with almost anyone,” he said.

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