

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 09 CR 002-2
v.)	Judge Glen H. Davidson
)	Magistrate Judge S. Allan Alexander
BOBBY B. DELAUGHTER)	
)	
Defendant.)	

**DEFENDANT’S MOTION FOR DISTRICT WIDE
VENIRE & PROPOSED JURY QUESTIONNAIRE**

Defendant, **BOBBY B. DELAUGHTER**, by his attorneys, **THOMAS ANTHONY DURKIN, JOHN D. CLINE**, and **LAWRENCE L. LITTLE**, pursuant to the Due Process and Effective Assistance of Counsel Clauses of the Fifth and Sixth Amendments to the Constitution of the United States, hereby moves for a District-wide jury venire in light of the substantial media coverage attendant to this case. The government has no objection to this request.

Defendant, through counsel, also respectfully submits the following Proposed Jury Questionnaire to assist the Court and the parties in selecting the jury. The government has no objection to the concept of providing the jury with a questionnaire, but reserves the right to review the specifics of this proposed defense questionnaire and make suggested changes. Undersigned counsel represent to the Court that they will be making a good faith effort to come to an agreement with the government as to the final proposed questionnaire.

It is submitted that this questionnaire will save considerable time in the difficult task of selecting a jury in this case; and avoid some of the problems created by the massive prejudicial media attention focused upon Co-Defendant Dickie Scruggs, his alleged co-schemers in this case and their case involving a cash bribe to Judge Lackey. This prejudicial publicity has only been

exacerbated by very recent extremely prejudicial stories published in the Jackson *Clarion Ledger* and, presumably, elsewhere. These stories, copies of which are attached hereto as Exhibits A, B & C, include: (1) an extremely misleading and inaccurate June 10, 2009, story regarding the existence of plea negotiations between Defendant and the government attorneys; (2) an *ad hominem* July 5, 2009 story regarding the fact that Judge DeLaughter remains suspended with pay that incorrectly suggests that this is the doing of Judge DeLaughter; and, (3) a July 9, 2009, article detailing a deposition transcript of Co-Schemer Timothy Balducci taken by the lawyers for the Frisby Corporation in the matter of *Eaton Corporation, et al., v. Jeffrey D. Frisby, et al.*, Civil Action No. 251-04-642-CIV, currently pending in the Hinds County Circuit Court.

Respectfully submitted,

s/ Thomas Anthony Durkin
THOMAS ANTHONY DURKIN,

/s/ John D. Cline
JOHN D. CLINE,

/s/ Lawrence L. Little
LAWRENCE L. LITTLE, Attorneys for
the Defendant Bobby B. DeLaughter.

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Defendant's Motion For District Wide Venire & Proposed Jury Questionnaire was served on July 10, 2009, in accordance with Fed.R.Crim.P.49, Fed.R.Civ.P.5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

/s/ Thomas Anthony Durkin
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	
)	No. 09 CR 002-2
v.)	Judge Glen H. Davidson
)	Magistrate Judge S. Allan Alexander
)	
BOBBY B. DELAUGHTER)	

COURT’S INSTRUCTIONS REGARDING JURY QUESTIONNAIRE

This questionnaire is designed to obtain information about your background as it relates to your possible service as a fair and impartial juror in this case. Its use will avoid the necessity of asking each prospective juror every one of these questions in open Court, thereby substantially shortening the jury selection process.

Your written answers to this questionnaire will be kept confidential. The questionnaires will be reviewed only by the Judge, the attorneys and their staff for each side. Your answers will not be released to the general public.

Respond to each question as fully and completely as possible. Your complete candor and honesty is necessary so that both sides will have a meaningful opportunity to select a fair and impartial jury. If there is any reason why you might not be able to give both sides a fair trial in this case, it is important to say so. The questionnaire is to be answered under your oath to tell the truth. Do not discuss this questionnaire with anyone, including family and fellow jurors.

If you require additional space for your answers or wish to make further comments regarding any of your answers, please use the explanation sheet attached to the back of your questionnaire.

