

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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**MOTION TO DISMISS THE INDICTMENT FOR SYSTEMATIC
UNDERREPRESENTATION OF COGNIZABLE GROUPS IN THE
COMPOSITION OF THE GRAND JURY**

Joe Client respectfully moves this Court to dismiss the indictment against him because the composition of the jury venire from which his grand jury was selected was unconstitutional. In support of this motion, Mr. Client submits the following:

1. Mr. Client is before the Court on an indictment on one count of capital murder returned on February 28, 2013, by a grand jury of Maycomb County. The State is seeking the death penalty.

2. Upon information and belief, the jury venire from which Mr. Client's grand jury was selected systematically underrepresented African Americans, women, and other constitutionally cognizable groups in proportion to these groups' representation in Maycomb County.

3. This underrepresentation of African Americans, women, and other cognizable groups from the grand jury pool is statistically significant and unreasonable in relation to the number of such persons in the community.

4. In addition, the underrepresentation of African Americans, women, and other cognizable groups in the grand jury pools constitutes part of a history and pattern of discriminatory and systematic exclusion of members of those groups from the grand jury pools in Maycomb County.

5. African Americans and women constitute cognizable, distinctive classes in this community under both state and federal law. J.E.B. v. Alabama, 511 U.S. 127 (1994) (women); Taylor v. Louisiana, 419 U.S. 522 (1975) (same); Strauder v. West Virginia, 100 U.S. 303 (1879) (African Americans).

6. African Americans constitute 40 percent of the population of Maycomb County. Women constitute 54 percent of the population of Maycomb County. The pool from which the grand jury that indicted Joe Client was selected systematically underrepresented these cognizable groups: in 2013, the pool was only 32 percent African American and 38 percent female.

7. Alabama has explicitly extended the protections of the Sixth Amendment to grand jury proceedings. Ala. Code §§12-16-55 to -56. The exclusion of African Americans, women, and other cognizable groups from jury pools violates Mr. Client's federal constitutional rights. Duren v. Missouri, 439 U.S. 357 (1979); Castaneda v. Partida, 430 U.S. 482 (1977); Gholston v. State, 57 So. 3d 178, 180-81 (Ala. Crim. App. 2010).

8. "The fundamental respect for humanity" underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special need for reliability in determining whether the death penalty is appropriate. Johnson v. Mississippi, 486 U.S. 578, 584 (1988); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (death penalty is "special circumstance" that justifies expansion of constitutional rights). Denial of this motion will deprive Mr. Client of his rights to due process, equal protection, a fair trial, and a reliable sentencing as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments and Alabama law.

For these reasons, Joe Client respectfully requests that this Court:

- a. dismiss the indictment returned against Mr. Client because of the unconstitutional composition of the grand jury; and
- b. order the compilation of a new jury pool comprised of a fair cross-section of the community.

Respectfully submitted,

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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/04/17]