1971 CITIZEN CHALLENGE TO WILLIAM TERRELL HODGES
FOR U.S. JUDGE TAMPA, FLORIDA

Jim FAIR, petitioner, v. W. T. HODGES et al., respondents.
Petition No. 71-6883 Supreme Court of the United States


Jim Fair

I. INTRODUCTION

Jim Fair of Tampa Florida was a patriotic American who sought a temporary restraining order to enjoin the investiture of United States Judge William Terrell Hodges for 90 days to allow sufficient time for a background inquiry. Mr. Fair argued that the three-day time period in this case between Judge Hodges' nomination by President Nixon December 8, 1971, and his confirmation by the United States Senate December 11, 1971, was an inadequate amount of time to review a nominee prior to confirmation, given that a United States judge is appointed for life, which life tenure could exceed 40 years. Wm. Terrell Hodges was only 37 years-old at the time of his nomination, a lawyer in private practice.

1. Judge Hodges was nominated by President Richard M. Nixon, December 8, 1971
2. Judge Hodges was confirmed by the United States Senate, December 11, 1971
3. Judge Hodges received commission four days later, December 15, 1971 (Wikipedia)
4. Judge Hodges took the Oath of Office for United States Judge, December 28, 1971
5. Judge Hodges date of entry on duty was December 28, 1971
6. Judge Hodges served as chief judge from 1982 to 1989, Middle District of Florida
7. Judge Hodges assumed senior status on May 2, 1999, Ocala Division, M.D. Florida
8. Judge Hodges has been on the bench 41 years, 10 months. (as of October 28, 2013)

Mr. Fair provided evidence that Judge Hodges might not *administer justice without respect to persons, and do equal right to the poor and to the rich* or do so *faithfully and impartially* as required by the Oath of Office. Fair also sought 90 days between nomination and confirmation of future nominees. Jim Fair was right; today the confirmation process takes about 200 days.

II. Florida Memory: Jim Fair of Tallahassee, Florida.

Title, Jim Fair of Tallahassee, Florida. Image Number DND0818. Year 19--
Series Title, General: Donn Dughi Collection. Biography Note

> "Jim Fair of Tallahassee was born James Searcy Farrior on December 19, 1917 to a prominent Tampa family. Jim owned an elaborate used variety store in downtown Tampa and advertised as the "Poor Man's Friend." He ran for various government offices and finally won as Hillsborough County Supervisor of Elections. He took off all the dead voters who kept re-electing the 'courthouse gang' and registered all comers. An Annapolis graduate who was in many Naval engagements including kamikaze attacks at Okinawa. He died of leukemia on June 2, 1991."

http://www.floridamemory.com/items/show/103413

Copies of original court documents courtesy of the National Archives & Records Administration

Note: The Supreme Court at that time required legal size paper, 8.5 x 14, which the National Archives provided me. For convenience here, I reduced the legal size paper to standard 8.5 x 11. Separately I posted on Scribd the 8.5 x 14 size. http://www.scribd.com/collections/4376918/

III. DOCKET - JIM FAIR V. WILLIAM TERRELL HODGES, ET AL.

Date	Case/Pleading/Court
Dec-11-1971	Case No. 71-572, Complaint for Injunction (TRO), temporary restraining order to enjoin the investiture of Judge Hodges, sought time needed for a proper background inquiry. Requested 90 days between nomination and confirmation for future nominees. U.S. District Court, Middle District, Florida, Tampa Division. Exhibit 1.
Dec-27-1971	Case No. 71-572, ORDER - Denied TRO, action dismissed with prejudice, by U.S. Judge Ken Krentzman, U.S. District Court, Middle District, Florida, Tampa Division. Exhibit 2.
Jan-24-1972	Case No. 71-572, ORDER - Denied motion to proceed in forma pauperis, by U.S. Judge Ken Krentzman, U.S. District Court, Middle District, Florida, Tampa Division. Exhibit 3.
Mar-24-1972	Appeal No. 2358, ORDER - Denied motion to proceed in forma pauperis, appeal of Case No. 71-572. By Judge Paul H. Roney, U.S. Circuit Judge U.S. Fifth Circuit Court of Appeals. Exhibit 4.
Jun-21-1972	Petition No. 71-6883 for writ of certiorari, U.S. Supreme Court. Petition sought 90 day review period from President's appointment of a federal judge to Senate confirmation vote; denied October 10, 1972. Exhibit 5. Cite: Fair v. Hodges, 409 U.S. 872.
filing date unknown denied Dec-04-1972	Application to enjoin respondent from hearing petitioner's future cases, presented to Mr. Justice DOUGLAS, and by him referred to the Court, denied. Mr. Justice DOUGLAS would grant the application. Petition for rehearing denied December 4, 1972. Cite: Fair v. Hodges, 409 U.S. 1051.

