UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JUDICIAL COUNCIL

FILED
NOV 19 2014
U.S. Court of Appeals
Fourth Circuit

In the Matter of the Review of the	*	
Amendment to the Jury Selection Plan	*	
Submitted by the United States District	*	No. 323
Court for the District of South Carolina	*	

ORDER

The Jury Selection Plan for the Random Selection of Grand and Petit Jurors of the United States District Court for the District of South Carolina is hereby amended by the District Court Order dated October 29, 2014 and shown in a copy of the Order attached hereto, and it is so ORDERED.

FOR THE COUNCIL:

Samuel W. Phillips

Samuel W. Phillips, Secretary

Date: November 19, 2014

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

In the matter of	)	
	)	**ORDER**
AMENDED JURY SELECTION PLAN	)	
FOR THE RANDOM SELECTION OF	)	MISCELLANEOUS NO. 3:14-338
GRAND AND PETIT JURORS	)	
	)	
	)	

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 Aiken, Columbia, Orangeburg, and Rock Hill divisions.

Area C: comprising the Beaufort and Charleston divisions.

Area D: comprising the Florence division.

These four jury areas are reflective of the four staffed divisional offices in the District of South Carolina (Greenville, Columbia, Charleston, and Florence), serve to minimize juror travel time and cost to the court, and primarily align with the manner in which cases are assigned to a proximate operating courthouse. Provisions of this Plan apply to all areas in the district.

The court finds that electronic data processing methods are advantageous for establishing master jury wheels and qualified jury 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 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 including, 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 ensure that potential jurors are selected at random from a representative cross-section of the community and that no citizen is excluded on the basis of race, color, religion, sex, national origin or economic status, in compliance with the objectives and requirements of the Plan.

Voter registration lists represent a fair cross-section of the community in the district, 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. 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 system shall comply with the instructions for random selection of grand and petit jurors by electronic machine methods contained in this court's Plan 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 system malfunction or any overt and/or obvious deviation from this Plan caused by automation, the Clerk of Court, 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 WHEEL: The Clerk of Court shall maintain a single master jury wheel for the jury areas within the district. The master jury wheel is stored as electronic media in a database. This database is physically located at the Columbia courthouse. Copies of this database are maintained off-site for emergency preparedness and back-up purposes. The names in the master jury wheel are randomly selected from the lists of all registered voters for each area as determined by the South Carolina Election Commission. Pursuant to 28 U.S.C. § 1863 (b)(4), the master jury

wheel shall consist of not less than one-half of one percent of the total number of persons on the list of registered voters (the source list). The South Carolina Election Commission will furnish the Clerk of Court with the master jury wheel on electronic media. This list of names in alphabetical order for each jury area will serve as the master jury wheel for the district. The master jury wheel shall be emptied and refilled prior to the date upon which a new wheel will be effective. The master jury wheel will be emptied and refilled every two to four years as determined by the Clerk of Court.

The selection of names from complete source list databases in electronic media for the master jury wheel shall be accomplished by a purely randomized process through a properly programmed electronic data processing system. The selection of names from the source lists for the master jury 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 jury 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 1,000 names were to be selected from a source of 75,000 names, the multiple would be 75. Cards numbered 1 through 75 would be placed in a jury wheel or similar device and the starting number would be drawn. Thereafter, every 75th name would be chosen until 1,000 names were selected.

A properly programmed electronic data processing system for pure randomized selection shall be used to select names from the master jury wheel for the purpose of determining qualification for jury service and from the qualified jury 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 jury wheel by South Carolina Election Commission personnel must ensure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863 (b)(3). The selection of names from the source list, the master jury wheel, and the qualified jury wheel must also ensure that the mathematical odds of any single name being picked are substantially equal.

