United States District Court for the Northern District of Mississippi

Jury Plan

Amended As of July 2011

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2011 AMENDMENT TO JURY PLAN OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI, ALL DIVISIONS, FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS

Pursuant to the Jury Selection and Service Act of 1968, 28 USC 1861 et seq. (1966 & Supp. 1996), as amended, the following amended 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 the United States.

I. APPLICABILITY OF PLAN.

This plan is applicable to the Northern District of Mississippi which is hereby divided for jury selection purposes into three jury divisions. Each county within the District is included in one of the following jury divisions:

(1) Eastern Division: Alcorn, Attala, Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Prentiss, Tishomingo and Winston.

(2) Western Division: Benton, Calhoun, DeSoto, Grenada, Lafayette, Marshall, Montgomery, Panola, Pontotoc, Quitman, Tallahatchie, Tate, Tippah, Tunica, Union, Webster and Yalobusha.

(3) Greenville Division: Bolivar, Coahoma, Carroll, Humphreys, Leflore, Sunflower and Washington.

II. POLICY DECLARATIONS.

It is hereby declared to be the policy of this court that all grand and petit jurors chosen to serve are to be selected according to uniform, independent federal qualifications. All litigants in this District or any jury division thereof who are entitled to trial by jury have the right to a jury chosen

from a venire selected at random from a fair cross-section of the entire community in the District, or jury division where the trial is held. Persons selected for jury service have an obligation to serve.

It is the purpose of the procedures herein set out to select impartial jurors who are fairly chosen in such a manner that each of the political subdivisions in each jury division of this court will be substantially proportionately represented. Jurors are not to be chosen according to the so-called "key man" or "suggester system" and there are to be no so-called "blue ribbon" qualifications to serve as jurors. The qualification of jurors is to be determined only by competent, objective evidence and prospective jurors are not to be disqualified, exempted, excluded or excused on the basis of subjective evidence.

No citizen will be excluded from service as a grand or petit juror in this District, or any jury division thereof, on account of race, color, religion, sex, national origin, or economic status.

III. DEFINITIONS.

(1) "Chief Judge of the District" will mean the Chief Judge of the District, or in his or her 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 Jury Selection and Service Act requires or authorizes the plan to designate a district court judge to act instead of the Chief Judge, the above definition will apply and such active District Court Judge above mentioned is hereby designated to act.

(2) "Clerk" or "Clerk of the Court" will mean the Clerk of the United States District Court for the Northern District of Mississippi, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of the jury selection process under this plan.

(3) "Court" will mean the Chief Judge of this District, or any judge assigned to a particular Division by order duly filed in such Division.

(4) "Division" will mean one of the three jury divisions as listed in Section I of this plan.

(5) "Juror Qualification Questionnaire" will mean the form used to qualify, disqualify, exempt, or excuse a person in the filling of the qualified wheel in each Division.

(6) "Jury Information Form" will mean the form that is sent to a random selection of names from the qualified wheel in a division in conjunction with the Summons for Jury Service when a jury is needed.

(7) "Master Wheel" will mean the jury wheel in a division that has been created by the source lists of that division.

(8) "Qualified Wheel" will mean the jury wheel for each jury division that includes all persons drawn at random from the master wheel that has not been disqualified, exempt or excused pursuant to this plan.

(9) "Source lists" will mean the lists used to gather names for the master wheel for each division.

(10) "Summons for Jury Service" will mean the form that is sent to a random drawing of names from the qualified wheel in a division in conjunction with the Jury Information Form when a jury is needed.

IV. MANAGEMENT AND SUPERVISION OF THE JURY SELECTION PROCESS.

Every act required or permitted by law or by this plan to be done in the management of the jury selection process may be performed by the clerk, under the supervision and control of the Chief Judge of this District. To ensure the exercise of proper supervision and management over automated

aspects of jury selection and its conformity with statutory requirements, non-court personnel operating a computer will comply with the instructions for random selection of grand and petit jurors by electronic methods contained in this plan and such additional written instructions as provided by the court, and will certify that the work performed has been completed pursuant to such instructions.

