IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
ALL DIVISIONS

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IN RE: PLAN OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, ALL DIVISIONS, FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

MISC. NO. 1-9401-3

O R D E R

In accordance with the Jury Selection and Service Act Amendments by the Judiciary's Housekeeping Bill, the Plan of the United States District Court for the Northern District of Florida, All Divisions, for the Random Selection of Grand and Petit Jurors ("Plan") is hereby amended, revised and adopted in its entirety as attached, subject to review and approval by the Eleventh Circuit Reviewing Panel

This Plan shall take effect on the date this court is notified it is approved by the Eleventh Circuit Reviewing Panel.

SO ORDERED this 27th day of February, 1989

WILLIAM STAFFORD, CHIEF JUDGE

MAURICE PAUL, DISTRICT JUDGE

ROGER VINSON, DISTRICT JUDGE

WINSTON E. ARNOW, SENIOR JUDGE

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTH DIST. FLA.
TALLAHASSEE, FLA.

1989 FEB 28 AM 10:46

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ROBERT A. MOSSING, CLERK
By: Deputy Clerk

PLAN OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, ALL DIVISIONS FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS AS AMENDED, 1989

Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274, as amended) ("the Act"), the following plan is hereby adopted by this court, subject to approval by a reviewing panel and to such rules and regulations as may be adopted from time to time by the Judicial Conference of United States.

I APPLICABILITY OF PLAN

This plan is applicable to the Northern District of Florida which consists, by divisions, of the counties of:

(1) The Pensacola Division: Escambia, Okaloosa, Santa Rosa and Walton;

(2) The Panama City Division: Bay, Calhoun, Gulf, Holmes, Jackson and Washington;

(3) The Tallahassee Division: Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor Wakulla;

(4) The Gainesville Division: Alachua, Dixie, Gilchrist, Lafayette and Levy.

The provisions of this plan apply to all divisions in the district

II POLICY

This plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

> "1861. Declaration of policy
>
> "It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross-section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose.
>
> "1862. Discrimination prohibited
>
> "No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS

The clerk of the court shall manage the jury selection process under the supervision and control of the chief judge of the district and there shall be no jury commission. The use of the word "clerk" in this plan contemplates the clerk, any or all of his deputies, and any other person authorized by the court to assist the clerk in the performance of functions under this plan. The phrase

"chief judge of this district" wherever used in this plan shall mean the chief judge of this district, or in his absence, disability or inability to act, the active district court judge who is present in the district and has been in service the greatest length of time. Wherever the Act requires or authorizes the plan to designate a district court judge to act instead of the chief judge, the above definition shall apply and such active district court judge above-mentioned is hereby designated to act.

The United States district judge of this court with official residence within the Panama City and Pensacola Divisions of this court shall be and he is hereby designated to supervise and control the management of the jury selection in and for these two divisions of this court with respect to both grand and petit jurors in the absence of any specific written directions of the chief judge of this court.

IV USE OF ELECTRONIC DATA PROCESSING METHODS FOR JURY ADMINISTRATION

The court finds that electronic data processing methods can be advantageously used for selected and copying names from the voter registration lists of those larger counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes, or magnetic discs. It is further found that in smaller counties currently maintaining their voter lists in handwritten or printed form it may be advantageous to employ a combination of methods whereby names

are initially selected from the voter list manually and then recorded in punched cards, tapes or discs for subsequent handling and copying of these names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may, at the clerk's option and after consultation with the chief judge, be used to select names from the master wheel from voter registration lists, or lists of actual voters, of any or all counties in the district, provided that the required proportions of names from each county are maintained.

Similarly, an electronic data processing system or a combination electronic and manual system may, at the option of the clerk and the chief judge, be used to select names from the master wheel, for the qualified wheel for summoning persons to serve as grand or petit jurors, and for the creation of any papers and records needed by the court to administer the recruitment, selection, and payment of jurors.

If the court elects to use electronic machine methods or a combination of manual and machine methods, in connection with any or all of the district's voter records, master jury wheels, or qualified jury wheels, the name selection system shall be planned and programmed according to a "starting number" and "quotient" formula. This formula will insure

that any group of names chosen will represent all segments of source files from which names are drawn and that the mathematical odds of any single name being picked are substantially equal.

The "quotient" is simply the number of names in the source list(s), or wheel, divided by the number of names wanted in any one drawing (in other words, it is the increment of names passed for each name taken). For example, if there are 200,000 names on the county voter lists, and questionnaires are to be sent to 4,000 of these names to establish the master wheel, the "quotient" for this drawing would be 50 (i.e., 200,000 divided by 4,000 = 50). Or, if there are 2,000 names in the qualified wheel and the court wishes to summon 100 jurors, the "quotient" for this drawing would be 20 (i.e., 2,000 divided by 100 = 20).