IV. REPORTED DECISIONS

October 10, 1972 Exhibit 6	Jim Fair v W.T. Hodges, et. al, 409 U.S. 872 (Westlaw). Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied. 93 S.Ct. 202, 409 U.S. 872, 93 S.Ct. 202, 34 L.Ed.2d 123 U.S. 1972, Fair v. Hodges (Cite as: 409 U.S. 872). Exhibit includes mem.

October 10, 1972 Exhibit 7 — Jim FAIR, petitioner v W.T. HODGES, et. al, No. 71-6883, Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Denied. Supreme Court Reporter, 409 U.S. 872, 34 L.Ed.2d 123.

December 4, 1972 Exhibit 8 — Jim Fair v W.T. Hodges, et. al, No. 71-6883. (Westlaw) Application to enjoin respondent from hearing petitioner's future cases, presented to Mr. Justice DOUGLAS, and by him referred to the Court, denied. Former decision, 409 U.S. 872,93 S.Ct. 202. Mr. Justice DOUGLAS would grant the application. Petition for rehearing denied. U.S. 1972, Fair v. Hodges (Cite as: 409 U.S. 1051) 93 S.Ct. 535 409 U.S. 1051, 93 S.Ct. 535, 34 L.Ed.2d 505

V. OATH OF OFFICE FOR UNITED STATES JUDGE - 28 U.S.C. § 453 AND 5 U.S.C. § 3331

Oath of Office for Judge Hodges - Exhibit 9
(Form No. G-22; Rev. 11-2-70)

I, Wm. Terrell Hodges, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as United States District Judge, according to the best of my abilities and understanding, agreeable to the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. SO HELP ME GOD.

- signed Wm. Terrell Hodges -

Subscribed and sworn to (or affirmed) before me this 28th day of December, 1971.

FOIA Exemption (b)(6)

Actual abode: redacted
Official station*: Tampa, Florida
Date of birth: April 28, 1934
Date of entry on duty: December 28, 1971

Note - The Act of May 1, 1876 (Title 48, sec. 1466, United States Code), provides that the oaths of Territorial Officers shall be administered in the Territory in which the office is held.

*Title 28, sec. 456 United States Code, as amended.

A copy of Judge Hodges' Oath of Office is found on PACER: Case 5:06-cr-00022-WTH-PRL Document 270 Filed 11/02/07 Page 22 of 65 PageID 1496

VI. Conclusion

Thank you Jim Fair for active citizenship as a patriotic American.

Jim Fair. 1917-1991, Poor Man's Friend, WWII Navy Veteran, Annapolis

The Ocala Star-Banner reported[1] (Exhibit 13) Judge Hodges' comments during the Wesley Snipes income tax trial responding to a pleading filed by codefendant Mr. Kahn:

> Hodges displayed a sense of humor in rejecting a claim by Kahn he is "impersonating a federal judicial officer."
>
> "This claim comes as a surprise after thirty-six years of service," the judge wrote in a footnote, "especially since I have the benefit of a mandate of the Supreme Court of the United States (perhaps the only one of its kind)." Hodges went on to note that the Supreme Court had refused to hear a challenge to his investiture in 1971.
>
> http://www.ocala.com/article/20071227/NEWS/712270334

U.S. Judge Hodges, at footnote 7, Order (Doc. 332) pages 10-11. (Exhibit 10)

> "This claim comes as a surprise after thirty-six years of service, especially since I have the benefit of a mandate of the Supreme Court of the United States (perhaps the only one of its kind) refusing certiorari to review the Court of Appeals' refusal to enjoin my investiture in 1971. Fair v. Hodges, 409 U.S. 872, 93 S. Ct. 202 (1972)."

