

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DISTRICT**

UNITED STATES OF AMERICA,

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Plaintiff,

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v.

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CR No. 2:10cr186-MHT

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MILTON E. MCGREGOR,

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Defendant.

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**MOTION OF MILTON MCGREGOR FOR ORDER DIRECTING THAT
THE NAMES OF PETIT JURORS BE DRAWN RANDOMLY FROM
THE MIDDLE DISTRICT AT LARGE**

Milton McGregor respectfully moves the Court for an Order that the petit jurors in this case be drawn randomly from the Middle District at Large instead of only from the Northern Division of the Middle District, and as grounds therefore, states as follows:

The Sixth Amendment to the Constitution guarantees criminal defendants of the right to a trial before “an impartial jury of the State and district wherein the crime shall have been committed,....” As set forth in the Jury Selection and Service Act of 1968, the policy of the United States is that all federal court litigants entitled to a jury trial 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. 18 U.S.C. § 1861. The fair cross-section required by the Jury Selection and Service Act “is a means of ensuring that the Sixth Amendment's guarantee of an impartial jury is met.” United States v. Grisham, 63 F.3d 1074, 1080 (11th Cir. Ala. 1995).

In the Middle District of Alabama, the most recent jury plan calls for petit jurors to be drawn at random from the qualified jury wheel for the division where the case is filed. See Plan of the United States District Court Middle District of Alabama for the Random Selection of

Grand and Petit Juries (the “2007 Jury Plan”), Section 16(b). Under the 2007 Jury Plan, petit jurors in this case are to be drawn at random from the qualified jury wheel for the Northern Division. However, the 2007 Jury Plan provides that “[u]pon motion of the parties or upon the court’s own motion, a presiding judge may direct that the names of petit jurors be drawn randomly ... from the district at large without regard to divisional proportionality.” See 2007 Jury Selection Plan, Section 16(b).

Although district-wide jury selection is not required by the Sixth Amendment, Ruthenberg v. United States, 245 U.S. 480, 482, (1918), the Eleventh Circuit has affirmed the use of district-wide jury selection as being in compliance with a criminal defendant’s Sixth Amendment rights. Grisham, 63 F.3d at 1080. In fact, the two preceding jury plans for the Middle District called for district-wide jury selection. See United States v. Carmichael, 467 F. Supp. 2d 1282, 1287 (M.D. Ala. 2006) (noting that both the 1997 and 2001 jury plans provided for district-wide petit jury selection for criminal trials).

McGregor’s constitutional right to an impartial jury is best met in this high profile case by randomly selecting jurors from the Middle District as a whole. This Court can take judicial notice that this is a very high profile case that has received a truly enormous amount of publicity and public attention, particularly in the Montgomery area and the Northern Division.¹ Because of this publicity, it will be far more difficult to select an impartial jury if jurors are only drawn from the Northern Division. Furthermore, as the Eleventh Circuit has recognized, “[i]mpartiality may, in fact, be better served by juries drawn from areas not in close proximity to the crime.” Grisham, 63 F.3d at 1080. Most of the criminal activity alleged in the indictment occurred in the Northern Division of the Middle District. Therefore, the goal of an impartial jury would be

¹ If the Court does not treat this as an obvious fact that is the proper subject of judicial notice, Mr. McGregor would submit evidence establishing this fact.

advanced by drawing jurors from the entire Middle District, including areas which are more remote to the alleged crime.

Additionally, this case, which involves allegations of public corruption in the State Legislature, is one of great importance to all Alabama residents and the potential jurors in this case should not be limited to just those who reside in the Northern Division of the Middle District. This is particularly true as one of the indicted public officials is a Senator from the Southern Division. Lastly, jurors for this case should include persons residing in both the Eastern and Southern Divisions of the Middle District, as two facilities most affected by the legislation at issue, VictoryLand and Country Crossing, are located in the Eastern and Southern Divisions.

For these reasons, McGregor requests the Court to enter an order directing that the names of petit jurors be drawn randomly from the Middle District at large without regard to divisional proportionality. **This motion is joined in by the following Defendants: Ronald Gilley, Robert Geddie, James Preuitt, Quenton Ross, Harri Anne Smith, Jarrell Walker and Joseph Crosby.**

s/ J. David Martin

J. David Martin (ASB-7387-A54J)

Robert D. Segall (ASB-7354-E68R)

Shannon Holliday (ASB-5440-Y77S)

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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/EFC system which will send notification of such filing to all counsel of record.

s/ J. David Martin

Of Counsel