The "starting number" is a number drawn by lot from a box containing consecutively numbered cards covering the same range of numbers as the "quotient". For example, in the qualified wheel drawing mentioned above, the clerk would place consecutively numbered cards from one to twenty in a box and draw one number. If the randomly picked number was "5", the computer would be programmed to pick the 5th name in the wheel first and then take every 20th name thereafter (i.e., the 25th, the 45th, etc.).

Randomly drawing a "starting number" by lot accomplishes three objectives:

it establishes the location on the voter name list(s), or wheel, from which the first name is taken;

it removes the possibility of human discretion or choice in selection of any individual's name (making individual name selections unpredictable and unpredeterminable); and

it insures that, at the outset of the drawing mathematical odds of being picked are substantially equal for all names in the source from which drawn.

V RANDOM SELECTION OF NAMES FROM QUALIFIED BOX FOR JURY SERVICE

At the clerk's option and after consultation with the chief judge, the clerk may use an automated random selection from the qualified box or a manual drawing of the names from the qualified box, whichever seems to be more advantageous to the operation of the jury plan of this district. If the automated random selection is chosen, the starting number shall be publicly drawn in the office of the clerk of court at times to be announced in a public place such as a court bulletin board. If the manual drawing method is chosen, the names shall be publicly drawn from the qualified box in the office of the clerk of court.

The office of the clerk of the court shall retain when requested, provide public access to the following documents:

the court's "Juror Selection Plan", including a verbatim description of the method used in determining the "quotient" and "starting number";

a verbal or graphically charted description of the procedure employed in the automated selection system; and

a copy of the court's authorization and instruction order to the person or computer service organization which carries automated name selection tasks for the court

VI RANDOM SELECTION FROM VOTER LISTS AND MASTER JURY WHEELS

Voter registration lists represent a fair cross section of the community in each division of the Northern District of Florida. Accordingly, names of grand and petit jurors serving on or after the effective date of this plan shall be selected at random from the voter registration lists of the counties in the relevant division.

The clerk shall maintain a master jury wheel or a master jury box, hereinafter referred to as the master jury wheel for each of the divisions within the district. The clerk shall make the random selection of names from the master jury

wheels as follows. There shall be selected for the master wheel for each division as a minimum approximately the following number of names:

Pensacola Division	7,000
Panama City Division	4,000
Gainesville Division	4,000
Tallahassee Division	7,000

These numbers allow for the possibility that some juror qualification forms hereinafter mentioned will not be returned, that some prospective jurors may be exempt by law or excused, and that some may not comply with the statutory qualifications. The court may order additional names to be placed in the master jury wheels from time to time as necessary.

If the above numbers are less than one-half of one percent of the total number of registered voters for the division, the court concludes that such percentage number of names is unnecessary and cumbersome.

The clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division. For example, if the Tallahassee Division has 145,994 registered voters and the number of names to be selected is 7,000, the number of registered voters will be divided by 7,000, producing a quotient of 20. Then he shall

draw by lot a number not less than one and not greater than 20, and that name shall be selected from the voter registration list of each county in that division, along with each 20th name thereafter. Then, if the starting number is 3, the 23rd, 43rd, 63rd, etc., names shall be picked from the registration list of each county of that division.

The master jury wheel in each of the divisions in this district shall be emptied and refilled with the names obtained from the voter registration list of the 1988 general election on or before September 1, 1989, and each second year thereafter on or before September 1 of that year shall be emptied and refilled with names obtained from the voter registration list for either the general national election or the general state election in the preceding

This plan is based on the conclusion and judgment that the policy, purpose and intent of the Act will be fully accomplished and implemented by the use of voter registration lists, as supplemented by the inclusion of subsequent registrants to the latest practicable date, as the source of an at random selection of prospective grand and petit jurors who represent a fair cross section of the community. This determination is supported by all the information this court has been able to obtain after diligent effort on its part and amendments to the Act made by the judiciary's housekeeping bill in 1988.

As required by the Judicial Conference of the United States, a sampling will be made by the clerk within six months after each periodic two-year refilling of the qualified jury wheels, on forms approved by the Judicial Conference, giving general data relating to the master and qualified jury wheels, the time and manner of name selection, the source and number of names placed in the wheels and related information, an analysis of the race and sex of prospective jurors based on returns from a minimum of 300 jurors qualification forms drawn at random from the master jury wheels, and an analysis by race, sex and occupation during the period covered by the report.

