

IN UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI

NO. 3:07MC73-28

2007 AMENDMENT TO 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.

1. 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:

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

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

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

2. 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 applicable jury division. 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 qualifications of jurors are 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 shall be excluded from service as a grand or petit juror in this District Court, or any jury division thereof, on account of race, color, religion, sex, national origin, or economic status.

3. 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 this District. The phrase "Chief Judge of this District" whenever 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 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 shall apply and such active District Court Judge above

mentioned is hereby designated to act. The word "clerk" wherever used in this plan shall mean the clerk and any or all of his deputies. There shall be no jury commission.

4. RANDOM SELECTION FROM VOTER REGISTRATION LISTS

Voter registration lists represent a fair cross-section of the community in the Northern District of Mississippi. The rights of all citizens are substantially protected by the use of such lists as the source of selection of prospective jurors; therefore, no other source is proposed. 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 of the counties in the relevant jury division. For the ascertainment of the voter registration list current in such counties, the clerk shall rely upon and use the latest, up-to-date official poll books maintained for each election district of such counties as may be in the possession of the County Registrar. Such poll books constitute in this District accurate and comprehensive compiled lists of all persons who are, in fact, duly registered and qualified to vote in such county. The clerk shall supplement such poll books, where necessary, to insure the inclusion of all names of all persons having recently registered to vote up to 30 days prior to the presidential general election in November.

This plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968 as amended will be fully accomplished and implemented by use of voter registration lists reflected by the most current election district poll books as supplemented by the inclusion of subsequent registrants up to

30 days prior to the presidential general election in November, 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 efforts on its part and after full consultation with the Fifth Circuit Jury Working Committee and the Judicial Council of the Fifth Circuit. In counties where manual name selection procedure is necessary, the clerk is authorized to use personnel of the circuit clerk's office to perform the task of counting, selecting and transcribing names according to the selection formula described in this plan.

5. MASTER JURY WHEELS

The clerk shall maintain a separate master jury wheel for each of the three jury divisions within the District.

The clerk shall make the random selection of names taken from the voter registration lists as they appear on poll books for the master jury wheels as follows. There shall be selected for the master jury wheel for each jury division as a minimum approximately this number of names:

Eastern Division	12,000
Western Division	12,000
Greenville Division	12,000

These numbers are as large as they are to allow for the possibility that some juror qualification forms, herein mentioned, will not be returned, that some prospective jurors may be disqualified by law, that some may be exempted or excused under this plan, and also because of the need for more prospective jurors due to the addition of a third District Judge in

this District. The physical form of record on which names for the master wheels are kept may include labels or such electronic devices as punch cards, magnetic tapes or disc files. If the above numbers are less than one-half of one percent of the total number of registered voters for the jury division, the court concludes that such percentage number of names is unnecessary and cumbersome. The Chief Judge of this District may order additional names to be placed in the master jury wheels from time to time as necessary.

After ascertaining, as herein above provided, the total number of registered voters for each jury division, the clerk shall divide that number by the number of names to be selected for the master jury wheel from that jury division. A certain quotient figure will be thereby produced for each jury division. After determining the "quotient", the clerk shall establish a starting number. This number will locate on the voter list(s), or a data computers' tape, disc, or punched card record of such voter lists, the first name to be selected. There shall be drawn from each of the counties forming a particular jury division that percentage of names which the number of registered voters in each county bears to the total registered voters in such jury division. Two examples may be used to demonstrate this procedure. If there are 138,072 registered voters in the Eastern Jury Division, that number is to be divided by 12,000 (the needed number of prospective jurors as above) to produce a quotient figure of 17. The clerk shall then draw by lot from each county in the jury division every 17th name on all the election districts' poll books of said county (or on a data computer tape, disc, or punched card record of such voter lists), such as the 17th, 34th,

51st, 68th, etc. name. The number of names drawn shall be in direct proportion to the number of registered voters in each such county as such number bears to the total number of registered voters in the Eastern Jury Division. If there are in Monroe County 15,600 registered voters, thus constituting 11% of the registered voters in the Eastern Jury Division, then 11% of the 12,000 names to be drawn by lot for the entire Eastern Jury Division shall be drawn from Monroe County. Again for example, if there are 65,437 registered voters in the Greenville Jury Division, that number will be divided by 12,000 (the needed number of prospective jurors) to produce the quotient of 8. The clerk shall then draw by lot from each county in the Greenville Jury Division every 8th name on all the election districts' poll books of such county (or on a data computer's tape, disc, or punched card record of such voter lists), such as the 8th, 16th, 24th, 32nd, etc. names. The number of names drawn shall be in direct proportion to the total of registered voters in each such county as such number bears to the total number of registered voters in the Greenville Jury Division. If there are in Washington County 23,833 registered voters, constituting 37% of the registered voters in that whole division, then 37% of the 12,000 names to be drawn for the Greenville Jury Division shall be drawn from Washington County. In any case, should the first drawing by use of the quotient number and multiples thereof, as above provided, not produce enough names in a particular county or counties to equal its proportionate share, then the clerk shall make a second drawing by taking a number from 1 to the particular quotient number, same to be selected by lot, and using such number for the second drawing to the extent that it may be needed. For