Case 5:06-cr-00022-WTH-PRL Doc. 332 Filed 12/24/07 Page 10 of 13 PageID 2061

In my view the ruling of the Supreme Court in Petition No. 71-6883 was not a "mandate" but a "mistake". Today no candidate for United States judge would be given a vote in the U.S. Senate just three days after nomination . Now a period of due diligence is normal practice, and may take 200 days (Exhibit 11), well beyond the reasonable 90 day time period Jim Fair sought to review Judge Hodges with his injunction for TRO.

Read more about Jim Fair at Tampa Bay Legends. (Exhibit 12)

http://www.teddwebb.com/legends/jim_fair.html

VII. Respectfully Submitted, October 28, 2013

Neil J. Gillespie
8092 SW 115th Loop
Ocala, Florida 34481

Telephone: 352-854-7807
Email: neilgillespie@mfi.net

[1] *Snipes' tax evasion trial stays in Ocala*, Ocala Star-Banner, by Rick Cundiff, Dec-27, 2007.

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I: THE U.S. DISTRICT COURT, MID. FLA., TAMPA DIV. 71-572 xCIV-T

JIM FAIR., Plaintiff,

vs.

W.T. HODGES AND

U.S. GOVERNMENT,

[redacted]O Defendants.

COMPLAINT, FOR INJUNCTION (TRO)

Comes new plaitiff Jim Fair, pro se, and files this his complaint seeking a Temporary Restraining Order, and as grounds shows:

1. Jurisdiction lies here as the United States Government is named defendant for denial to plaintiff and others of his class of the right to petition for redress of grievances, and of the right to due process and equal protection of the law, as per U. S. Constitution; further, it lies here as defendant W.T. Hodges is a U. S. District Coutt judge subject to being sworn in Dec. 28, 1971, without time being allowed to contest same;

2. Plaintiff is a U.S. citizen-elector-taxpayer, and resident of Tampa, Fla., who works solely within the system to give Americans hope within that system, and he brings this action to give him and others hope by insuring his and others Constitutional Rights are protedted;

3. Protection thereoop failed in that on Dec. 8th U. S. Presidnt Nixon nominated for U. S. District Court Judge, here, defendant Hodges who was confirmed by the U. S. Senate on Dec. 11th; such haste stopped plaintiff and others form petitioning U. S. Senators as to said Hodges shortcomings, as Plaintiff did not receive news of said nomination until Dec. 9th and mail alone takes several days from Tampa to Wn., D. C.;

4. Such rubber-stamp confirmation in hours establishes or continues a dangerous precedent meriting review by this Court to allow citizens to have time in which to voice reactions, and order should issue setting as minimal interval between nomination and confirmation of 90 days;

5. Said three months time to safeguard our judicial system from ill-suited, life-time appointees of a patronage-type is well founded, for that life-time can mean 30 to 40 years of [redacted] reflecting of the money first, mankind last philosophy of said Nixon and Senator Gurney and of Macfarlane-Ferguson law firm corporate intrests long served by its member Hodges, defendant herein;

6. To so safe-guard our judicial system from an appointee with a false-halo, to at least have the public on guard against Macfarlane-Ferguson sitting by proxy in a U. S. Judgeship, the plaintiff phoned one U. S. Senator long distance,

EXHIBIT 1

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and was to write numerous Senators about asid Hodges on the weekend of Dec. 11th, only to learn on Dec. 12th that said Hodges was in;

7. Such irreverence of rights by rush-rush rejects Republicanism, and denies the Constitutionally guaranteed ritht to a Republican Form of Government; such hurry-up to pick patronage plums for appointees leaves the courts suspect as being not for people so much as for powers, as being in fact a pyramid for power solidly to frustrate change within the system;

8. Such political patronage appointment to perpetuate Reprblican hopelessness for people's needs, as opposed to property's profits, merits purification, and necessity therefor is well shown by the apparent unethical practices of defendant Hodges or of his clients or law associates, for:

A. Said Hodges, agent-attorrney for Hillsborough County, Fla., Tax Assessor Walden, had his 545 feet of Lake Front property assessed by said Walden for $11,580 when at market value, $100 to $150 front foot it was worth $55,000 to $82,000, as confirmed by real estate men familiar with Lake Keyston area;