Please keep in mind that there are no “right” or “wrong” answers, only complete and incomplete answers. Please fill out the entire questionnaire. Do not leave any questions blank. If a question does not apply to you in any way, write “N/A” for (“not applicable”) rather than leaving the form blank. As part of the jury selection process, you may be asked follow-up questions in open Court about your answers. If for any reason you do not want to answer any of the questions asked, please write the word “PRIVATE” in the space for the answer and you will not be questioned in open Court about your answer. You may however be questioned in private by the Judge and attorneys about your answer. If you do not understand the question, please write that in the space for the answer. The question will be explained to you later during the selection procedure.

JUROR NO _____

JUROR NAME _____

JUROR QUESTIONNAIRE

JUROR'S OATH:

I declare under penalty of perjury that the information which I have provided in this juror questionnaire and any attachments is true and correct. I further declare that I have completed this questionnaire without anyone's assistance.

Juror NAME

Date

HARDSHIP QUESTION:

The Court and the parties estimate that the trial in this case will last approximately two weeks. Jurors will be paid an attendance fee of \$40.00 per day. Your transportation costs will be reimbursed.

Jury service is one of the highest duties and privileges of a citizen. The participation of people like yourself is essential to the proper administration of justice. The Court recognizes that not everyone can serve on a case of this length. However, mere inconvenience or the usual financial hardships of jury service will not be enough to excuse you. You must show that service in this case would cause an unacceptable amount of personal hardship.

Would you have a serious hardship if chosen for this case?

_____ **YES,** I would have a serious hardship if chosen for this case. Please answer the questions below, and fully explain your hardship. You must still complete the entire questionnaire.

_____ **NO,** I would not have a serious hardship if chosen for this case. Please move onto the next section of the questionnaire.

If **YES**, please explain the hardship, and list your current occupation. Describe the type of job and business without giving details of your employer's name or address. For example, simply list "receptionist, "business executive", "school teacher" or "self-employed/freelance". If you are retired or unemployed, please indicate that fact and list your previous occupation. Please write legibly.

Occupation: _____ Your Age: _____ Sex: _____

** Please do not list the name of your employer.

Are you self-employed? _____ Are you retired? _____

Will you be paid a salary while you serve jury duty? _____

What is your hardship? _____

What arrangements can you make to alleviate your hardship? _____

1. Do you have any problem with your hearing or vision that would make it difficult for you to serve as a juror?

Yes _____ No _____

2. Do you have any medical condition that would make it difficult for you to serve as a juror on this case?

Yes _____ No _____

If yes, **briefly** list the condition(s): _____

3. Are you taking any prescription medication that may interfere with your ability to concentrate or serve as a juror in any way?

Yes _____ No _____ If Yes, what is it? _____

4. Is there anything the Court should know about your ability to concentrate for long periods of time?

_____ Yes _____ No _____ I am not sure

Please explain: _____

5. Have you had any problems or concerns about your ability to remember complex information?

Yes _____ No _____ I am not sure _____

Please explain: _____

6. What is your place of birth? (Please list only the **city and state**, and, if outside the United States, the country.) _____

7. Where do you live? _____

8. How long have you lived there? _____

9. Do you? (Check One): Own your Home Rent House

Live with parents or relatives Rent Apartment Live with friends

10. Parents' occupation: (If retired or deceased, give their prior occupations).

Mother: _____

Father: _____

11. What is the highest grade of schooling you have completed?

8th grade or less

Community college

Some high school college

Some four-year

High school graduate

College graduate

Post graduate

(a) Major area(s) of study: _____

(b) Degrees or certificates: _____

12. If married, what is your spouse's education level and major area of study?

13. Have you ever taken courses or do you consider yourself to be knowledgeable in any of the following areas:

Law Political Science Criminology Psychiatry/Psychology

14. Are you currently attending school? Yes No

If so, what is your area of study? _____

15. How long have you held your current job? _____

16. Marital Status: _____

17. If married, widowed, or divorced, what is or was your spouse's occupation?

Employed: () Yes () No

Spouse's place of work? _____

What does your spouse do? _____

18. If you are married, list organization(s) in which your spouse is active, and any office(s) your spouse has held: _____

19. List the organization(s) to which you belong and in which you are active. (Organizations such as: church, school, social, political fraternal, service, professional, business, sports, or recreational, union, etc.)

1. _____ 2. _____

3. _____ 4. _____

() Check here if more organizations and list on the attached explanation sheet.