V. MASTER WHEELS.

(1) Master Wheels. General Election Voter Registration Lists from all counties within the relevant division will be the source from which the names of petit and grand jurors will be randomly selected for possible qualification. The court further finds that such lists represent a fair cross-section of the community in this District. The lists used to gather names for the master wheels will hereafter be referred to as the "source lists." Accordingly, names of petit and grand jurors serving in this District will be selected by a randomized procedure from the aforementioned source lists.

(2) Number of Names. The total number of names for each jury division master wheel will be determined by the Chief Judge of this District on recommendation of the clerk based on the clerk's estimate of the number needed for a period of two years. This number must be at least, but will be not less than one-half of one percent of the total number of persons on the voter registration lists in each jury division, and not less than 1,000. The number of names selected from each county will be in the same ratio to the total number of names to be selected as the number of registered voters in that county bears to the total number of registered voters in the division. Following this same procedure, additional names may be placed in each master wheel from time to time as may be necessary and as determined and ordered by the Chief Judge at the recommendation of the clerk.

(3) Initial Selection of Names for the Master Wheels. The court finds that the initial selection of persons to be considered for service as petit and grand jurors from the source lists will be made at random in such a total number as may be deemed sufficient for a period of two years. For the purpose of calculating from the voter registration list the total number of registered voters within a respective jury division within the District, the clerk will add together the totals contained from each county. The number taken as the total for each county may be based, at the clerk's option, upon either a manual or a mechanized count of the names on the voter registration lists. After first determining the total number of names needed for each master wheel and then the proportionate shares of names to be drawn from the source list of each particular county, the clerk will proceed, either manually or through a combination of manual and computer methods, to make the initial selection of names from the source list of each county. The aforementioned selection of names in the master wheels will be emptied and refilled every two years between the date of the November national general election and the following March 31.

(4) Method and Manner of Random Selection. The selection of names from complete source list databases in electronic media for the master wheels may be accomplished by a stratified purely randomized process through routines approved by the National Institute of Standards and Technology (NIST). Similarly, at the option of the clerk and after consultation with the court, a properly programmed electronic data processing system for purely randomized selection may be used to select names from each master wheel for the purpose of determining qualification for jury service, as well as from each qualified wheel for summonsing persons to serve as grand or petit jurors. Such random selection of names from the source lists for inclusion in each master wheel by computer data personnel must ensure that each county within a jury division is substantially proportionally

represented in each master wheel in accordance with Title 28, United States Code, section 1863(b)(3). The selections of the names from the source lists, the master wheels, and the qualified wheels must also ensure that the mathematical odds of any single name being picked are substantially equal.

(5) All names selected will then be placed in the master wheel of each jury division. A random selection of these names from each master wheel will be sent a Jury Qualification Questionnaire.

VI. DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES.

The clerk, under instruction by the court, will determine solely on the basis of information provided on the juror qualification questionnaire and other competent evidence whether a person is qualified for, exempt, or to be excused from jury service, as provided in this plan. The names of persons drawn from each master wheel, who are determined to be qualified as jurors and not exempt or excused pursuant to this plan, will be placed in the appropriate qualified wheel by the clerk.

VII. QUALIFICATION FOR JURY SERVICE.

Every person will be deemed qualified to serve on grand and petit juries in this District, unless he or she:

(1) Is not a citizen of the United States, eighteen years old, and a resident 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 questionnaire;

(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 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 civil rights have not been restored.

VIII. EXEMPTION FROM JURY SERVICE.

The court hereby finds and states that it is in the public interest, and not inconsistent with Sections 1861 and 1862 of the Act, to exempt certain groups or occupational classes of persons, as follows:

(1) Member 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;

(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 will mean a person who is either elected to public office or who is directly appointed by a person elected to public office.)

