

Defense Motion No. 16

**IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA**

CASE NO.: 16-2012-CF-6463-AXXX-MA

DIVISION: CR-D

STATE OF FLORIDA,

VS.

DENNIS THURNADO GLOVER.

**MOTION FOR LEAVE FOR DEFENSE TEAM TO INTERVIEW JURORS EXCLUDED
THROUGH UNCONSTITUTIONAL DEATH QUALIFICATION PROCESS**

As shown in the concurrently-filed motion of Defendant **DENNIS THURNADO GLOVER**, (Motion No. 15), whose legal authorities and argument are incorporated herein but not repeated for economy, in comparison to white potential jurors, Black potential jurors have been excluded in 12 Duval County death-penalty cases, since 2010, at more than a two to one ratio, and other jurors of color by an even higher ratio. Of those willing, eligible, and qualified to serve, nearly 40% of Black potential jurors are excluded through this process and over 40% of other jurors of color. When combined with peremptory strikes, death qualification has excluded 62% of Black potential jurors otherwise willing, eligible, and qualified to serve, and 67% of Black women potential jurors. In an abundance of caution, in order to maintain compliance with the Rule Regulating The Florida Bar 4-3.5(d)(4), and Florida Rule of Criminal Procedure 3.575, Mr. Glover seeks an order granting his defense team leave to interview those potential jurors excluded through this process in this county in these cases.

RELEVANT BACKGROUND

In particular, leave is sought to interview the jurors excluded through death qualification in Duval County capital cases from 2010, from the trials in the below table, which includes seven trials whose juror information has been sealed (indicated with an *). Mr. Glover is filing a separate motion, concurrently with this one, for the sealed information to be unsealed for the limited purpose of this litigation. The trials in which the excluded jurors participated and the now known excluded jurors are as follows:

2021	Tillis, Russell* ¹
2019	Smith, Donald*
2019	Deviney, Randall*
2018	Newberry, Ronald*
2018	Collins, Keith COBB-GADSDEN, TRACEY E WILLIAMS, SHARON DENISE STOKES, DERLINA MARIA SEABROOKS, DIEDRE MICHEL KAMANDA, SIA MANYA EASTERLING, TOMECA VICTOR MEEK, SHEILA DENISE VANSICKLE, JANICE ELAINE PISANI, BRIANNA MYKEL WELLS, TONYA RABON GHERARDI, MARTA ELENA VARGAS, MARISOL BIBBS, STEPHEN DWAYNE

¹ Counsel will supplement this motion with the names of the jurors to be interviewed from the sealed cases once the cases are unsealed pursuant to the defense motion, provided the Court allows such potential jurors to be interviewed under the terms of that order.

	<p>CUMMINGS, WILLIAM GERARD KUEHNER, STEVEN RAY TYLER, ABEL RAY</p>
2018	<p>Jackson, James</p> <p>PARKER, TALISHA CHANEL SISTRUNK, TONISHA SHEVON RHODEN, ANGELA MONIQUE HARRIS, MARIE DARYL MANGES, KRYSTAL RENA KLACAR, SORAJA RIVERA, VIANNA KAROLINA GAO, YING DESIR, JEAN JUNIOR WHITTINGTON, CARLON LEON LEWIS, TIMOTHY DARNELL TOMLINSON, SHAYNE DONOVO JOSEPH, CHRISTOPHER GEORGE HICKS, DAVID NEAL ANNUZZI, ANTHONY ALFRED ENCK, JARED LEE WEST WOODRUFF, JACK LYN DELA CRUZ, ALVIN PAOLO VIN</p>
2017	<p>Bright, Raymond</p> <p>Mason, Sylvia Denise Major, Odessa Annette Colbert, Sandra Selena O'Neal, Janet Darlene Wyche, Shandell Lynette Anothony, Deloise Roberts, Deborah Ann Fleming, Kaniesha Lachelle Dunker, Brittany Kristina Laurence, Susan Wright Carroll, Deborah Ann</p>

