

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**CRIMINAL NO. 3:08-cr-00107**

**FRANK E. MELTON  
MICHAEL RECIO  
MARCUS WRIGHT**

**GOVERNMENT'S MOTION FOR ADDITIONAL PEREMPTORY CHALLENGES**

The United States, by its undersigned counsel, respectfully requests that the Court grant the government two extra peremptory challenges at trial because the defense has been granted extra peremptory challenges and because jury selection during re-trial will be more complicated than jury selection during the initial trial. Federal Rule of Criminal Procedure 24(b) dictates that, in a felony case with multiple defendants, the defendants are jointly entitled to 10 peremptory challenges, and the government is entitled to six. Fed. R. Crim. P. 24(b)(2). The Court, in its discretion, may provide additional challenges to multiple defendants. Here, the Court awarded the defendants 12 peremptory challenges in the first federal trial. A court may condition the grant of extra challenges to the defense upon a similar award to the prosecution. United States v. Scott, 555 F.2d 522, 532-33 (5th Cir. 1977); United States v. Mendoza-Burciaga, 981 F.2d 192, 198 (5th Cir 1992).

This Court should grant the government two additional peremptory challenges in order to facilitate seating a fair and impartial jury. Due to the high-profile status of the defendants and

the significant media coverage of the incident and state trial, very few potential jurors in the initial venire were unaware of the case or had not developed opinions about the case. Because of the intense television and print media coverage of the events leading up to, during, and after the federal trial, the Court has acknowledged that the jury selection process for the re-trial will be even more challenging than before. Specifically, potential jurors may likely be biased against the government because the first trial resulted in a mistrial and because of defense counsel's attempts to highlight the significant cost of the trial to their clients. For these reasons the Court should condition its grant of additional peremptory challenges to the defense in the re-trial upon a similar grant of additional peremptory challenges to the government.

Respectfully submitted,

LORETTA KING  
Acting Assistant Attorney General  
Civil Rights Division  
United States Department of Justice

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**CERTIFICATE OF SERVICE**

I, the undersigned counsel for the United States, hereby certify that on the 27th day of April, 2009, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

John Reeves, Attorney for Frank E. Melton

John M. Colette and Matt Baldrige, Attorneys for Defendant Marcus Wright; and

Cynthia Stewart, Attorney for Michael Recio.

/s/ Mark Blumberg