

Defense Motion No. 17

**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 TO UNSEAL JURY-SELECTION RECORDS, FROM SEVEN PARTIALLY-
SEALED CAPITAL TRIALS, NEEDED FOR LITIGATION OF DEFENDANT'S
MOTION TO DECLARE DEATH QUALIFICATION UNCONSTITUTIONAL**

Concurrently with this motion, Defendant **DENNIS THURNADO GLOVER** is filing a motion to prevent the State from engaging in death qualification because it violates his constitutional rights (Motion No. 15), whose legal authorities and argument are incorporated herein but not repeated for economy. That motion is predicated in large part on a study, by Florida Central University Professor Jacinta Gau, demonstrating that Duval County death qualification by the State Attorney has (over the course of twelve capital trials since 2010 (all of the trials whose information is available)) overwhelmingly and disproportionately discriminated against and excluded Black potential jurors and other jurors of color. In comparison to white potential jurors, Black potential jurors are excluded 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. The study further shows that, 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. On every measure, jurors of color are removed at rates twice and higher than white potential jurors.

But the study is incomplete, as the information needed for analysis of the race, gender and ethnicity of jurors excluded through death qualification in Duval County from 2010 to present has been sealed in seven Duval County capital cases, apparently to protect the identity of the jurors who served. The seven trials at issue are as follows:

2021	Tillis, Russell
2019	Smith, Donald
2018	Newberry, Rodney
2017	Deviney, Randall
2019	Deviney, Randall (retrial)
2012	Martin, Arthur
2010	Smith, Terry

The orders in each of these cases are attached hereto in a combined document as Exhibit A. In each of these cases, the existence of the order sealing all juror information has been read by the Clerk of the Circuit Court to mean that the Clerk may not release the jury-panel lists in each of

the cases, as well as unredacted jury-selection transcripts.¹ For Professor Gau's study to be complete with all trials that have occurred since 2010, the panel lists (with each potential juror's full name correctly spelled) are needed to ascertain the race of each potential juror; and unredacted transcripts are needed to discern what happened to each potential juror in the selection process (removed through death qualification, removed for other cause basis, removed by peremptory, served as a juror, etc).

Although the focus of the orders in these cases seems to be on protecting the identity of the jurors who served in these cases to ensure that they will not be harassed or contacted, the focus of the study is on the jurors *excluded* (although the race of those not excluded remains part of the analysis). Undersigned defense counsel is mindful of the interests served by the orders in these cases. Counsel would consent to these items being unsealed only for the purpose of this litigation, with whatever protective order the Court deems necessary. Once counsel and Dr. Gau are able to see the identity of each potential juror in these cases, to ascertain their race, gender, and ethnicity from the lists the Clerk maintains under Fla. Stat. § 40.011, and then to determine what happened to each potential juror, there will be no need to discuss or reveal publicly, in any filing, report or testimony, the identity of any juror who served. It may be useful for the defense to discuss the identity of jurors *excluded* through death qualification, to learn of their experience and the bases for their death-penalty views, see Motion Number 13 (filed concurrently herewith). But even that can be avoided if the Court deems it necessary; most important is to have the data so that the study can be complete. The overall point remains that the purpose of orders protecting

¹ For the Deviney case, the order was entered in the 2017 case, but the Clerk has read it to prohibit distribution of the 2019 materials. The same is true for a 2016 order in Newberry, which the Court read to prohibit distribution of the 2018 trial materials.

the identity of the jurors who served can be upheld while still upholding Mr. Glover's rights to necessary information for the fair, just, and reliable resolution of this motion.

WHEREFORE, this Court should enter an order directing the Clerk of Court to provide the venire lists in these six capital cases, as well as unredacted transcripts of jury selection, subject to whatever protective order this Court deems appropriate and necessary.

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.