JUDICIAL COUNCIL
OF
THE UNITED STATES ELEVENTH JUDICIAL CIRCUIT

NORMAN E. ZOLLER
CIRCUIT EXECUTIVE

TEL. 404/335-6535
56 FORSYTH STREET, N.W.
ATLANTA, GEORGIA 30303

October 18, 2004

The Honorable Robert L. Hinkle
Chief United States District Judge
U. S. District Court, Northern District of Florida
111 N. Adams Street
Tallahassee, FL 32301-7717

Dear Chief Judge Hinkle:

The amended *Plan for the Random Selection of Grand and Petit Jurors* (the "Jury Plan") revised by the District Court for the Northern District of Florida on July 26, 2004, has been approved by the Reviewing Panel of the Judicial Council of the Eleventh Circuit.

Copies of the action of the Reviewing Panel and the amended plan are being filed by me with the following:

- Attorney General of the United States
- Director, Administrative Office of the U. S. Courts
- Clerk, U. S. Court of Appeals, Eleventh Circuit

Best wishes.

Sincerely,

Norman E. Zoller
Secretary to the Judicial Council

/kla
Enclosure
c: Members of the Judicial Council
The Honorable John D. Ashcroft
The Honorable L. Ralph Mecham
Mr. Thomas K. Kahn, Circuit Clerk
Mr. William M. McCool, Clerk of Court

ELEVENTH JUDICIAL CIRCUIT

Reviewing Panel, Jury Plan

The attached Jury Plan as amended July 26, 2004, for the United States District Court for the Northern District of Florida, having been reviewed by the Reviewing Panel of this Circuit is approved.

The following judges comprised and acted as the Reviewing Panel:

(a) Members of the Judicial Council

Chief Circuit Judge J. L. Edmondson
Circuit Judge Gerald Bard Tjoflat
Circuit Judge R. L. Anderson
Circuit Judge Stanley F. Birch, Jr.
Circuit Judge Joel F. Dubina
Circuit Judge Susan H. Black
Circuit Judge Ed Carnes
Circuit Judge Rosemary Barkett
Circuit Judge Frank M. Hull
Circuit Judge Stanley Marcus

(Alabama)
Chief District Judge U. W. Clemon
Chief District Judge W. Harold Albritton III
Chief District Judge Callie V. Granade

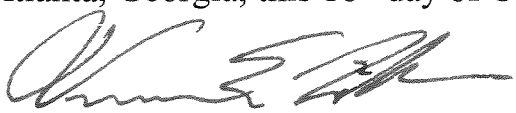
(Florida)
Chief District Judge Patricia A. Fawsett
Chief District Judge William J. Zloch

(Georgia)
Chief District Judge Orinda D. Evans
Chief District Judge W. Louis Sands
Chief District Judge William T. Moore, Jr.

(b) United States District Court

(Northern District of Florida)
Chief District Judge Robert L. Hinkle

Entered for the Reviewing Panel at Atlanta, Georgia, this 18th day of October 2004.



NORMAN E. ZOLLER
Circuit Executive

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF FLORIDA

PLAN FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

July, 2004

Pursuant to the Jury Selection and Services Act of 1968, As Amended

Title 28, U. S. Code, Section 1861, *et seq.*

United States District Court for the Northern District of Florida

Plan for the Random Selection of Grand and Petit Jurors

Pursuant to the Jury Selection and Service Act of 1968, Title 28, U. S. Code, Section 1861, *et. seq.*, as amended ("the Act"), the following Plan for the Random Selection of Grand and Petit Jurors ("Plan") is hereby adopted by the United States District Court for the Northern District of Florida.

I. Effective Date and Duration

This Plan supersedes any and all plans and amendments heretofore adopted and shall become effective upon approval by the Eleventh Circuit Reviewing Panel, as provided in Title 28, U. S. Code, Section 1863(a). It shall remain in force and effect until modified by the Court with the approval of the Reviewing Panel.