B. Said Hodges, as attorney with Macfarlane-Ferguson firm, represented not only the people (through their tax assessor) but huge corporations also advantageously underassessed by said tax assessor, for a clients are (with assessments approxi - mate):

(1) mass-media monopolist, The TribuneCo., assessed at 35% of value fixed by law;

(2) Anheuser-Busch, Inc., at 45%;

(3) Maas Bros., Inc., at 45%;

(4) General Telephone Co.; Ferman Motor Co; First Nat'l Bank (Tampa); Pen. State BAnk; Capital Nat'l Bank; Tampa Ship Repair; and numerous others, including oil, insurance, canning, and ranching interests,all generally powerful by said firm.

C. Said Hodges now is to take theBench vacated by Judge Lieb who long enjoyed under-assessments so gorss as to imply tacit influence of said Walden's attorney or his firm in said court.

D. Further, said Hodges served as personal connsel for said Walden under suspicions, unethical circumstances, particularly in a suit on election law brought by one Morton Tucker, whose intersts were adversely affected, tax-wise and otherwise;

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E. Further, said Hodges served as attorney for said Walden, and was fully informed of discrimination against plaintiff Fair, for political oppression, by gross over assessment of land in which Fair had interest;

9. Thus said Hodges so long has aligned himself with vested interests - banks, insurance, as have Gurney, Chiles and many Senators - that his confirmation may well be automatic, as of like conscience as ruling cliques, but plaintiff maintains his right to petition said Senators, and to inform them of violation (or implication) or of unethical practices;

A. For said Hodges had a duty (to public through Tax Assessor, to corporation clients property interests through law firm) "to represent the interst of the clent with undivided fidelity"-a split personality!

B. And he had a duty "never to reject for any consideration personal to (himself, like underassessment of his lake front estate) the cause of the defenseless or oppressed (the vast majority of taxpayers exploited to the profit or advantage of a few)

C.And he had a duty, paid for by taxpayers, to advise his client-tax assessor to assess all properties equitably at 100% of value - and not "to disobey any valid law or court order thereon - which client Walden did and is now doing for the BIG;

D. And, by his "attitude of mind" for BIG he justifies "the impression that any person (like Macfarlane-Ferguson and clients) can improperly influence him or unduly enjoy his favor," and he can "be swayed by partisan demands" of vested interests, of BIG money whether Republican or Democrat, for has he not been "the active promoter" of such interests?

10. Conclusively, said Hodges in his relations with said Tax Assessor (and controllers of a courthouse gang) has supported a "decepton or betrayal of the public" so deep rooted in his "attitude of mind" that "corruption of a (tax assessor) exercising a public office rubs off on him and shadows him that it indicated he is not an honest man, not a patriotic and loyal citizen, and not deserving of a reputation for fidelity to private duty and to public duty.

11. Further, so conspiratorially have such conflicts of interests maintained to the advantage of a few insiders or powers, and to the hardship of plaintiff and others, that great and irreparable harm has resulted, and such harm is

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can flow into the purity of this Court failing protection by this court of plaintiff's and others rights as above.

12. Such rights apply also to other nominees for Federal Judgeships, for defendant Hodges is one of a class.

WHEREFORE, plaintiff prays:

(a)Accept jurisdiction as a class action,

(b) Enjoin swearing in as U. S. District Judge of defendant W. T. Hosges, temporarily until confirmantion time is re-opene d, or prospectively in future nominations,

((c) Set time of 90 - days between nomination and confirmation, or

(d) Grant such other releif as merited.

Respectfully

Jim Fair

Plaintiff, in pro. per., 124 S. Franklin
Tampa, Fla 33602

~~(AFFIDAVIT TO FOLLOW)~~

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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION

JIM FAIR, *

Plaintiff, *

vs. * No. 71-572 Civ.T.

W. T.HODGES, et al, *

Defendant *

O R D E R

THIS CAUSE came on for consideration upon the filing of a verified complaint by Jim Fair, Pro se.

In the complaint plaintiff seeks entry of a temporary restraining order restraining the investiture of a duly appointed and confirmed United States District Judge. Plaintiff also seeks declaratory and other injunctive relief.

