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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA	.	Cause No. 3:07CR192
	.	
Plaintiff	.	Oxford, Mississippi
	.	February 21, 2008
v.	.	9:30 a.m.
	.	
RICHARD F. "DICKIE" SCRUGGS	.	
DAVID ZACHARY SCRUGGS	.	
SIDNEY A. BACKSTROM	.	
	.	
Defendants	.	
.	

MOTION HEARING
BEFORE THE HONORABLE NEAL B. BIGGERS
U.S. SENIOR DISTRICT JUDGE

APPEARANCES:

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1 maybe some plaintiff lawyers in Montana and some other ones.
2 But we wouldn't have any of these problems -- you wouldn't have
3 to talk about fancy jury matters. I mean, you wouldn't have to
4 talk about extended voir dire; I don't think, and so on. You
5 could just go ahead and have a normal trial if we went
6 somewhere else.

7 So I would ask that you consider our suggestion and move
8 us wherever you choose. And let's make that decision now and
9 everybody can start making arrangements because it will take
10 some logistical arrangements, obviously.

11 MR. TRAPP: Your Honor, I know the Court's ruling on
12 supplementation. If I might make one tiny comment?

13 THE COURT: All right. One tiny comment.

14 MR. TRAPP: The Judge Lackey district covers six of
15 the counties of the eleven counties, if I counted them right,
16 that are in the middle district. And I'd just ask the Court to
17 keep that in mind.

18 THE COURT: Six of the eleven counties that are in,
19 what, this division?

20 MR. TRAPP: Yes, Your Honor.

21 THE COURT: All right. Thank you.

22 All right. As I mentioned, the defendants motion for
23 change of venue is one of the most thoroughly researched
24 motions that I've seen in a long time as far as the information
25 that was gathered from news media that exists about this

1 particular case. A lot of articles, dozens if not hundreds of
2 articles, were footnoted and referred to.

3 There have been -- these articles came from newspapers in
4 this state and some other states. Counsel quoted from *The*
5 *Clarion-Ledger* and is quoted from the -- I don't know how many
6 people in this district subscribe to *The Clarion-Ledger*.
7 There's been no evidence presented to the Court about whether
8 100 or 1,000 or one million subscribe to it. I have no
9 information on which I can base how prevalent that information
10 is among the citizens of this district.

11 I don't know what the percentage -- what the subscription
12 rate is or number is of the *Tupelo Journal*. I believe it's the
13 *Northeast Mississippi Journal*. I know there have been a lot of
14 articles in that; but as far as how many people read those
15 papers, how many people out there on the street read them, no
16 information has been presented to the Court. There's been no
17 survey taken. And, so, whether it's 1 percent or 10 percent or
18 more, I don't know.

19 I do know, generally, that people get most of their
20 information now from television, more so than they used -- ever
21 have before; and only a few -- not as many people read the
22 newspaper as used to. You see that because newspapers are
23 losing money all over the country. Some are going out of
24 business.

25 But be that as it may, I have no basis on which to judge

1 the percentage of people in this district who might be called
2 for jury duty who subscribe to any of these newspapers that
3 have been cited, including the local paper. So I cannot, in
4 good faith, base a change of venue on the fact that some
5 newspapers have printed numerous stories about this case.

6 There might be some people you could walk up to on the
7 street and ask them about this case and they wouldn't know what
8 you were talking about. I've had people tell me that. But I'm
9 not basing any judgment on that either, because that's not
10 before the Court. It's not on the record.

11 But the mere fact that there have been numerous newspaper
12 articles -- and I grant, as I said, this is a very well
13 researched and documented motion -- that mere fact that
14 newspapers have printed it does not, in effect, militate on
15 this Court to move this case out of this state.

16 So for those reasons -- and also, there's been no
17 testimony by anyone who thinks that these defendants could not
18 get a fair trial from jurors in this district. So there's
19 really nothing on the record before the Court on this
20 particular motion other than a lot of -- several newspapers
21 have printed a lot of articles about this case.

22 And I cannot segue from that into a conclusion that we
23 cannot get a fair jury panel from the counties of this district
24 to hear this case. And certainly, when they are summonsed to
25 be here, we'll ask them about their opinions, about their

1 knowledge, if they heard about it, if they formed an opinion.

2 Merely hearing about the case is not sufficient grounds to
3 disqualify a person from sitting on a jury. They may have
4 heard good things about the defendants. That they know about
5 the case is not, in itself, grounds to disqualify. They can be
6 questioned about whether they have formed an opinion about the
7 guilt or innocence, if they formed it either way.

8 Some people may have formed an opinion about the
9 innocence. Some people may say they've formed an opinion about
10 the guilt. But that's what they've got to say in order to
11 disqualify them from sitting on this particular case. And even
12 if they have formed an opinion, a proper question would be
13 then, Is that opinion a fixed opinion or is it one that you can
14 lay aside and listen to the evidence with an open mind?

15 So I think jurors generally answer those questions
16 truthfully. If counsel believe they haven't answered them
17 truthfully -- which I don't want to even get into that -- but
18 of course, counsel have peremptory challenges that they can
19 exercise if they feel someone is not -- does not have an open
20 mind.

21 So at this point, the Court has -- is of the opinion that
22 the prudent course of action will be to select a jury from the
23 Northern District of Mississippi which has over a million
24 people in it. And not any particular -- I'm not saying that
25 any particular section of this district should be more

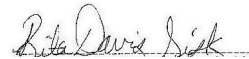
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C E R T I F I C A T E

I, Rita Davis Sisk, RPR, BCR, CSR #1626, Official Court Reporter for the United States District Court, Northern District of Mississippi, was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I, Rita Davis Sisk, RPR, BCR, CSR #1626, have caused said stenographic notes to be transcribed via computer, and that the foregoing pages are a true and accurate transcription to the best of my ability.

Witness my hand, this 22nd day of February, 2008.



RITA DAVIS SISK, RPR, BCR, CSR #1626
Official Court Reporter