IX. EXCUSE FROM JURY SERVICE.

This court hereby finds and states that jury service by members of certain groups or occupational classes of persons would entail undue hardship and extreme inconvenience to the members thereof, and their excuse from jury service, which is not inconsistent with §§ 1861 and 1862 of the Act, will be granted, upon individual request and if desired, to the following persons:

(1) All persons over 70 years of age;

(2) All persons who have served as a grand or petit juror in a state or federal court within the past two years;

(3) All persons who were summonsed twice for jury duty within the past year and did not serve;

(4) Volunteer safety personnel or individuals serving a public agency in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.

Additionally, the clerk may excuse persons receiving a juror qualification questionnaire upon a showing of undue hardship, extreme inconvenience, or other grounds of exclusion as set forth in Section 1866 of the Act.

X. QUALIFIED WHEELS.

The clerk will maintain a separate qualified wheel for each jury division in the District and will place in such wheels the names of all persons drawn at random from the master wheels that have not been disqualified, exempt, or excused pursuant to this plan. The clerk will ensure that at all times at least 300 names are contained in each such qualified wheel. The qualified wheel for each Division will be emptied and refilled pursuant to the procedure herein prescribed every two years between the date of the November national general election and the following June 30th.

XI. SUMMONS FOR JURY SERVICE; JURY INFORMATION FORM.

From time to time as directed by the court, the clerk will draw at random from the relevant qualified wheel the names of as many persons as may be required for jury service. The clerk will post a general notice for public review in the Clerk's Office and on the court's website explaining the process by which names are periodically and randomly drawn. The clerk will have prepared, by manual or computer means, a list of the names drawn, which list will not be disclosed to any person

except pursuant to §§ 1867 and 1868 of the Act. The clerk will by manual or computer means, prepare and have mailed to every person whose name is drawn from the qualified wheel a Summons for Jury Service and Jury Information Form with instructions to fill out and return the form, duly signed and sworn, to the clerk by mail or through the court's internet website within ten days. If the person is unable to fill out the form, another person will do it for him, and will 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 will 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 jury information form as instructed may be summonsed by the clerk forthwith to appear before the clerk to fill out the jury information form. A person summonsed to appear because of failure to return the form as instructed who personally appears and executes a jury information form before the clerk may, at the discretion of the Chief Judge, except where such person's prior failure to execute and mail such form was willful, be entitled to receive for such appearance the same fees and travel allowances paid to jurors under §1871 of the Act. At the time of his appearance for jury service, any person may be required to fill out another jury information form in the presence of the clerk, 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 jury information form and transmitted to the Chief Judge of this District.

Any person summonsed as above who fails to appear as directed may be ordered by the presiding judge forthwith to appear and show cause for 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 $1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof. Any person who willfully misrepresents a material fact on a jury information form for the purpose of avoiding or securing service as a juror may be fined not more than $1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.

Summonsed jurors claiming individual excuses pursuant to Section IX will be excused upon determination that such request for excuse is valid at the time the juror is summonsed.

When finding of undue hardship or extreme inconvenience is made upon application by a person summonsed for jury service, the clerk will either excuse or defer such person from service for such period of time as is deemed necessary, at the conclusion of which such person's name will be placed back into the qualified wheel where they will be subject to subsequent random selection.

If a summonsed juror has changed residence from one division to another division subsequent to the establishment of the division's qualified wheel, that juror will be excused from service in the division of original residence for such period of time as the court deems necessary. At the conclusion of that period, the person's name will be placed back into the qualified wheel and summonsed for subsequent jury service in the division of current residence.

XII. GRAND JURIES.

Inasmuch as our grand juries function on a district-wide basis, they will be drawn by a judge of this court, or the clerk, if so directed by a judge of this court, by drawing from the qualified wheel for each jury division a pro rata number of names at random in essentially the same proportion that the number of names on the division's voter registration lists bears to the total number of names on

all the voter registration lists for the district. The names so drawn will be pooled and will constitute the grand jurors to report for duty.

