

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE
WESTERN DISTRICT OF MISSOURI.

UNITED STATES OF AMERICA, Plaintiff,

vs

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

No, 14,937.

MOTION OF DEFENDANT T. J. PENDERGAST TO QUASH PETIT JURY PANEL

Comes now the above named defendant, and moves the Court to quash the petit jury panel, drawn for the trial of this cause, under an order excluding therefrom residents of Jackson County, Missouri, for the following reasons:

- (1). Section 277 of the Judicial Code (Title 28, U.S.C.A., Section 413), under which Section the order aforesaid purported to be made, is unconstitutional and in violation of the Sixth Amendment to the Constitution of the United States.
- (2). Said order is invalid in that it was made without evidence in its support.
- (3). Said order is invalid because made without notice to this defendant and without giving him an opportunity to be heard thereon, or to present evidence against the necessity therefor, or to present evidence as to the propriety or impropriety of making said order.
- (4). Said order is not an order contemplated by the Section aforesaid or within its terms or purview.
- (5). Said order is justified by no facts, constitutes an abuse of discretion, and denies to this defendant due process of law under the Constitution of the United States.
- (6). Said order, so made without notice to this defendant, and without evidence upon which to base it, improperly and prejudicially singles out this defendant, denies him the equal protection of the laws guaranteed by the Constitution of the United States, and constitutes a denial of due process of law under the Constitution of the United States.
- (7). Said order was illegally made without authority of law, and said panel was illegally drawn and is illegal.

WHEREFORE, this defendant prays that said panel be quashed as aforesaid.

RR Brewster

John G. Madden

Attorneys for Defendant, T. J. Pendergast.

No. 14,937.

IN THE U.S. DISTRICT COURT FOR THE ESTERN DIVISION OF THE WESTERN
DISTRICT OF MISSOURI.

UNITED STATES OF AMERICA, Plif.

vs

T. J. PENDERGAST, R. E. O'MALLEY, A. L. MCCORMACK, Defts.

MOTION OF DEFENDANT T. J. PENDERGAST TO QUASH PETIT JURY PANEL

(Original)

R. R. Brewster,

John G. Madden,

Attys for Deft. T.J.Pendergast.

Filed

Nov. 18-1940

A. L. Arnold, Clerk

By HC Spaulding, DC

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

UNITED STATES OP AMERICA, Plaintiff,

vs.

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

No. 14,937.

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 412.)

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 D Aylward

George Aylward

Terence M O'Brien

Attorneys for Defendant R. E. O'Malley

No. 14,937.

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

MOTION TO QUASH PETIT JURY PANEL

Filed Nov. 18-1940

A. L. Arnold, Clerk

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