The complaint herein is so frivolous, meritless and fatuous as to restrain the bounds of judicial decorum. This action is unreasonable and can serve no purpose other than the personal aggrandizement of plaintiff. The bringing of this actior represents a plain abuse of judicial process.

Under these circumstances the Court will deny plaintiff's request for entry of a temporary restraining order and will dismiss the action with prejudice on the ground that plaintiff has not made a good faith effort to state a claim for relief.

Whereupon, it is

ORDERED, ADJUDGED and DECREED:

1. Plaintiff's prayer for entry of a temporary restrai order is hereby denied.

2. This action is hereby dismissed with prejudice.

DONE and ORDERED at Tampa, Florida, this 27th day of December, 1971.

Ben Krentzman

BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

EXHIBIT 2

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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION

JIM FAIR, *

Plaintiff, *

vs. * No. 71-572 Civ. T.

W. F. HODGES, et al, *

Defendants *

O R D E R

This came before the Court upon the filing of a motion for leave to proceed on appeal in forma pauperis by plaintiff Jim Fair. By order entered December 27, 1971, the Court dismissed this action. The Court noted that this action is totally frivolous. It is, therefore,

ORDERED:

Plaintiff's motion for leave to proceed on appeal in forma pauperis is hereby denied.

DONE and ORDERED at Tampa, Florida, this 24th day of January, 1972.

Ben Krentzman

BEN KRENTZMAN
UNITED STATES DISTRICT JUDGE

EXHIBIT 3

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U.S. COURT OF APPEALS
FILED
MAR 4 '77
EDWARD W. WADDY
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Misc. No. 2358

JIM FAIR,

Petitioner,

versus

W. T. HODGES and
THE UNITED STATES GOVERNMENT,

Respondents.

- - - - -

On Application for Leave to Appeal In Forma Pauperis

- - - - -

O R D E R:

IT IS ORDERED that the petitioner's pro se application for leave to appeal in forma pauperis, filed in the above styled and numbered cause, is hereby denied .

Paul H. Roney
UNITED STATES CIRCUIT JUDGE

EXHIBIT
4

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71-6883

RECEIVED
JUN 21 1972
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT, U. S.

JIM FAIR, PETITIONER,

VS.

W. T. HODGES,,AND
U. S.
GOVERNMENT,

RESPONDENTS.

APPEAL, OR

PETITION FOR A WRIT OF CERTIORARI

TO THE U. S. COURT OF APPEALS, 5TH CIRCUIT

AND TO THE U. S. DISTRICT COURT, MID. FLA., TAMPA DIV.

Pro Se, Petitioner prays that a writ of Certiorari issue to review the U. S. Court of Appeals, Fifth Circuit, order denying pauperis proceedings and, thereby, review the U. S. District Court, Middle District of Florida, Tampa Division, order, said orders being unreported. They are appended. Or he appeals.

Jurisdiction is here sustained, as said Appeals Court Order was entered Mar. 24, 1972; and as such is allowed by 28 U. S. C. ss-1254(I); 2 U. S. C. ss/& 7; 42,ss 1981, 1983, & 1988; 28, ss 1331, 1343 (3) & (4), 2201, 2202 & 2281; and 42, ss 1988 -- or other unknown to 1st person petitioner. This action was brought below by plaintiff-petitioner maintaining he was denied due process and equal protection of laws, and a Republican form of Gov't. U. S. Constitution, 14th Amend. and Art. IV, Sec. 4. Also, he is maintaining he was denied his Ist. Amendment right to petition for redress of grievance.

QUESTIONS PRESENTED - I. Whether U. S. Supreme Court Justice nominees should be inflicted by greater, lengthier public exposure than U. S. District Court judge nominees? 2. Whether three days or three months between President's nomination and Senate's confirmation of such judge protects Constitutional rights? 3. Whether a class action as to citizens and judges maintains? 4. Whether a citizen's sincere action seeking guidelines as to minimum time between a judge's nomination and confirmation is meritless? 5. Whether in forma pauperis proceedings are a right?