II Policy

A. The purpose of this Plan is to implement the policies of the United States as set forth in Title 28, U. S. Code, Section 1861:

1. 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;

2. 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

3. That all citizens shall have an obligation to serve as jurors when summonsed for that purpose.

B. It is further the purpose of this Plan to implement the prohibition against discrimination contained in Title 28, U. S. Code, Section 1862. That section

provides that 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.

III Definitions

For purposes of this Plan:

A. "Clerk" or "Clerk of Court" shall mean the Clerk of the United States District Court for the Northern District of Florida, any authorized deputy clerk, and any other person authorized by the court to assist the Clerk in the performance of duties pursuant to this Plan;

B. "Chief Judge" shall mean the Chief Judge of the United States District Court for the Northern District of Florida;

C. "Voter registration lists" shall mean the official records maintained by state or county election officials of persons registered to vote in either the most recent state or the most recent federal general election;

D. "Master jury wheel" or "master wheel" is a term designating all names selected directly from official voter registration lists in a manner prescribed in this Plan;

E. "Qualified jury wheel" or "qualified wheel" is a term designating the names of all persons determined to be qualified to serve as grand or petit jurors according to the manner prescribed in this Plan;

F. "Qualification form" or "qualification questionnaire" shall mean a form prescribed by the Administrative Office of the United States Courts and approved

by the Judicial Conference of the United States, which shall elicit certain information about a prospective juror;

G. "Jury summons" shall mean a summons issued by the Clerk, containing a preprinted or stamped seal of the court, the name of the Clerk, and instructions to appear for jury service;

H. "Petit juror" shall mean a juror summonsed to serve at a civil or criminal trial proceeding; and

I. "Grand juror" shall mean a juror summonsed to serve on a grand jury in one of the divisions of this court.

IV Applicability

The Northern District of Florida is hereby divided for jury selection purposes into four divisions, which are identical with the statutory composition of the district. Those divisions are:

A. Pensacola Division which consists of the counties of Escambia, Okaloosa, Santa Rosa, and Walton;

B. Tallahassee Division which consists of the counties of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla;

C. Gainesville Division which consists of the counties of Alachua, Dixie, Gilchrist, Lafayette, and Levy; and

D. Panama City Division which consists of the counties of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington.

The provisions of this Plan apply to all the divisions of the district unless otherwise indicated.

V. Management and Supervision of the Jury Selection Process

The Clerk, under the supervision and control of the Chief Judge or any judge or judges that the Chief Judges may designate, shall manage the jury selection process. Such management shall be consistent with this Plan and Title 28, U.S.C. Section 1861, *et seq.* The Clerk may use computers and other automation technologies in implementing this Plan and shall maintain operational guidelines to govern such use. The Clerk also may hire or contract with persons or entities to perform the duties set forth in this Plan, as long as the Clerk supervises the work of such persons or entities and receives written certification from them that work has been completed pursuant to the instructions of the Clerk.

VI Formula for the Method and Manner of Random Selection of Jurors

A. At the option of the Clerk, and after consultation with the Court, the selection of names from complete source list databases in electronic media for the master jury wheels may be accomplished by a purely randomized process through a properly programmed electronic data processing system. Similarly, at the option of the Clerk, and after consultation with the Court, a properly programmed electronic data processing system for a purely randomized selection may be used to select names from the master wheels for the purpose of determining qualification for jury service and from the qualified wheels for summonsing persons to serve as grand or petit jurors. Such random selections of names from the source lists for

inclusion in the master wheels by data computer personnel must ensure that each county within each division is substantially proportionally represented in the master wheels in accordance with Title 28, U. S. Code, Section 1863(b)(3). The selections of names from the source lists, the master wheels, and the qualified wheels must ensure that the mathematical odds of any single name being selected are substantially equal.

B. Alternatively, the random selection of names from the source lists, master wheels, and qualified wheels may be accomplished through a properly programmed electronic data processing system using a "starting number" and "quotient" formula. This formula will ensure that any group of names selected will represent all segments of source records from which names are drawn and that the mathematical odds of any single name being selected are substantially equal.

