

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE
WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI
UNITED STATES OF AMERICA, Plaintiff,

vs.

T. J. PENDERGAST, R. E. O'MALLEY and A. L. McCORMACK, Defendants.

No. 14,912.

MOTION TO QUASH PETIT JURY PANEL

Comes now R. E. O'Malley, defendant herein, and moves the Court to quash the petit jury panel heretofore drawn by this Court to try this cause, for the following reasons:

The order of this court, directing that a jury panel be drawn from the entire Western District of Missouri exclusive of Jackson County, Missouri, is unconstitutional and void and in violation of this defendant's constitutional rights, in that it violates Article VI of the Amendments to the Constitution of the United States, which provides in part as follows: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, * * *", in that defendant is being deprived of the right to a trial by a fair and impartial jury.

The petit jury panel was not drawn in the manner prescribed by the laws of the United States, and particularly sections 276 and 277 of the United States Judicial Code (Title 28 U. S. C. A., section 412; Title 28 U. S. C. A., section 413.)

The order excluding residents of Jackson County, Missouri, from the panel was made without the hearing of any evidence that such exclusion would be most favorable to an impartial trial.

The order excluding residents of Jackson County, Missouri, from the jury panel was made without according defendant a right to be heard thereon and without according defendant the opportunity to adduce evidence in his behalf.

WHEREFORE, defendant R. E. O'Malley moves the court to quash the entire petit jury panel drawn to try this cause.

James P Aylward

George Aylward

Terence M O'Brien

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Filed Nov. 18-1940

A. L. Arnold, Clerk

By HC Spaulding, DC

James P. Aylward George V. Aylward Terence M. O'Brien Attorneys for Defendant R.
E. O'Malley