EXHIBIT 5

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The case arose out of President Nixon"s nomination of respondent W. T. Hodges to be judge of the U. S. District Court, Middle District of Florida, Tampa Division. In 1971, he nominated him Dec. 8th and the U. S. Senate confirmed him Dec. 11th - for a life-time job.

Upon learning of said nomination the petitioner, Jim Fair, who works solely within the system pursuing social justice and who looks to judges for relief from vested interests" unjust laws, "phoned one U. S. Senator in deep concern about the appointee, as set out in complaint made part hereof, appended, but by the hasty confirmation was prevented further petitioning for redress of his grievances. As the swearing in of said nominee was upcoming, petitioner sued in the concerned District Court which denied a temporary restraining order and dismissed the action, one ,naming as respondent the U. S. Government.

Petitioner sought to proceed and to appeal in forma pauperis, and in good faith, only to be denied this right to due process. He established federal jurisdiction in the court of first instance by setting forth denials of due process, equal protection and Republican form of government, and therein naming as defendant the U. S. Government. He paid for docketing and for service, though he could not afford to do so, as in good faith he seeks needed guidelines "prospectively in future nominations," as prayed below.

REASONS FOR GRANTING THE WRIT ARE MANIFEST. I. The Court should decide whether only U. S. Supreme Court justices should be subject to public investigations, while District Court judges go relatively unexposed, even uncriticized, by rubber-stamp, co-operative U. S. senators protective of their own patronage-plum proposals to life-time judgeships? This Court in instant case can bring into the sunshine such young plants as will grow and bear fruit, for a historical harvest the pride of present and future generations of laymen and lawyers alike. This Court, the high to which lesser appointees aspire, can now show its bigness by upholding petitioner's contention that said proposals should be of such quality as to withstand the elements of investigation for a reasonalbe time of germination.

2. The decisions below seriously limit the intended efficacy

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of a judicial systerm wherein lawyers and lawyer-judges conceal critcisms by rushing through approvals, for over four out of five U.S.senators are attorneys, all considered obligated more to campaign contributors than constituents in general. The decisions eliminate

2. [illegible]

even outspoken criticisms across party lines, for loyalty to Brothers-at-the-Bar exceeds loyalty to law. Said decisions merit from this Court an enlargement of time between President's nominat= ion and Senate's confirmation, for three days' time negates a Republican form of government, denies a right to petition the govern- ment for a redress of grievance, and denies equal protection of law and due process rights. U. S. Con. Art. IV, Sec. IV; Ist, 14th Amend.

3. This case raises important questions as to an American's right as a class to a judge who will become the checks and balances against police power of the Chief Executive, against Fascist or other legislation. It shows the need for judges to be recognized as a class not above criticism but welcoming public scrutiny for wholesomeness and respect it produces. It merits recognition as a class action productive of enduring guidelines, for minimal time of public view.

4. The plaintiff-petitioner was verbally lashed unnecessarily within the District Court's order, though he sincerely litigated in the public interest from righteous indignation against unchal- lengeable appointment, which appeared hasty and against the people's interest. He maintains his plea should be applauded for intent, if not for content. (He corrects now a part, having heard another "W. T. Hodges" has the larger property on the same lake!) He asks this Court to hold that the case has merit.

5. As a lay person striving for reasonalbe guidelines and working within the system, he felt so strongly the need to enlarge nomination-confirmation time, that he paid to docket and to make service, but he could not afford appeal costs. To go on, he filed motions and affidavits in both lower courts only to have pauperis proceedings denied. As a rich person could

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climb the ladder here, he claims he has like right on groundsx pled below and here, by his xpauperis motion-affidavit made part hereof by reference thereto. He asks this Court to protect his 14th-Amendment rights to due process and equal protection rights, x seemingly granted or denied below—not on his insolvency status but on Court's attitude as to issues.

Thus, petition should be granted.

Respectfully,

Jim Fair

Westlaw

H

Supreme Court of the United States
Jim FAIR, petitioner,
v.
W. T. HODGES et al.

No. 71-6883.
October 10, 1972

Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Denied.