1. The "quotient" is the number of names in the source list or wheel, divided by the number of names wanted in any one drawing; i.e., the increment of names passed for each name selected. For example, if there are 200,000 names on the voter registration list, and 4,000 of those names are necessary to establish the master wheel, the "quotient" for this drawing would be 50 (200,000 divided by 4,000 equals 50). Or, if there are 2,000 names in the qualified wheel and the court wishes to summons 100 jurors, the "quotient" for this drawing would be 20 (2,000 divided by 100 equals 20).

2. 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 1 to 20 in a box and draw one number. If the randomly picked number was 5, the 5th name in the wheel would be selected and every 20th name thereafter would be selected; i.e., 5th name, 25th name, 45th name, etc.

3. Randomly drawing a "starting number" by lot establishes the location on the list or wheel from which the first name is selected; removes the possibility of human discretion or choice in selection of any individual name, making individual name selection unpredictable and unpredeterminable; and ensures that, at the outset of the drawing, mathematical odds of being picked are substantially equal for all names in the source from which drawn.

VII Master Wheels

A. Source Lists

The Court finds that the voter registration lists contain names which represent a fair cross section of the community in the Northern District of Florida and that the policy, purpose and intent of the Act will be fully accomplished and implemented by the use of voter registration lists as the source for names of prospective grand and petit jurors. Accordingly, the names of all grand and petit jurors shall be selected at random from the voter registration lists maintained in machine

readable forms by the by the various county supervisors of election or the Division of Elections of the Department of State of the State of Florida.

Such random selections of grand and petit jurors from voter registration lists may be made by either of the following methods, so long as they comply in all respects with this Plan:

1. The Clerk may obtain copies of the complete voter registration lists from the various county supervisors of election or the Division of Elections of the Department of State of the State of Florida. The Clerk shall make the random selection of names pursuant to this Plan from such list or lists; or,
2. The Clerk may authorize the various county supervisors of election or the Division of Elections of the Department of State of the State of Florida , acting in accordance with specific instructions from the Clerk, to select at random the required number of names from the voter registration lists of the counties that comprise the Northern District of Florida.

B. Establishment of Master Wheels

The names which are chosen through either of the two methods listed above will be used to fill the appropriate master wheels. The Clerk is required to maintain a separate master wheel for each division in the district, as described in Section IV of this Plan. The names and addresses of all persons randomly selected from the voter registration lists from each division shall be placed in the respective master wheel for each division.

C. Number of Names To Be Drawn

The master wheels shall be emptied and refilled between January 1 and September 1 of each odd-numbered year (2001, 2003, etc.) unless the Chief Judge directs otherwise. The total number of names drawn for each division shall be sufficient, as determined by the Clerk, to accommodate all grand and petit jurors required in the district for a period of two years after each refill, but at a minimum the total number of names shall be at least one half of 1 percent of the total number of names on the voter registration lists for each division. The Chief Judge may order additional names to be placed in any master wheel at any time.

VIII Qualified Wheels

A. Establishment of Qualified Wheels

1. The Clerk shall maintain a separate qualified wheel for each division in the district.

2. From time to time as the need arises, the Clerk shall publicly draw at random from the master wheel of each division in the manner set forth in Section VI of this Plan the names of persons to whom questionnaires will be sent for the purpose of examining their qualifications for jury service.

3. The Clerk shall place in the qualified wheel for each division the names of all persons drawn from the master wheel of that division who, upon return of their questionnaires, are found not to be disqualified, exempt, or excused pursuant to this Plan. The Clerk shall ensure that at all times a sufficient number of names is contained in each of the divisional qualified

wheels so that the grand and petit jury pools may be drawn at any time required by the Court.

4. Unless the Chief Judge directs otherwise, the qualified wheel of each division shall be emptied and refilled during each odd-numbered year as soon as the process of qualifying jurors from the new master wheels has produced a sufficient number of qualified jurors who represent a fair cross section of the community to meet the needs of the court.

