

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JUDICIAL COUNCIL

In the Matter of the Review of the \*  
Amendment to the Jury Selection Plan \*  
Submitted by the United States District \* No. 140  
Court for the District of South Carolina \*

**ORDER**

The Jury Selection Plan of the United States District Court for the District of South Carolina is hereby amended by the District Court Order dated September 30, 1999 and shown in a copy of the Order attached hereto, and it is so ORDERED.

FOR THE COUNCIL:

  
Chief Judge

Date: *October 29, 1999*

**FILED**

**OCT 29 1999**

**U.S. Court of Appeals  
Fourth Circuit**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

**FILED**

**SEP 30 1999**

LARRY W. PROPPS, CLERK  
COLUMBIA, S. C.

In the matter of )  
)  
AMENDED JURY SELECTION PLAN )  
FOR THE RANDOM SELECTION OF )  
GRAND AND PETIT JURORS )  
)  
\_\_\_\_\_ )

**ORDER**

MISCELLANEOUS NO. 3:99mc 5015

Pursuant to the Jury Selection and Services Act of 1968, as amended, (28 U.S.C. § 1861 et seq.) the following Plan is hereby adopted by this court, subject to approval by a reviewing panel for the Fourth Circuit and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

The District of South Carolina is hereby divided into areas for jury selection purposes, pursuant to Section 1869 (e) of the Act, as follows:

Area A - comprising the Anderson, Greenville, Greenwood and Spartanburg Divisions.

Area B - comprising the Columbia, Florence and Rock Hill Divisions.

Area C - comprising the Aiken, Beaufort, Charleston and Orangeburg Divisions.

Provisions of this Plan apply to all areas in the District.

The Court finds that electronic data processing methods can be advantageously used for establishing master wheels, qualified wheels, qualifying jurors, randomly selecting grand and petit jurors, maintaining juror records and automating jury clerical work. Therefore, a properly programmed electronic data processing system is authorized by the Court in selecting grand and petit jurors.



The Court authorizes the Clerk of Court to manage the Jury Selection Plan under the supervision and control of the Chief Judge for this District. The Clerk of Court, with the approval of the Chief Judge, is authorized to effect any changes in the data processing system to include, but not limited to, hardware, software, forms, mailing procedures, maintenance of records, etc., which will improve or provide a more efficient data processing system provided that such changes continue to insure that potential jurors are selected at random from a representative cross-section of the community and that no citizen is excluded on account of race, color, religion, sex, national origin or economic status, in compliance with the objectives and requirements of the District Jury Selection Plan.

Voter registration lists represent a fair cross-section of the community in the District of South Carolina, and such lists, as established by the South Carolina Election Commission and maintained by a programmed electronic data processing system shall serve as the source for all grand and petit jurors serving in the District of South Carolina. 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 all the Counties within the State.

In order to ensure proper supervision and management over the automated aspects of jury selection and in accordance with statutory requirements, the operator of the computer shall comply with the instructions for random selection of grand and petit jurors by electronic machine methods contained in this court's plan for random selection of grand and petit jurors and such additional written instructions as provided by the court, and shall certify that the work has been completed pursuant to such instructions.

In the event of computer malfunction or any overt and/or obvious deviation from this Plan caused by automation, the Clerk, with the approval of the Chief Judge or such other judge(s) as may be designated, shall manually proceed from the last step correctly implemented.

**MASTER JURY WHEELS** - The Clerk shall maintain a master jury wheel for each of the jury areas within the District which shall be a database in electronic media and physically retained at a designated Automation Data Processing Center. The master jury wheels shall consist of the names of all registered voters for each area as determined by the South Carolina Election Commission on or immediately after January 1 every other calendar year.



Pursuant to Section 1863 (b)(4), the master jury wheel shall consist of not less than ½ of 1 per centum of the total number of persons on the source list which is the Voter Registration List. The South Carolina Election Commission will furnish the Clerk of Court with a master list of all registered voters on electronic media. The master list will be in alphabetical order by jury area and will serve as the master jury wheels for the District. The master jury wheels shall be emptied and refilled during the 60-day period beginning January 1 of every other calendar year.

At the clerk's option, and after consultation with the court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through a properly programmed electronic data processing system. The selection of names from the source list for the master wheel shall be accomplished by drawing a starting number by lot and commencing therewith on the source list of each county in the jury area, selecting that name with the remaining names to be selected in multiples as ordered by the Chief Judge, to produce the number of names required for the master wheel. The starting number will be manually drawn by lot from numbered cards placed in a jury wheel or similar device. Cards used for the drawing shall begin with the card containing the number one and end with a card containing the final number of the multiple to be used in selecting the desired number of names. For example, if one-thousand names were to be selected from a source of seventy-five thousand names, the multiple would be seventy-five. Cards numbered one through seventy-five would be placed in a jury wheel or similar device and the starting number would be drawn. Thereafter, every seventy-fifth name would be chosen until one-thousand names were selected.

Similarly, at the option of the clerk and after consultation with the court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selection of names from the source list for inclusion in the master wheel by data computer personnel must insure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C.

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sec. 1863 (b)(3). The selection of names from the source list, the master wheel, and the qualified wheel must also insure that the mathematical odds of any single name being picked are substantially equal.