example, if on such second drawing the clerk in the Eastern Jury Division draws by lot the number 10, he shall pick the 10th name and each 17th name thereafter, 10th, 27th, 44th, 61st, etc. In case in the second drawing a particular number should result in a name which has been previously drawn by lot on the first drawing, such name shall be ignored and the name in the next multiple of that particular drawing, as for example 17, shall be selected. After determining the total number of names needed for the master jury wheel, the clerk may proceed through the use of a properly programmed data computer or through a combination of manual and computer methods to make the initial selection of names from the list of voters in each county.

The master jury wheel shall be emptied and refilled every four years between the date of the November presidential election and the following March 31st.

6. SELECTING THE NAMES BY MACHINE METHOD

This court finds that electronic data processing methods can be advantageously used for selecting and copying names from the voter lists of those larger counties that maintain these lists in machine readable forms such as punch cards, magnetic tapes, or magnetic discs. It is further found that in smaller counties currently maintaining their lists in printed form, it may be advantageous to employ a combination of methods whereby names are initially selected from the voter lists manually and then recorded on punch cards and tapes for subsequent handling and copying of those names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic methods may,

at the clerk's option and after consultation with the Chief Judge, be used to select master wheel names from voter lists of any and all counties in the district, provided that the required proportions of names for each county are maintained and that the above described "quotient" and "starting number" formula is followed.

Similarly, this court has determined that 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 qualified wheel of persons to be summoned to serve as grand and petit jurors, and for the recording of names of prospective jurors on any papers and records needed by the court to administer the selection, and payment of jurors.

If the court elects to use the electronic machine methods in connection with any or all of the district's voter records, source lists, master jury wheels, or qualified jury wheels the name selection system shall be planned and programmed according to a "starting number" and "quotient" formula. If the court uses a manual system for drawing names from any jury division's master or qualified wheels the names shall be randomly drawn by lot.

7. DRAWING OF NAMES FROM THE MASTER JURY WHEEL:
COMPLETION OF JURY QUALIFICATION FORM

From time to time as directed by the Chief Judge of this District, the clerk 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 shall have prepared, by manual or computer means, a list of the names drawn, which list shall not be disclosed to any person except pursuant to §§ 1867 and 1868 of the Act. The clerk shall by manual or computer

means, prepare and have mailed to every person whose name is drawn from the master jury 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 person 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. A person summoned to appear because of failure to return a juror qualification form as instructed who personally appears and executes a juror qualification 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 juror qualification 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 juror qualification form and transmitted to the Chief Judge of this District.

Any person summoned as above provided who fails to appear as directed shall be ordered by said Chief Judge 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.

8. DISQUALIFICATION FROM JURY SERVICE

The court hereby finds in accordance with Section 1865(b) of the Act that no person shall be qualified for jury service if he --

(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 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.

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

10. EXCUSE FROM JURY SERVICE ON INDIVIDUAL REQUEST

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, shall 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 summoned 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 court or the clerk of court in consultation with the presiding judge may, in its discretion, excuse persons summoned for jury service upon a showing of undue hardship, extreme inconvenience, or other grounds of exclusion as set forth in Section 1866 of the Act, for such period of time as the court may deem necessary and proper.

11. DETERMINATION OF QUALIFICATIONS, EXEMPTIONS AND EXCUSES

The Chief Judge of this District, on his initiative or upon the 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, as provided in this plan. The clerk shall enter such determination in the space provided on the juror qualification form and the numerical list of names drawn from the master jury wheel. If a person does not appear in response to a summons, such fact shall be noted on said list.

12. QUALIFIED JURY WHEEL

The clerk shall also maintain separate qualified jury wheels for each jury division in the District and he 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 contained in each such qualified jury wheel. The qualified jury wheel shall be emptied and

refilled pursuant to the procedure herein prescribed every four years between the date of the November presidential general election and the following June 30th.

13. DRAWING OF JURY PANELS

From time to time the clerk, when ordered by a judge of this court, shall publicly draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit jury panels, and the clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. After such list is prepared, the clerk may disclose the names thereon to attorneys of record for parties having cases set for trial and to other members of the bar who may request same two weeks prior to commencement of jury service; 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 interests of justice so require.