B. Qualification Questionnaires

1. After determining the number of names to be drawn from the master wheel of each division, as determined by the Clerk to meet the needs of the court, a qualification questionnaire shall be mailed by the Clerk to each person whose name has been drawn from the master wheels. The qualification questionnaire shall be executed and returned within ten days of receipt by the juror. If the person to whom the qualification questionnaire is sent is unable to complete it, another person shall complete it and indicate on the qualification questionnaire why such action was necessary.

2. Whenever an omission, ambiguity, or error in the execution of the qualification questionnaire is apparent, the Clerk shall return the form to the prospective juror, with instructions to make any necessary corrections and to return the corrected form to the Clerk within ten days.

3. Pursuant to Title 28 U. S. Code, Section 1864(a), a person who fails to return a completed qualification questionnaire as instructed may be summonsed by the Clerk to fill out a qualification questionnaire.

C. Determination of Qualification for Jury Service

1. The Clerk, under the supervision of the court, shall determine solely on the basis of information provided on the qualification questionnaire whether a person is qualified for jury service, or unqualified for, or exempt, or to be excused from jury service. The Clerk shall record such determination on the qualification questionnaire or on the person's record in the court's electronic database. The Clerk shall also note the failure of a prospective juror to return the qualification questionnaire or to appear in response to a summons because of failure to return the qualification questionnaire as instructed.

2. Pursuant to Title 28, U. S. Code, Section 1865(b), any person shall be determined to be qualified to serve as a grand or petit juror in this district unless he or she:

   a. Is not a citizen of the United States;

   b. Is not 18 years old or older;

   c. Has not resided for a period of one year within this district;

   d. Is unable to read, write and understand the English language with a degree of proficiency sufficient to complete satisfactorily the qualification questionnaire;

e. Is unable to speak the English language;

f. Is incapable, by reason of mental or physical infirmity, to render satisfactory jury service;

g. Has a charge pending against him or her for the commission of a crime punishable by imprisonment for more than one year; or

h. Has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and has not had his or her civil rights restored.

D. Exemptions from Jury Service

Pursuant to Title 28, U .S .Code, Section 1863(b)(6), the Court finds that exempting the following groups of persons or occupational classes from jury service is in the public interest and would not be inconsistent with the Act:

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 or possession, or any subdivision thereof, but not members of any voluntary organizations;

3. Public officers in the executive, legislative, or judicial branches of the government of the United States, or any state, district, territory; or possession, or any 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.

E. Excuses from Jury Service

1. Permanent Excuses for Life of the Master Wheels

Pursuant to Title 28, U. S. Code, Section 1863(b)(5)(A) and (B), the Court hereby finds that members of the following occupational classes or groups of persons would endure undue hardship or extreme inconvenience if required to perform jury service and, therefore, shall be excused from such service upon individual request:

a. A person over 70 years of age;

b. A person who has served as a grand or petit juror in federal court within the last two years;

c. A person having active care and custody of a child or children under 10 years of age, whose health and/or safety would be jeopardized by any absence for jury service;

d. A person having active care and custody of, or who is essential to the care of, aged or infirm persons;

e. A person whose services are so essential to the operation of a commercial or agricultural enterprise that it would close or cease to function if such person were required to perform jury service; or

f. A person who serves as a volunteer firefighter, rescue squad member or ambulance crew member in an official capacity, without compensation, in a public agency. Public agency means

the United States, or any state, district, territory or possession, or any subdivision thereof.

2. Temporary Excuses

a. Any person summonsed for jury service may be excused temporarily by the Clerk upon a showing of undue hardship or extreme inconvenience. Such excuse may be for specific dates within the term for which the juror was summonsed or for such period of time as the Clerk or the Court deems necessary.

b. If a juror is excused temporarily, the name of the juror shall be returned to the qualified wheel for selection or deferred to a specific date .

c. A juror shall be notified, orally or in writing or both, whether or not his or her request to be excused has been granted.