EXCUSES ON INDIVIDUAL REQUEST: The 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 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 business, commercial or agricultural enterprise that it must close or cease to function if they are required to perform jury duty; or

(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 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 court hereby finds that exemption of the following groups of persons or occupational classes is expressly required by 28 U.S.C. § 1863 (b)(6), and accordingly, full-time members of such groups are barred from jury service:

(1) Members in active service in the Armed Forces of the United States, defined in 10 U.S.C. § 101(a)(4) as including only the Army, Navy, Air Force, Marine Corps, and Coast Guard;

(2) Members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; or

(3) "Public officers" (i.e., persons either elected to public office or directly appointed by a person elected to public office) in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.

QUALIFICATIONS FOR JURY SERVICE: The Clerk of Court or her designee under supervision of the court shall determine whether a person is disqualified, exempt, or should be excused from jury service based on the information provided on the juror qualification questionnaire and other competent evidence. The Clerk of Court or her designee shall enter the determination in the space provided on the juror qualification questionnaire and/or in the juror record in the database in an automated jury system. In making such determinations, the Clerk of Court or her designee shall deem any person qualified to serve on grand and petit juries in the court unless he or she:

(1) Is not a citizen of the United States at least 18 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 complete 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 against him or her 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 or her civil rights have not been restored by pardon or amnesty.

Notice of persons who identify themselves as non-citizens through the juror qualification process will be provided to the appropriate South Carolina election officials for verifying voter registration eligibility.

QUALIFIED JURY WHEEL: The Clerk of Court, with the approval of the Chief Judge, shall maintain a qualified jury wheel for the jury areas in the district, and shall place in such wheel the names of all persons drawn from the master jury wheel and not disqualified, exempt, or excused pursuant to this Plan. The Clerk of Court shall ensure that at all times sufficient names are contained in such wheel to satisfy the requirements of that jury area. The Clerk of Court may maintain this wheel through the use of a properly programmed automated system.

DISCLOSURE OF JUROR NAMES AND RECORDS: Names drawn from the qualified jury wheel for petit juries will be available to counsel or a party if proceeding pro se with cases on the relevant trial roster who present an approved request form seven calendar 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 be available to members of the United States Attorney's office the day of jury selection, unless otherwise ordered by the Chief Judge.

The contents of records or papers used by the Clerk of Court or her designee 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. The district's comprehensive questionnaire completed by prospective jurors and the jury list are excluded from this disclosure provision with the responses distributed in accordance with the court's Local Rules.

Names of trial jurors shall not be disclosed to the public or media outside of open court, except upon order of the court. A request for disclosure of petit juror names to the public or media must be made to the presiding judge. Juror names which may be part of a transcript of court proceedings will be restricted from remote electronic public access.

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

A district-wide petit jury may be used when ordered by the Chief Judge for good cause shown. When the services of a district-wide petit jury are required, the Clerk of Court shall draw names from each jury area based on each area's percentage of the total names in the master jury wheel.

Grand juries are usually selected from one jury area. However, the Chief Judge may order a district-wide grand jury for good cause shown from the four jury areas within the state. District-wide grand juries will be drawn based on each area's percentage of the total names in the master jury wheel. Grand jurors will be summoned for service for a period of one year. Special grand juries are summoned for 18 months and may serve a maximum of 36 months. When the services of a grand jury are required, the Clerk of Court shall seat 23 jurors and a sufficient number of alternates. 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: Upon a showing of undue hardship or extreme inconvenience, a juror summoned for jury service in this district may be temporarily excused by the Clerk of Court or her designee under supervision of the court unless otherwise ordered by the presiding judge. Persons granted temporary excuses shall be reinstated to the qualified jury wheel or shall be re-summoned at the discretion of the Clerk of Court or the presiding judge.

RANDOM METHOD OF REDUCING AND ENLARGING PANELS: The Clerk of Court or her designee, 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. Jurors remaining on a venire when jury selection is cancelled are periodically reinstated to the qualified jury wheel.

When it appears that there are insufficient jurors to dispose of the business of the court, the Clerk of Court or her designee, with the approval of the presiding judge, is authorized to add additional jurors to the venire from the qualified jury wheel using the data processing system for pure randomized selection.

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.

Terry L. Wooten

Terry L. Wooten, Chief Judge

Dated October 29, 2014