	<p>Echevarria, Jeannette Albano, Gladys Dela Cruz Weston, Ronnie Leonard Boss, Kendal Latorrance Ashley, Louis Meredith Watkins, Travis Michael Ponn, Sopharoeun Moon, Jay</p>
2017	Deviney, Randall*
2014	Newberry, Rodney*
2013	<p>Glover, Dennis</p> <p>GREEN, STEPHANIE NICOLE MCGRIFF, LANEKA KEITORSHIA ARNOLD, JULIA ANNE WILLIAMS, TERRI MCWHORTER BURTON, IRIS MARGARET HILTON, BONNIE DALE LAWSON, KIMBERLY DANIELLE RAMSEYER, MARTHA ELLEN SOTO, AMARILY GRIMES, LESLEY RAE TIMMONS, CHARLES DAVID WHITE, HENRY R GILLIAM, RODRICKUS LEE GUDMUNDSON, THOMAS ELLS SHERLINSKI, BRANDON EDWAR NELSON, CRAIG H UBEL, CHRISTOPHER ANDREW</p>
2013	<p>Jackson, Kim</p> <p>BRADSHAW-WELLS, TRACY A BARRETO, DELESIA C MILLER, BEVERLY M STREET, RHONDA M</p>

	<p>CANNIE, AVA E MASUCCI, SUSAN M BARNES, KEITH D BUCHANAN, JOHNATHAN M DALLY, DAVID C</p>
2012	<p>Phillips, Terrance</p> <p>PATTERSON, JONTEIA S DURANT, LEAH CLARISSA SMITH, CORLISS E WALKER, DENISE LORAINÉ LESCH, BRITTANY L HOLT, MARGARET GREER MEDINA, GILDREN M FUCHS, EVELYN ZAPATA BUCHANAN, JOHNNIE LEE ROSE, DARRELL WILLIAMS, MICHAEL JEROME WILSON, CHRISTOPHER RYAN LAWSON, WESLEY ALLEN GOMEZ, TYRONE JOSE</p>
2012	<p>Sheppard, Billy</p> <p>ROYAL, TRACI LYNETTE DUNKLEY, SANDRA DEE RAMOS, SASHA</p>
2012	<p>Martin, Arthur*</p>
2011	<p>Brown, Thomas</p> <p>Collins, Tralanda Montricia Brereton, Natasha Verdel Deberardine, Amy Monique Wilhoite, Rebecca Ashley Thrower, Stacey Lynne Clark, Melissa Shelton Melodina, Debra Ann Comia, Mercia L Sistrunk, John V Clark, Roderick Cornelius Boatwright, Quan Domaine Amerson, Patricia</p>

	<p>Dempster, Corliss Eugene Gardner, Daniel Patrick Knepp, Scott Timothy Boysen, John Stephen McDonald, Michael Lloyd Lepervanche, Alejandro Jose</p>
2011	<p>Sparre, David</p> <p>Robinson, Jane G Johnson, Angelene K Jean, Rosie Sanders, Linda S Nogueiras, Jamie J Copeland, Kimberly A Monday, Rachel L Westling, Robin Q Bengo, April M Mcdermet, Tessie B Gandy, Leslie N Watts, Jason K Lachaussie, Joshua R White, Clifford A Hobbs, Corey D Thompson, Sean W Orcullo, Christopher T</p>
2010	<p>Dubose, Rasheem</p> <p>Horace, Priscilla Bruce Whittington, Amanda</p>
2010	<p>McMillian, Justin</p> <p>FEDRICK, VONTRESE L WORTH, MADELINE A HOLLIS, LUCILLE O STEPHENS, THEA C PORTER, SHAWNTE D LINTON-GALLON, SHARON N ALBRITTON, AMANDA L WALLACE, LYNN C BELOW, BEVERLY J VOGEL, ALETHEA L WEBER, LAURA B</p>

	SRIVASTAVA, RUPA JENNINGS, GARY B KIRKLAND, TERRIS CRUMBLEY, JOHN POMPEY, RANDOLPH J MCCULLOUGH, LEE B DILLAVOU, DONALD W FROMM, ERIC J ANOS, ALBERT P
2010	Smith, Terry*

THE NEED TO INTERVIEW

It is necessary to interview these jurors for two different sets of reasons.

First, as set out more fully in Motion No. 20, it is necessary to interview these past potential jurors (who never in fact served) to determine the extent to which religious views played a role in the exclusion of these jurors. Motion number 15 argues, among other grounds, that Catholics are a cognizable group for the purpose of the Fair Cross Section requirement of the Sixth Amendment to the U.S. Constitution and they are systematically excluded by death qualification in this county. Data relevant to that claim is held by the excluded jurors, who can share their religious backgrounds. This is necessary because, unlike the comprehensive race data Dr. Gau relied upon, nothing in the transcript or records of these trials systematically tracked the issue of religion. It is only known that 50 of the 146 excluded jurors (under the narrow definition of exclusion) specifically invoked God or religion, including several who invoked their Catholicism.

