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Member of the House Military
and Veterans Affairs Committee of the
Alaska Legislature

Dear Committee Members:

I am writing to urge you to support HB 313, which would create a new statutory sentencing mitigator relating to former soldiers suffering from combat-related Post Traumatic Stress Syndrome who have committed non-violent crimes. Under Alaska's sentencing statute, a judge considering a sentence for a persons convicted of a felony is allowed to consider certain statutorily created mitigating factors to reduce a sentence below a mandatory or minimum required sentence. HB 313 would create a new mitigator allowing a judge to consider whether the offender's conduct was related to combat created PTSD. The offender would have the burden of proving that he or she suffers from combat related PTSD resulting from combat with an enemy of the Unites States while on active duty as a member of the armed forces.

I am a criminal defense attorney based in Anchorage. I have been practicing primarily criminal defense for over thirty years. In the last several years

I have both represented former soldiers who have committed drug offenses after serving in Iraq, and consulted on similar cases. These clients had no prior criminal record and no substance abuse problems prior to their service. The client I have had most experience with served in Fallujah as a medic when he was 19 and 20 years old. His experiences were horrific. He saw children blown up. His best friend, also a medic, was killed in a Humvee-IED explosion and my client picked up his body parts. He had men die in his arms and saw men who had been blown to pieces.

This client was honorably discharged; when he came home he began to suffer the symptoms of combat-related PTSD—nightmares; hyper-vigilance, the inability to sleep, depression and intruding thoughts regarding his experiences. Until I began to educate myself about PTSD, I believed it was a condition that caused some nightmares but that people quickly recovered with the passage of a little time. This not true, especially for combat-related PTSD. The symptoms are pervasive and cause disruption in all phases of life functioning; the condition lasts for years unless treated.

Combat PTSD and substance abuse go hand in hand. It is rare to see a PTSD case where drugs or alcohol are not also involved. These soldiers self-medicate by abusing drugs. Many of them should legitimately be treated with anti-anxiety medications. But they rarely disclose that they are suffering; it seems

almost symptomatic that they do not want to talk about their experiences or burden their loved ones with their suffering.

The proposed mitigator would allow a sentencing judge to consider whether the offender's non-violent criminal behavior was related to combat-related PTSD. The mitigator specifically excludes cases that are crimes of violence, so it would not apply to assaultive conduct or sexual crimes. It is my belief that the primary application of the mitigator would be for drug-related offenses, and would permit a sentencing judge to reduce jail time for certain offenders and substitute treatment instead. For example, currently a first offender charged with possessing any amount of heroin with the intention of giving it to someone else would face a required sentence of five to eight years in jail. A soldier with combat-related PTSD who trades with someone to obtain the drug to ease his symptoms could be guilty of this offense and face this sentence. If the legislature adopts this mitigator, a judge could instead suspend some of this jail time and require the offender to get treatment.

The experts I have consulted regarding PTSD tell me that jail conditions exacerbate the symptoms of PTSD—the soldier becomes even more hyper-vigilant in a jail setting, his sleep becomes even more impaired etc. Thus, jail actively makes the soldier worse, and any rehabilitative function of a jail sentence doesn't really work. Allowing the offender to prove that his criminal conduct was related

to his PTSD would give the sentencing judge the flexibility to fashion a sentence that could require specific treatment for this specific condition.

In handling these types of cases I once had a district attorney ask me why these soldiers should be treated differently than any other offenders. My response is that these young people served their country at great physical and emotional risk of harm and that when they are harmed we, as a society, should recognize that they do deserve special treatment. They went to war for us; they were damaged while protecting us and we should treat them differently. There is a difference between a young person with no record who serves his country and is traumatized and the drug dealer who is just out on the streets making money. Right now our soldiers and these drug dealers are treated exactly the same. This is not right. HB 313 will allow a court to recognize and adjust for these soldiers. I urge to you adopt the bill. I would be happy to speak further with any of your regarding this issue.

Sincerely,

Cynthia Strout

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