

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

**UNITED STATES OF AMERICA**

**V.**

**CRIMINAL NO. 3:08CR014-M-A**

**ROBERT L. MOULTRIE,**

**NIXON E. CAWOOD,**

**CHARLES K MOREHEAD,**

**FACILITY HOLDING CORP d/b/a FACILITY  
MANAGEMENT GROUP, INC., FACILITY  
CONSTRUCTION MANAGEMENT INC., and  
FACILITY DESIGN GROUP, INC.**

**DECLARATION OF T.H. FREELAND, IV  
IN SUPPORT OF MOTION FOR A JURY QUESTIONNAIRE**

I, T.H. Freeland, IV, declare as follows:

1. I am one of the lawyers for Robert Moultrie, a defendant in the above styled and numbered case. As local counsel, one of my roles has been to monitor local news and other coverage of this case and related issues. This declaration describes coverage that has been monitored under my direct supervision.

2. This Beef Plant has had extensive coverage since its inception, and was an issue of state-wide import. The collapse of the beef plant and the investigations into the beef plant's demise became issues in state-wide politics involving races for State Auditor and the Lt. Governor. Because the

**EXHIBIT B**

identity of the public official (not named in the indictment) has been guessed by the press, this case has become an issue in a state-wide race for the United States Senate.

3. The following is a sampling of newspaper coverage from the last few weeks—all of which is available online—which related to the beef plant investigations and describe its relation to the Senate campaign and the charges in this case. In many of these articles, the defendants are identified.

- Exhibit 1 to this declaration is an Associated Press story ran on WTOK-TV and is shown on its website from June 25, 2008, describing the superseding indictment and naming each individual defendant. WTOK-TV is a station in Meridian that broadcasts into the southeastern part of this federal court district.
- Exhibit 2 to this declaration is a story from the Northeast Mississippi Daily Journal, a newspaper that is the largest circulation newspaper published in the district and that circulates throughout the area from which the jury is to be drawn. The story is dated June 24, 2008.
- Exhibit 3 is a longer Daily Journal story about the Superseding Indictment, which identifies the “public official” in the indictment.
- Exhibit 4 is another story from the Northeast Mississippi Daily Journal, describing some of the defense motions and is dated July 16, 2008.
- Exhibit 5 is a story that ran in the Jackson Mississippi Clarion Ledger on July 9, 2008 about the Senate race, noting the Musgrove must “traverse the field of the failed beef plant.”
- Exhibit 6 is a Clarion Ledger story about the release of Sean Carothers and states that he is expected to be a witness in the case.
- Exhibit 7 is an Oxford Eagle story about the release of Sean Carothers.
- Exhibit 8 is a Clarion Ledger story about the Draper trial arising out of Mississippi Beef.

- Exhibit 9 is another Clarion Ledger story about the Draper trial.
- Exhibit 10 is a story from the University of Mississippi Daily Mississippian about the Draper trial.
- Exhibit 11 is a story in the Daily Journal about the Draper trial
- Exhibit 12 is a story in the Daily Mississippian about the Draper trial.
- Exhibit 13 is a story in the Daily Journal about the release of Sean Carothers.
- Exhibit 14 is a story in the Daily Journal with more about Sean Carothers' release.

4. Of far more harm to the ability to select a fair and impartial jury is the discussion of this specific case and its relation to the case that has occurred on statewide talk radio. Super Talk Mississippi is a radio network with rebroadcast transmitters throughout the state. It has rebroadcast transmitters in Oxford (WTNM 105.5 FM), Greenwood (WTCD 96.9 FM), Corinth (WXRZ 94.3 FM), and West Point (WKBB 100.9 FM). These stations comprehensively cover the area from which this jury is to be chosen.

5. Super Talk Mississippi has two shows in particular, the Gallo Show and JT and Dave, that provide state political “talk” coverage, with interviews of political figures such as Phil Bryant (former state auditor, including during the period of this investigation, and Lt. Governor, interviewed on April 28, 2008) about Mississippi politics. The tenor of the coverage is extremely partisan.

6. The point of view of Super Talk is to use the Mississippi Beef plant and the related investigations as a partisan issue, particularly about the identity and current campaign of the public official not named in the indictment. Coverage on Super Talk of the beef plant goes back years. The hosts use sound effects (mooing cows) and interviews with various public figures.

7. Exhibit 15 is a series of transcripts of stories on Mississippi Super Talk about this case. Those sections discussed in this declaration are highlighted in the attached transcripts.

8. On March 26, 2008, they discussed the release of the indictment in this case, and stated that they had been covering since “back in the early 2000’s.” They stated that they had been on this issue since “Day One.” They stated that the prosecution is “not good news for Ronnie Musgrove” and described an earlier interview with him in which “I asked him, how does the Facilities Group play into this...” This interview was a week before the indictment was unsealed. Later on the same day, in the Dave and JT show, one of the hosts stated that they knew the indictment **“was coming, we just couldn’t go with it ‘till it happened.”** There were more references to the interview with Musgrove, and a quote of a Facility Group spokesperson from 2005. On March 27<sup>th</sup>, there were additional references to the interview with Musgrove and statements that the indictments are “continuing to rock the senatorial campaign of former governor Ronnie Musgrove. They noted that they had asked Musgrove in the pre-indictment interview about the Facility Group and that audio of the interview was posted on the internet on the blog Ya’llPolitics.com. The host, Gallo, stated “I did ask him [Musgrove] about the contributions from those who may be indicted *and later convicted* and also asked him about the Facilities Group.”[emphasis added] Later that day there was a discussion with a law professor, concerning both the “unnamed public official” and the law professor’s opinions about the indictment, along with discussion of the political contributions.

9. On March 31, 2008, there was a discussion of the impact of the case on the Senate race and whether the case raised “fitness of leadership” issue, with statements that “this is gonna be a huge topic.” There was discussion of the US Attorney’s office having “their stuff pretty tight right now,” and whether Ronnie Musgrove flew in a Facility Group plane.

10. The hosts regularly replayed the interview with Musgrove, and referred to the Facility Group in the context of the Senate race repeatedly (4/16/2008, 5/23/2008). These references invariably listed the individual defendants and their place of residence.

11. At the time of the Superseding Indictment (6/25/2008), a long show devoted itself entirely to the case and to the beef plant, with allegations that the Facility Group had known there were problems with the plant from the beginning, and detailed restatement of allegations from the Superseding Indictment.

I declare under penalty of perjury under the laws of the United States of America including 28 U.S.C. §1746, that the foregoing is true and correct.

Executed on July 23, 2008.

/s/ T.H. Freeland, IV  
T. H. Freeland, IV