Should there occur an unanticipated shortage of available petit jurors, a sufficient number of additional jurors shall be publicly drawn at random by the clerk from the qualified jury wheel of the relevant jury division and such persons whose names are so drawn shall be summoned by the Marshal for jury duty as directed by the judge ordering the panel.

The clerk may, at his or her option and after consultation with the Chief Judge, maintain qualified wheels for all Jury Divisions through use of manual methods.

Whenever a qualified wheel is maintained on a data computer, the persons to be summoned for a particular array will be selected by a

quotient arrived at by dividing the number of persons needed on the array into the number of names in the qualified wheel. The clerk will draw a starting number by lot and the computer center will be instructed to follow the starting number and quotient in the machine selection of those persons, and the reporting of their names and addresses on the summons forms.

From time to time the clerk or deputy clerks, or the computer center, as directed by the Order of Court, shall publicly draw at random from the qualified jury wheel such number of names of persons as may be required for assignment to grand and petit juries. Notice of the drawing shall be placed on the bulletin board in the lobbies of the federal courthouses at the appropriate jury divisions where the jurors are being summoned. If the court decides to utilize automated data processing equipment in the jury selection process, the public drawing requirement shall apply only to the selection of a starting number and interval ("quotient") which shall govern the selection of juror names from the original source lists. It shall not be deemed to require any public observance of the actual computer operations.

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

- (1) The court shall issue to the operator of the computer facilities written instructions describing the operations which shall be performed by the computer equipment. Such instructions for random

selection of grand and petit jurors by data processing methods shall be available for inspection by the public.

(2) Upon the completion of the data processing work required of the computer facilities, the court shall require the execution of an affidavit by the agency providing the computer service. Such affidavit shall 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 shall 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.

14. GRAND JURIES

Inasmuch as our grand juries function on a district-wide basis, they shall be drawn by a judge of this court, or the clerk, if so directed by a judge of this court, by drawing a pro rata, or approximately pro rata, number of names at random from the qualified jury wheels of each jury division in the district, and the names so drawn shall be pooled and shall constitute the grand jurors to report for duty.

14A. DISTRICT-WIDE PETIT 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 shall draw a pro rata, or approximately pro rata, number of names at random from the qualified jury wheels of each jury division in the district, and the names so drawn shall be pooled and shall constitute the petit jurors to report for duty.

15. PROCEDURE IN EXCUSING AND ASSIGNING PERSONS
TO GRAND AND/OR PETIT JURY PANELS

When only one judge requires the services of a jury panel, and has ordered said panel drawn, that judge shall be responsible for excusing or ruling on requests for excuses of jurors on that panel; provided, that by agreement or in his absence another judge can assume this responsibility.

When more than one judge is utilizing the services of a jury panel, the jury will be organized by the judge who is responsible for the sounding of the docket, and said jury will report to that judge upon completion of each case assigned.

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

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

16. 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.

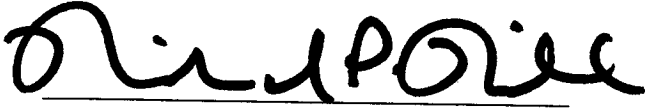
17. DISCLOSURE OF RECORDS

The contents of records or papers used by the clerk in connection with the jury selection process shall 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.

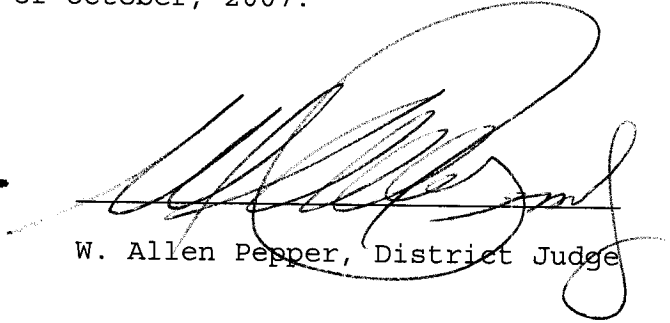
18. FORMS

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

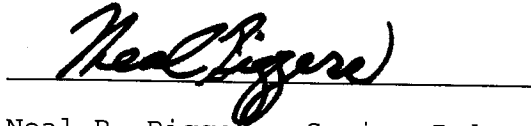
SO ORDERED, this 2nd day of October, 2007.



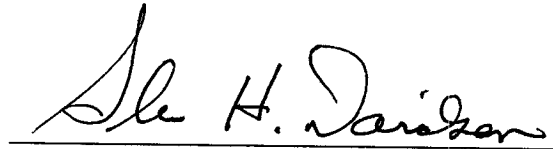
Michael P. Mills, Chief Judge



W. Allen Pepper, District Judge



Neal B. Biggers, Senior Judge



Glen H. Davidson, Senior Judge