F. Exclusions from Jury Service

Pursuant to Title 28, U. S. Code, Section 1866(c), any juror who has been summonsed for jury service may be excluded by the Court upon a finding by the Court:

1. That such person may be unable to render impartial jury service or that his or her service as a juror would possibly disrupt the proceedings;

2. That such person is peremptorily challenged as provided by law;

3. That such person should be excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or

4. That such person would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations; provided that no person shall be excluded under this subparagraph unless the Judge, in open court, determines exclusion is warranted and will not be inconsistent with Title 28, U. S. Code, Sections 1861 and 1862. The names of persons excluded under this subparagraph, together with detailed explanations for the exclusions, shall be forwarded immediately to the Judicial Council of the Eleventh Circuit for disposition under the provisions of Title 28, U. S. Code, Section 1866 (c).

5. Such person excluded from a particular jury under the provisions of subparagraphs 1 through 3 of this subsection F shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to the ability of such person to serve on another jury.

IX Drawing of Names for Issuance of Summons

A. Summons

Once the qualified wheel of a division is filled, the names of persons contained in that qualified wheel may be summonsed at random for service on either a grand jury or a petit jury.

B. Grand Juries

Three separate and distinct geographic areas of this district are hereby established for the summonsing of grand jurors:

1. Unless otherwise specifically ordered by the Chief Judge, a grand jury for the Pensacola and Panama City Divisions shall sit at Pensacola. An equal number of names shall be publicly drawn at random from the qualified wheels of each of these two divisions only.

2. Unless otherwise specifically ordered by the Chief Judge, a grand jury for the Tallahassee Division shall sit in Tallahassee, and names shall be publicly drawn at random from the qualified wheel of this division only.

3. Unless otherwise specifically ordered by the Chief Judge, a grand jury for the Gainesville Division shall sit in Gainesville, and names shall be publicly drawn at random from the qualified wheel of this division only.

C Petit Juries

1. The Clerk shall publicly draw at random names for a petit jury panel from the qualified wheel of the division in which trial is scheduled to be held.

2. The number of names drawn shall be consistent with the number of jurors required to serve the needs of the Court.

3. Except when necessary to complete service in a particular case, no person shall be required to serve or attend court for prospective service as a petit juror for a total of more than thirty days.

X. Maintenance and Inspection of Records

A. Disclosure of Names

Unless otherwise ordered by the Court, the names drawn from any qualified wheel to serve as grand or petit jurors shall not be disclosed or made available to the

public. The names of grand jurors may be provided to the United States Attorney by the Clerk. The Court may order the names of jurors to be kept confidential in any case when the interests of justice so require. The names of prospective jurors shall not be disclosed except as provided in Title 28, U. S. Code, Sections 1867 and 1868.

B Records

1. The names in the master wheels, the qualified wheels, and on grand and petit jury panels may be maintained in printed form or on electronic data storage devices.

2. The Clerk shall retain and, when requested, provide public access to this Plan, including a verbal description of the methods used to refill the master and qualified wheels and to summons jurors.

3. The contents of records or papers used by the Clerk in connection with the jury selection process shall not be disclosed, except pursuant to this Plan or as may be necessary in the preparation or presentation of a motion under Title 28, U. S. Code, Sections 1867(a), (b) or (c).

4. After the master wheels are emptied and refilled pursuant to this Plan, and after all persons selected to serve as jurors before the master wheels were emptied have completed such service, all records and papers compiled and maintained by the Clerk before the master wheels were emptied shall be preserved in the custody of the Clerk for four years and shall be available for public inspection for the purpose of determining the validity of the

selection of any jury. Thereafter, the Clerk may dispose of all such records following applicable records disposition policies..

XI Incorporation of Amendments

Incorporated herein by reference is Title 28, U. S. Code, Sections 1861, *et seq.*, together with all amendments which may hereafter be made, and all laws hereafter enacted relating to grand and petit juries and trial by jury in the United States.

Done and Ordered this 26th day of July, 2004.

ROGER VINSON, Chief Judge

ROBERT L. HINKLE, District Judge

STEPHAN P. MICKLE, District Judge

M. CASEY RODGERS, District Judge

WILLIAM STAFFORD, Senior Judge

MAURICE M. PAUL, Senior Judge

LACEY A. COLLIER, Senior Judge