

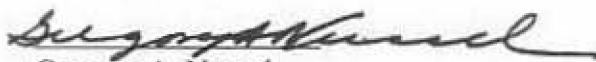
THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

General Order 2000-7

REVIEWING PANEL --- JURY SELECTION PLAN

The Middle District of Louisiana has requested a modification to its Jury Selection Plan as outlined in the attached letter dated July 24, 2000. This modification would permit an extension of service for the jury pool assembled in Case No. CR 99-151-B-M2, USA V. Brown, et al. The modification, having been reviewed by the Reviewing Panel of this Circuit, is approved.

Entered for the Reviewing Panel at New Orleans, Louisiana, this 28th day of July, 2000.



Gregory A. Nussel  
Secretary to the Judicial Council  
of the Fifth Circuit

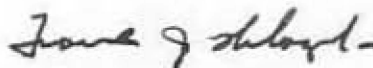
The following judges comprised and acted as the Reviewing Panel:

(a) The Judicial Council of the Fifth Circuit:

Carolyn Dineen King  
E. Grady Jolly  
W. Eugene Davis  
Edith H. Jones  
Jerry E. Smith  
Rhesa H. Barksdale  
Emilio M. Garza  
Fortunato P. Benavides  
Carl E. Stewart  
Robert M. Parker  
Edith Brown Clement  
Ralph E. Tyson  
Richard T. Haik  
Glen H. Davidson  
Tom S. Lee  
A. Joe Fish  
George P. Kazen  
Richard A. Schell  
Sam Sparks

FILED  
U.S. DIST. COURT  
MIDDLE DIST. OF LA.  
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SIGN  
BY CLERK

(b) United States District Judge:



Frank J. Polozola  
Chief United States District Judge  
Middle District of Louisiana

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

500 CAMP STREET

NEW ORLEANS, LOUISIANA 70130

CHAMBERS OF  
EDITH BROWN CLEMENT  
DISTRICT JUDGE

July 24, 2000

Gregory A. Nussel, Circuit Executive  
Fifth Circuit Court of Appeals  
600 Camp Street  
New Orleans, LA 70130

Re: Jury Pool; Criminal Action No. 99-151-B-M2, USA v. Brown, et al

Dear Mr. Nussel,

We write to you today in order to request an extension of the term of service for the jury pool assembled for the above case in the Middle District of Louisiana.

After the active judges of the Middle District of Louisiana recused themselves from Case No. CR 99-151, Chief Judge Carolyn Dineen King, acting pursuant to 28 U.S.C. § 292(b), assigned Judge Clement of the Eastern District of Louisiana to conduct all proceedings in that case. After reviewing the Record and the large number of pending motions, and after conferring with the parties, Judge Clement determined that a short continuance was appropriate. In light of the number of defendants, the nature of the prosecution, and the complexity of the issues and pending motions, Judge Clement determined that the ends of justice served by the continuance outweighed the best interest of the public and the defendants in a speedy trial.

However, in order to best serve the public's and the defendants' interest in a speedy trial, we would like to prevent any further continuances. Given the complexity of the juror selection process in this case, picking a new jury necessarily would require just such a continuance. Therefore, we would like this case to proceed to trial with the same jury pool assembled for the August 21 trial date. That jury pool is scheduled to expire shortly before the September 18, 2000 trial date, and the Middle District's Jury Plan, as currently written, does not provide for an extension of service.

Accordingly, we request from the Chief Judge and the Fifth Circuit Judicial Council an extension of the term of service for the jury pool assembled for Case No. CR 99-151. The parties consented to the extension at the July 12 status conference and executed a written waiver at the July 24 conference, a copy of which is enclosed. Although the Middle District's Plan currently does not contemplate such an extension, the Supreme Court has recognized that "some play in the joints of the jury-selection process is necessary in order to accommodate the practical problems of judicial

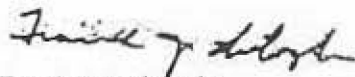
Letter to Mr. Nussel

Page 2

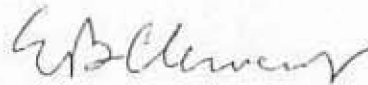
administration,"<sup>1</sup> and extensions of the type we propose are not unprecedented.<sup>2</sup> An extension here clearly would serve the interest of the public and the defendants in a speedy trial without compromising the defendants' rights under the Sixth Amendment or the Jury Selection and Service Act.<sup>3</sup>

Please forward this request to the Chief Judge and the Fifth Circuit Judicial Council on our behalf. With the trial date quickly approaching, this matter requires prompt attention. Thank you in advance for your assistance.