VII DRAWING OF NAMES FROM THE MASTER JURY WHEEL; COMPLETION OF JURY QUALIFICATION FORM

This plan hereby incorporates the provisions of 28 U.S.C.A. 1864, which reads as follows:

> "(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk ... may, upon order of the court, prepare an alphabetical list of the names drawn ... The clerk ... shall mail to every person whose name is drawn from the master wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk ... by mail within ten days. If the person is unable to fill out the form, another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission,

ambiguity, or error in a form, the clerk ... shall return the form with instructions to the person to make such additions or corrections as may be necessary and to return the form to the clerk ... within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk ... forthwith to appear before the clerk ... to fill out a juror qualification form ... At the time of his appearance for jury service, any person may be required to fill out another juror qualification form in the presence of ... the clerk of the court, at which time, in such cases as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk ... may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

"(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than $100 or imprisoned not more than three days, or both. Any person who willfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than $100 or imprisoned not more than three days, or both."

VIII EXCUSES ON INDIVIDUAL REQUEST

In accordance with the Act, this court finds and hereby states that jury service by volunteer safety personnel (e.g., firefighters, rescue squad or ambulance crew members

who serve a public agency in an official capacity without compensation) would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse may be claimed, if desired, and shall be granted by the court or the clerk or his authorized deputy upon individual request.

Additionally, the court or the clerk or his authorized deputy may in his discretion excuse temporarily or permanently jurors summoned for jury service (1) upon a showing of undue hardship, extreme inconvenience, or other ground of exclusion, as set forth in Section 1866 of the Act; or (2) in those instances where service by a juror would jeopardize the well-being of another person or the community. The excuse ofsuch jurors shall not be inconsistent with Sections 1861 and 1862 of the Act, and said excuses shall be for such time as the court or the clerk or his authorized deputy may deem necessary and proper, provided, however, the names of persons temporarily excused shall be placed back in the qualified wheel for random selection for future jury service.

IX EXEMPTION FROM JURY SERVICE

Those groups of persons or occupational classes whose members shall be barred from jury service on the ground that they are exempt, the court finding that the exemption of such

groups of classes is in the public interest and is not inconsistent with Sections 1861 and 1862 of Title 23, United States Code, are as follows: (1) members in active service of the Armed Forces of the United States; (2) members of the fire or police departments of any State, district, territory, possession or subdivision thereof; and (3) public officers in the executive, legislative, or judicial branches of the government of the United States, or any State, district, territory, possession or subdivision thereof who are actively engaged in the performance of official duties (public officer shall mean a person who is either elected to public office or who is an officer directly appointed by a person elected to public office).

X DETERMINATION OF QUALIFICATIONS, EXCUSES, AND EXEMPTIONS

This plan hereby incorporates the provisions of 28 U.S.C.A. 1865, which reads as follows:

> "(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon recommendation of the clerk ... shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and in any alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

"(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless he--

"(1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;

"(2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

"(3) is unable to speak the English language;

"(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

"(5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored."

XI QUALIFIED JURY WHEEL

The clerk shall also maintain separate qualified jury wheels, hereinafter referred to as qualified jury wheels, for each division in the district and shall place in such wheels the names of all persons drawn at random from the master jury wheels and not disqualified, exempt, or excused pursuant to

this plan. The clerk shall insure that at all times at least 300 names are continued in each such qualified jury wheel over and above and exclusive of the names of jurors previously drawn from such qualified jury wheel.

The qualified jury wheel in each division of this district shall be emptied and refilled from the master jury wheel in 1989 after such master jury wheel has been refilled as herein provided and in any event no later than October 1, 1989, and each such qualified jury wheel shall also, in each second year thereafter, be in like manner emptied and refilled from the master jury wheel after such has been refilled as provided herein for that year, and in any event no later than October 1 of such year.

XII DRAWING OF AND ASSIGNMENT TO JURY PANELS

From time to time the court or the clerk, if so ordered by the court, shall publicly draw at random from the qualified jury wheel or wheels such number of names of persons as may be required for assignment to grand or petit jury panels, and the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel These names shall be disclosed by the clerk to parties and to the public after said list is prepared and the jurors have been summoned; provided, however, the court may at any time or from time to time order generally, or with respect to any particular term or terms of court, that these names be kept

confidential in any case where in the court's judgment interest of justice so requires. [29 U.S.C.A. 1863(b)(8)(9)]

XIII GRAND JURIES

Two separate and distinct geographic areas of this district are hereby established for the calling of grand jurors, to wit:

(a) Unless otherwise specifically ordered by the supervising judge, as defined in paragraph III, a grand jury for the Pensacola and Panama City Divisions shall sit in Pensacola. An equal number of names shall be drawn at random from the qualified jury wheels of each of these divisions only, and those so drawn shall constitute grand juries for these two divisions only; and

(b) Unless otherwise specifically ordered by the supervising judge, as defined in paragraph a grand jury for the Tallahassee and Gainesville Divisions shall sit in Tallahassee. An equal number of names shall be drawn at random from the qualified jury wheels of each of these divisions only, and those so drawn shall constitute grand juries for those two divisions only.