XIII. DISTRICT-WIDE JURIES.

Upon good cause having been shown by either party or on the court's determination *sua sponte* that a petit jury panel should be drawn on a district-wide basis and the court finding that a district-wide jury is preferred due to notoriety of the offenses or parties involved or for other reasons, the court may direct the clerk to draw a petit jury panel on a district-wide basis, instead of a divisional jury panel. If a district-wide jury panel is required, the clerk will draw from the qualified wheel for each jury division a pro rata number of names at random in essentially the same proportion that the number of names on the division's voter registration lists bears to the total number of names on all the voter registration lists for the district. The names so drawn will be pooled and will constitute the petit jurors to report for duty.

XIV. EXCUSING PERSONS FOR GRAND AND/OR PETIT JURIES.

The clerk is responsible for excusing jurors upon determination that the request meets the requirements for excuse as stated in Section IX of this plan.

The names of those jurors who have been excused from a petit jury for hardships or extreme inconvenience reasons will be put back in the qualified wheel, except where the hardship is determined to be permanent, where they will be subject to subsequent random selection. The grand jury panel will be selected only from names drawn from the qualified wheel on order of a district judge. The names of those jurors excused from the grand jury for hardship or extreme inconvenience reasons, except where the hardship is determined to be permanent, will be placed back in the qualified wheel where they will be subject to subsequent random selection.

When there is an excess of jurors present (e.g., grand jury) and their presence is required for only one day, the court will, in its discretion, upon excusing the excess jurors, inform them that their names will be placed back in the qualified wheel, subject to subsequent random jury selection.

XV. RELEASE OF PROSPECTIVE JUROR NAMES.

From time to time the clerk, when ordered by a judge of this court, will draw at random from the qualified jury wheel such number of names of persons as may be required to form a pool that will be on-call for a month to report for possible jury selection, and a list will be prepared of those in the pool. The clerk may release such list of names, upon request of attorneys of record for parties having cases set for trial, no more than one (1) week prior to the start of the trial, and only one (1) list per attorney of record will be provided; however, a district judge of this District 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 when the interest of justice so requires.

XVI. DISCLOSURE OF RECORDS.

The contents of records or papers used by the clerk in connection with the jury selection process will not be disclosed to anyone except court personnel at any time without the express consent of the Chief Judge of this District except pursuant to §§ 1867 (a), (b), or (c) and 1868 of the Act.

XVII. MAINTENANCE OF RECORDS.

In order to ensure the exercise of proper supervision and management over the automated aspects of jury selection and in accordance with statutory requirements, this court will comply with the following procedures:

(1) The court will issue to the operator of the computer facilities written instructions describing the operations which will be performed by the computer equipment. Such instructions for random selection of grand and petit jurors by data processing methods will be available for inspection by the public.

(2) Upon the completion of the data processing work required of the computer facilities, the court will require the execution of an affidavit by the agency providing the computer service. Such affidavit will state under penalty of perjury that the procedure set down by the court governing the selection of its jurors has been fully met in the automated phase of the selection process.

(3) The clerk will then receive into the permanent records of the court the selection instructions to the computer facility and the affidavit by the representative of the computer facility certifying compliance with the same.

XVIII. OTHER PROCEDURES.

This plan expressly incorporates herein all other procedures for jury selection and service, not herein specifically provided for, as set forth in Public Law 90-274, entitled "Jury Selection and Service Act of 1968", and this court reserves all powers, authority, and discretion vested in it by the terms of such Act.

XIX. FORMS.

Juror qualification forms and jury information forms used in connection with the implementation of this plan and the Jury Selection and Service Act of 1968 will be those prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States.

SO ORDERED, this 8th day of July, 2011.

Michael P. Mills, Chief Judge

W. Allen Pepper, District Judge

Sharion Aycock, District Judge

Neal B. Biggers, Senior Judge

Glen H. Davidson, Senior Judge