20. Have you held office(s) in any of these organizations?

() Yes () No

If yes, list organization and what office? _____

21. What are your hobbies, spare time activities, and outside interests?

1. _____ 2. _____

22. Number of children you have? _____

23. Please tell us the following about your children, stepchildren, foster children and/or grandchildren:

Relationship	Gender	Age	Level of Education	Occupation

(a) Who of these, if any, presently live with you? _____

24. What single newspaper do you read most often? _____

25. What other newspaper(s) do you occasionally read? _____

26. What TV news program(s) do you most often watch?

1. _____ 2. _____

27. How many times per week do you watch the TV news? _____

28. Do you listen to news radio? _____ How often? _____

29. Do you use the internet as a source of news? Yes ___ No ___. If Yes, which web pages do you _____ view?

30. This case is likely to receive ongoing media attention. The Court wants to make sure that this case is decided solely on the evidence in the courtroom and not based on things that are said outside the courtroom. Accordingly, the Court will be instructing you periodically that you must avoid reading about the case in the newspapers or on the internet, or listening to any radio or television reports about the case. The Court will also instruct you periodically that you must avoid discussing this case with friends or family during the course of the trial. Would these requirements pose any difficulty for you?

Yes _____ No _____

31. Have you read, seen or heard any news reports concerning Judge Bobby DeLaughter? Yes _____ No _____ If yes, Please explain. _____

-
-
32. Has what you read, seen or heard affected your ability to be impartial in this case?
Yes _____ No _____ If Yes, Please explain. _____
-
33. Have you read, seen or heard anything about Judge DeLaughter's previous role as a prosecutor in the 30-year-old murder of the slain civil rights leader Medgar Evers?
Yes _____ No _____ If Yes, Please explain: _____
-
34. Is there anything about what you have seen, read, or heard concerning Judge DeLaughter's prosecution in that case that would affect your ability to be impartial in this case?
Yes ___ No _____ If Yes, Please Explain: _____
-
35. Have you or any relative or friend of yours appeared in any matter before Judge Bobby DeLaughter? Yes__ No____ If Yes, Please explain. _____
-
36. Is there anything about that experience that would affect your ability to be fair and impartial in this case? Yes___ No_____ If Yes, Please explain. _____
-
37. Have you read, seen or heard any news reports concerning the attorney Richard F. "Dickie" Scruggs Yes_____ No _____ If yes, Please explain. _____
-
38. Has what you read, seen or heard affected your ability to be impartial in this case?
Yes _____ No _____ If Yes, Please explain. _____
-
39. Do you know anything about the investigation beyond what you have heard in the press? _____
-
40. Have you read, seen or heard any news reports concerning this case? Yes ___ No ____
If so, please describe: _____
-
-

41. Has what you read, seen or heard affected your ability to be impartial in this case? _____

42. Have you or any member of your family or friends had any experience, which would cause you to be biased in favor of the government in a case where there are allegations of corruption by a judge? _____

43. Have you ever been a party to a lawsuit? Yes ___ No ___
If yes, describe type of lawsuit and the outcome. _____

44. Have you ever appeared as a witness before a Federal or State Grand Jury (Grand Jury, not Trial Jury)? () Yes () No
If yes, where and when? _____

45. Have you ever appeared as a witness in a criminal prosecution? (Including court martial?)
() Yes () No
If yes, state what kind of case, where and when? _____

46. Have you ever served on a jury? _____ Yes _____ No
_____ Civil Date(s) _____
Nature of case(s): _____

_____ Criminal Date(s) _____
Nature of case(s): _____

_____ Grand Jury Date(s): _____
Nature of case(s): _____

(a) If Yes, did the jury reach a verdict? _____

(b) Was there anything about your jury experience that would make it difficult to serve again?