Second, it is necessary to interview these past potential jurors to fully litigate the motion concerning race and death qualification. One underlying theory of that motion, whose contents,

again, are incorporated here by reference, is that death qualification is not in fact race neutral. *Cf. Lockhart v. McCree*, 476 U.S. 162, 176 (1986) (rejecting challenge to death qualification because “*unlike blacks, women, and Mexican-Americans, “Witherspoon-excludables”* are singled out for exclusion in capital cases on the basis of an attribute that is within the individual’s control.”). But people who personally have faced discrimination in the criminal punishment system, or know friends, family and community members who have, may be less likely trust in the system, particularly when the system seeks to met out the irrevocable and most severe-possible punishment of execution. The reasons for the opposition to the death penalty that may be provided by the excluded jurors is thus relevant to the hearing on this issue because it refutes the notion of a race-neutral exclusion. It is expected that their testimonies will further support Mr. Glover’s contention that death qualification is not race neutral because it excludes by building on the system’s past acts of racial discrimination.

FLORIDA LAW PERMITS SUCH INTERVIEWS

This motion is made in an abundance of caution given the above-cited rules restricting juror interviews in this state. To begin, Rule 4-3.5 of the Rules Regulating the Florida Bar, subdivision (4) states as follows:

after dismissal of the jury in a case with which the lawyer is connected, initiate communication with or cause another to initiate communication with any juror regarding the trial except to determine whether the verdict may be subject to legal challenge; provided, a lawyer may not interview jurors for this purpose unless the lawyer has reason to believe that grounds for such challenge may exist; and provided further, before conducting any such interview the lawyer must file in the cause a notice of intention to interview setting forth the name of the juror or jurors to be interviewed. A copy of the notice must be delivered to the trial judge and opposing counsel a reasonable time before such interview. The provisions of this rule do not prohibit a lawyer from communicating *with members of the venire* or jurors in the course

of official proceedings or as authorized by court rule or written order of the court.

Id. (emphasis added). Although the rule seems to be directed towards jurors who *served* and *deliberated*, the reference in its final sentence to a “venire” encourages pause by a careful lawyer. Before engaging in interviews even with jurors who were excluded, counsel errs on the side of reading the rule broadly and thus seeks this Court’s advanced permission.

Similar to this rule of professional conduct, Rule 3.575 of the Rules of Criminal

Procedure states:

A party who has reason to believe that the verdict may be subject to legal challenge may move the court for an order permitting an interview of a juror or jurors to so determine. The motion shall be filed within 10 days after the rendition of the verdict, unless good cause is shown for the failure to make the motion within that time. The motion shall state the name of any juror to be interviewed and the reasons that the party has to believe that the verdict may be subject to challenge. After notice and hearing, the trial judge, upon a finding that the verdict may be subject to challenge, shall enter an order permitting the interview, and setting therein a time and a place for the interview of the juror or jurors, which shall be conducted in the presence of the court and the parties. If no reason is found to believe that the verdict may be subject to challenge, the court shall enter its order denying permission to interview.

Again, this rule seems directed to the prohibition against interviewing jurors who *deliberated*, absent certain criteria being met. Still, undersigned counsel, in an abundance of caution, and in light of Rule 4-3.5, bring this related rule to the Court’s attention. The purpose of the interviews here is not related to challenging a verdict, and does not involve jurors who deliberated. Rather, it is merely for the purpose of obtaining relevant evidence for Mr. Glover’s motion to bar death qualification.

Absent the relief requested in this motion, Mr. Glover will be denied his right to fully and fairly present evidence in support of this motion critical to the administration of justice. Further,

this Court will be forced to decide the underlying motion to bar death qualification based on an incomplete record and therefore will risk making an unreliable and unconstitutional decision.

WHEREFORE, this Court should enter an order granting leave for Mr. Glover's defense team to conduct interviews with the previously-excluded potential jurors identified above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this motion today has been served, via the electronic portal, on the State of Florida, represented by Assistant State Attorney Alan Mizrahi.

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This the 17th day of February, 2022.