**EXCUSES ON INDIVIDUAL REQUEST** - The District Court hereby finds that jury service by members of the following occupational classes or groups of persons would entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with Title 28 U.S.C. § 1861 and 1862, and shall be granted upon individual request to:

- (1) Persons over 70 years of age;
- (2) Persons who have served as a Federal grand or petit juror within the last 2 years;
- (3) Persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service; or persons who are essential to the care of aged or infirm persons;
- (4) Persons whose services are so essential to the operation of a business, commercial or agricultural enterprise that it must close or cease to function if they are required to perform jury duty.
- (5) Volunteer safety personnel who serve without compensation as firefighters or members of a rescue squad or ambulance crew for a public agency.

**EXCUSES BASED ON DISTANCE FROM THE COURT** - The District Court finds that all parts of the jury areas are reasonably accessible and no excuse on the basis of distance should be granted.

**EXEMPTION FROM JURY SERVICE** - The District Court hereby finds that exemption of the following groups of persons or occupational classes are expressly required to be exempted by 28 U.S.C. § 1863 (b)(6), and accordingly members of such groups are barred from jury service:

- (1) Members in active service in the Armed Forces of the United States;

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- (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, or 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 directly appointed by a person elected to public office.

**QUALIFICATIONS FOR JURY SERVICE** - The Chief Judge shall determine whether a person is unqualified for, or exempt, or to be excused from jury service. Prior to this determination, the Clerk shall make a recommendation to the Chief Judge based on the information provided on the juror qualification form and other competent evidence. The Clerk shall enter the determination of the Chief Judge in the space provided on the juror qualification form and/or in the juror record in the database in an automated jury system. If a person does not appear in response to a summons, such fact shall be noted on said list. In making such determinations, the Chief Judge shall deem any person qualified to serve on grand and petit juries in the District Court unless he or she:

- (1) Is not a citizen of the United States, eighteen years of age 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 by pardon or amnesty.

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**QUALIFIED JURY WHEEL** - The Clerk, with the approval of the Chief Judge, shall maintain separate qualified jury wheels for each jury area in the District, and shall place in such wheels the names of all persons drawn from the master jury wheel and not disqualified, exempt, or excused pursuant to this Plan. The Clerk shall insure that at all times sufficient names are contained in each such wheel to satisfy the requirements of that jury area. The Clerk may maintain these wheels through the use of a properly programmed data computer.

**DISCLOSURE OF JUROR NAMES AND RECORDS** - Names drawn from the qualified jury wheel for Petit Juries shall not be made public until thirteen (13) working days before the jurors are to appear at the Courthouse, provided that the Chief Judge may order the names to be kept confidential in a case or cases when the interests of justice so require. Those names drawn for Grand Juries will not be made public at any time, unless so ordered by the Chief Judge.

The contents of records or papers used by the clerk or deputy clerk in connection with the jury selection process, including juror qualification questionnaires, shall not be disclosed to anyone other than court personnel except as provided in 28 U.S.C. § 1867(f) and in this Plan.

**PROCEDURE FOR ASSIGNING JUROR PANELS** - When a petit jury is required at a place of holding court, the Clerk shall, after notice and with the approval of the presiding Judge, draw at random from the appropriate qualified wheel for each session of court such number of jurors as may be needed. Names of petit jurors will be drawn at least thirty (30) days prior to the convening of the session, unless a shorter time is designated by the Chief Judge.

A centralized petit jury may be used when ordered by the Chief Judge. When the services of a centralized petit jury are required, the Clerk shall draw names based on each jury area's percentage of the total names in the master wheel for a session of court.

Centralized grand juries or grand juries drawn from one jury area may be used, and grand jurors will be summoned for service for a period of one year. Special grand juries are

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summoned for eighteen (18) months and may serve a maximum of thirty-six (36) months. When the services of a grand jury are required, the Clerk shall seat twenty-three (23) jurors and a sufficient number of alternates. Centralized grand juries will be drawn based on each jury area's percentage of the total names in the master wheel. After the initial session of each grand jury, the grand jury may be reconvened from time to time as the nature of the business requires on request of the United States Attorney and at the direction of the Chief Judge.

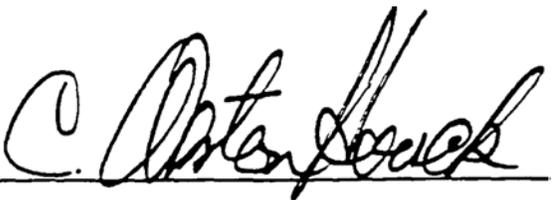
**TEMPORARY EXCUSES OF JURORS WHO HAVE BEEN SUMMONED FOR JURY SERVICE** - A juror summoned for jury service in this District may be temporarily excused upon a showing of undue hardship or extreme inconvenience by the Clerk and with the approval of the presiding Judge. Persons granted temporary excuses shall be reinstated into the qualified wheel or shall be resummoned at the discretion of the Clerk or the presiding Judge.

**RANDOM METHOD OF REDUCING AND ENLARGING PANELS** - The Clerk, with the approval of the presiding Judge, is authorized to reduce the size of a venire by a random method when it appears there are more jurors summoned than are necessary to dispose of the business of the Court.

When it appears that there are insufficient jurors to dispose of the business of the Court, the Clerk, with the approval of the presiding Judge, is authorized to add additional jurors to the venire by a random method from the list of those jurors previously temporarily excused.

This Amended Plan shall become effective upon approval by the Reviewing Panel of the Judicial Council of the Fourth Circuit Court of Appeals, or at such time thereafter as the Panel shall direct.

Dated Sep. 29, 1999  
Florence, South Carolina

  
C. Weston Houck, Chief Judge

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