Yes _____ No _____ If Yes, please explain:

Were you the foreperson on the jury? Yes ___ No _____

47. Have you ever been a law enforcement officer? Yes No

If yes, state what kind, where and when: _____

48. Do you have a close friend or relative who is now or has ever been employed in law enforcement? Yes No

If yes, state what kind, when and where: _____

49. Do you know any judges, Assistant State Attorneys, Assistant U.S. Attorneys or criminal defense lawyers? () Yes () No

If yes, indicate their name and nature of relationship: _____

50. Do you or does any relative or close friend know or have any connection with any of the following persons?

Bobby B. DeLaughter	Yes	_____	No	_____
Richard F. Dickie Scruggs	Yes	_____	No	_____
Joseph C. Langston	Yes	_____	No	_____
Timothy R. Balducci	Yes	_____	No	_____
Steven A. Patterson	Yes	_____	No	_____
Ed Peters	Yes	_____	No	_____
Jack Dunbar	Yes	_____	No	_____

Please explain in detail who has the connection and the nature of the connection for each individual. _____

51. Have you ever been the victim of or witness to a crime? () Yes () No

If yes, state what kind of crime and when: _____

52. Is there anything about the nature of the charges in this case — alleged public corruption — that makes you unsure about your ability to be a fair and impartial juror?
() Yes () No

Please explain. _____

53. Do you have a close friend or relative who has been a victim of or witness to a crime?
() Yes () No

If yes, state what kind of crime and when: _____

54. Have you ever been arrested or accused of a crime? () Yes () No

If yes, please indicate: (a) the nature of the offense for which you were arrested or charged; and (b) the disposition of the charge. _____

55. Have you ever been convicted of a criminal offense other than a traffic offense?
 Yes No

If yes, please indicate: (a) the nature of the offense; and (b) the disposition of the case.

56. Has a member of your family, or close friend ever been arrested, charged or convicted of a criminal offense other than a traffic offense? Yes No

If yes, please indicate: (a) the individual's relationship to you; (b) the nature of the offense; and (c) the disposition of the charge; *i.e.*, imprisonment, probation, fine, etc.

57. Have you ever been questioned as part of a criminal investigation by any federal, state or local law enforcement agency? Yes No

If yes, please explain the circumstances _____

58. Do you have any relatives or friends who are or were elected or appointed public officials, including judges? Yes No. If so, please identify.

59. Have you, a member of your family, a relative, or a close friend ever sought employment or been employed by the federal government or a state agency? Yes No

If yes, please describe the person's employment and relationship to you.

60. Have you, a member of your family, a relative, or a close friend ever sought employment or been employed by the federal government or a state agency? Yes No

If yes, please describe the person's employment and relationship to you. _____

61. Do you consider yourself politically active, moderately active, or inactive? (Circle one)

62. Do you hold any religious, philosophical, moral or other beliefs that would make it difficult for you to sit in judgment of another person? Yes No

63. Please name any criminal cases you have followed in the media:

Why did you follow the case? _____

64. One of the basic principles of American law is that a person cannot be convicted unless the prosecution proves the charges beyond and to the exclusion of a reasonable doubt. How do you feel about this principle of law?

65. Would you give greater weight to testimony of a law enforcement office than you would to the testimony of other witnesses? () Yes () No

Please explain: _____

66. How do you feel about government offering promises of leniency in exchange for testimony? _____

67. Under the American criminal justice system, the defendant is innocent unless proven guilty. Some people believe it should be the other way around and that the defendant should prove he is innocent. What are your feelings about that? _____

68. In a criminal case, a defendant is not required to testify, and if the defendant does not testify, jurors are not supposed to draw any conclusions from that fact.

a. How comfortable are you with that? _____

b. Does the idea that you might not hear from the defendant disturb you? _____
Why? _____

e. How would you feel about the defendant if he does not testify? _____

f. Can you think of any reasons why an innocent person might not testify at their own trial? _____ Why is that? _____

g. Do you think you will need to hear both sides before you can make up your mind? _____
Why? _____

69. Have you formed an opinion as to the innocence or guilt of any of the defendants in this case before hearing the evidence?

_____ Guilty
_____ Not Guilty
_____ No Decision

Please explain what led to your position. _____

70. Were there any questions you did not understand? () Yes () No

If yes, which questions? _____

71. Is there anything which you feel should be brought to the court's attention that might affect your ability to be as fair and impartial a juror as you would like to be or any reason why you may not want to serve as a juror in this case? _____

72. Is there any matter you would prefer to discuss privately with the court? () Yes () No

I DO HEREBY DECLARE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL OF THE ANSWERS HEREIN GIVEN ARE TRUE AND CORRECT.

(Date) _____ (Signature) _____