Sincerely,



Frank J. Polozola  
Chief Judge  
Middle District of Louisiana

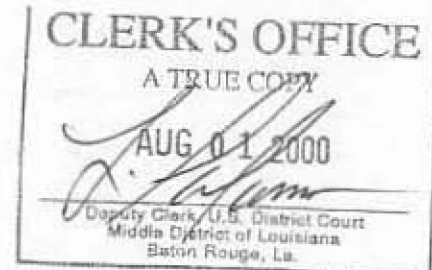


Edith Brown Clement  
U.S. District Judge  
Eastern District of Louisiana

EBC/jk/smb

Enclosure

cc: Carolyn Dineen King w/enclosure  
Chief Judge  
5<sup>th</sup> Circuit Court of Appeals  
U.S. Courthouse  
515 Rusk Avenue, Room 11020  
Houston, TX 77002-2605



<sup>1</sup>Hamling v. United States, 418 U.S. 87, 138, 94 S. Ct. 2887, 2917, 41 L. Ed. 2d 590 (1974)

<sup>2</sup>See United States v. Purdy, 946 F. Supp. 1094, 1105 (D. Conn. 1996), *aff'd* 144 F.3d 241 (2d Cir. 1998), *cert. denied* 119 S.Ct. 548, 142 L.Ed.2d 455 (1998) (noting that the Second Circuit had granted the district court's request for a one-year postponement of the requirement that the Master Wheel be emptied and refilled within two years of its creation). *See also, e.g., United States v. Anderson*, 509 F.2d 312 (D.C. Cir. 1974) (approving extension of petit jury pool where no showing that the complement of jurors was other than a fair cross section of the community)

<sup>3</sup>See United States v. Bearden, 659 F.2d 590, 600 (5th Cir. 1981) (holding that the Act embodies two important general principles: (1) random selection of juror names from the voter lists of the district or division in which court is held; and (2) determination of juror disqualifications, excuses, exemptions, and exclusions on the basis of objective criteria only).

MINUTE ENTRY  
CLEMENT, J.  
July 24, 2000

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

(Section "N" E.D. La.)

UNITED STATES OF AMERICA

\* CRIMINAL ACTION

VERSUS

\* NO. 99-151-B-M2

JAMES HARVEY BROWN, et al.


The parties came before the Court for a Status Conference and jointly agreed to enter the following stipulation.


1. The parties agree that an extension of the term of service for the jury pool assembled for Case No. CR 99-151 is warranted in the interests of justice and to assure a speedy trial.

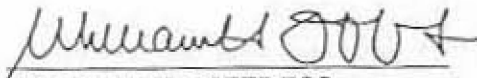
2. The parties further agree that such extension does not violate the defendants' Sixth Amendment rights and does not result in either a substantial or technical violation of the Jury Selection and Service Act, 28 U.S.C. §§ 1861-1878. Even if the extension is found to be a technical violation of the Act, the parties agree that such a violation does not give rise to a showing that the


Act and its goals have been frustrated. See United States v. Bearden, 659 F.2d 590, 600 (5th Cir. 1981) (holding that the Act embodies two important general principles: (1) random selection of juror names from the voter lists of the district or division in which court is held; and (2) determination of juror disqualifications, excuses, exemptions, and exclusions on the basis of objective criteria only).

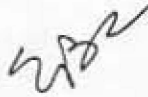
3. The parties further agree to waive all rights to file an appeal based on the extension of the term of service for the jury pool. Defendants agree not to contest any potential sentence in any post-conviction proceeding, including but not limited to a proceeding under Title 28, United States Code, Section 2255, based on the extension of the term of service for the jury pool.

  
EDWIN EDWARDS  
Defendant Pro Se

  
SALVADOR R. PERRICONE  
Assistant United States Attorney

  
WILLIAM H. JEFFRESS  
Counsel For James Harvey Brown

  
EDWARD J. CASTAING, JR.  
Counsel For Ronald R. Weems



UNITED STATES COURTS  
FIFTH JUDICIAL CIRCUIT

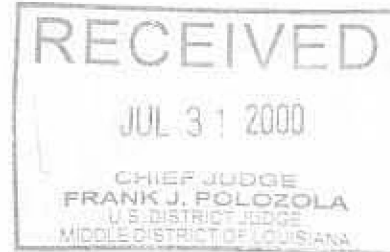
600 CAMP STREET, ROOM 300  
NEW ORLEANS, LOUISIANA 70130

GREGORY A. NUSSEL  
CIRCUIT EXECUTIVE

PHONE: (504) 589-2730  
FAX: (504) 589-2722

July 28, 2000

Honorable Frank J. Polozola  
Chief U. S. District Judge  
Middle District of Louisiana  
777 Florida Street, Suite 313  
Baton Rouge, LA 70801-1712



Honorable Edith Brown Clement  
U. S. District Judge  
Eastern District of Louisiana  
U. S. Courthouse, Chambers C-555  
New Orleans, LA 70130

**Re: Modification to Jury Selection Plan -  
Middle District of Louisiana**

Dear Chief Judge Polozola and Judge Clement:

The reviewing panel of the Fifth Circuit has approved the modification to the Jury Selection Plan for the Middle District of Louisiana as outlined in your letter dated July 24, 2000.

After Chief Judge Polozola signs the enclosed reviewing panel's certification form, Mr. Talamo should file the form and the July 24, 2000 letter identifying the modification to the Plan in his court and the following offices:

Director, Administrative Office of the United States Courts;

Attorney General of the United States;

Circuit Executive, Fifth Circuit; and

Clerk, United States Court of Appeals for the Fifth Circuit.

Best regards.

Sincerely,

  
Kyle M. Boudreau  
Assistant Circuit Executive

Enclosure

cc: All Judicial Council Members  
cc/enc: Mr. Lawrence Talamo, Clerk

*Copier sent.*