U.S.,1972
Fair v. Hodges
409 U.S. 872, 93 S.Ct. 202, 34 L.Ed.2d 123

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EXHIBIT
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H

Fair v. Hodges

409 U.S. 872, 93 S.Ct. 202 (Mem)
U.S.,1972
October 10, 1972 (Approx. 1 page)

1

409 U.S. 872, 34 L.Ed.2d 123

Homer BAILES et ux., petitioners, v. SOUTHERN FARM BUREAU CASUALTY INSURANCE COMPANY et al. No. 71-6876.

Facts and opinion, La.App., 252 So. 2d 123; 261 La. 106, 259 So.2d 29.

Petition for writ of certiorari to the Supreme Court of Louisiana.

Oct. 10, 1972. Denied.

2

409 U.S. 872, 34 L.Ed.2d 123

Theodore W. ROBINSON, petitioner, v. MAMMOTH LIFE AND ACCIDENT INSURANCE COMPANY. No. 71-6878.

Facts and opinion, 454 F.2d 698.

Petition for writ of certiorari to the United States Court of Appeals for the Seventh Circuit.

Oct. 10, 1972. Denied.

3

409 U.S. 872, 34 L.Ed.2d 123

William H. WILLIAMS, petitioner, v. OHIO. No. 71-6881.

Petition for writ of certiorari to the Supreme Court of Ohio.

Oct. 10, 1972. Denied.

4

409 U.S. 872, 34 L.Ed.2d 123

Jerry Ray JAMES, petitioner, v. UNITED STATES. No. 71-6882.

Facts and opinion, 459 F.2d 443.

Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Oct. 10, 1972. Denied.

5

409 U.S. 872, 34 L.Ed.2d 123

Jim FAIR, petitioner, v. W. T. HODGES et al. No. 71-6883.

Petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Oct. 10, 1972. Denied.

6

409 U.S. 872, 34 L.Ed.2d 123

Herbert Harris HUDSON, Jr., petitioner, v. UNITED STATES. No. 71-6884.

Facts and opinion, 460 F.2d 1262.

Petition for writ of certiorari to the United States Court of Appeals for the Fourth Circuit.

Oct. 10, 1972. Denied.

EXHIBIT
7

Westlaw.

93 S.Ct. 535
409 U.S. 1051, 93 S.Ct. 535, 34 L.Ed.2d 505
(Cite as: 409 U.S. 1051)

H

Supreme Court of the United States
Jim **FAIR**, petitioner,
v.
W. T. **HODGES** et al.

No. 71-6883.
December 4, 1972

Former decision, 409 U.S. 872, 93 S.Ct. 202.

Application to enjoin respondent from hearing petitioner's future cases, presented to Mr. Justice DOUGLAS, and by him referred to the Court, denied.

Mr. Justice DOUGLAS would grant the application. Petition for rehearing denied.

U.S.,1972
Fair v. Hodges
409 U.S. 1051, 93 S.Ct. 535, 34 L.Ed.2d 505

END OF DOCUMENT

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EXHIBIT
8

Form No. G-22
(Rev. 11-2-70)

OATH OF OFFICE FOR UNITED STATES JUDGES

(Title 28, Sec. 453 and Title 5, Sec. 3331, United States Code)

I, WM. TERRELL HODGES, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties imcumbent upon me as United States District Judge, according to the best of my abilities and understanding, agreeable to the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. SO HELP ME GOD.

Wm Terrell Hodges

Subscribed and sworn to (or affirmed) before me this 28th day of December, 1971.

FOIA EXEMPTION (b)(6)

Wesley R. Davis

Actual abode [redacted]

Official station * Tampa, Florida

Date of birth April 28, 1934

Date of entry on duty December 28, 1971

Note—The Act of May 1, 1876 (Title 48, sec. 1466, United States Code), provides that the oaths of *Territorial Officers* shall be administered in the Territory in which the office is held.

*Title 28, sec. 456 United States Code, as amended.

EXHIBIT 9

Exhibit C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

-vs- Case No. 5:06-cr-22-Oc-10GRJ

WESLEY TRENT SNIPES
EDDIE RAY KAHN
DOUGLAS P. ROSILE
_____/

O R D E R

The Court conducted a hearing on all pending motions on December 11, 2007, (Doc. 326). After carefully considering the arguments of all Parties, as well as all relevant motions papers, the Court makes the following rulings.

I. Motions of Defendant Wesley Trent Snipes

Defendant Wesley Trent Snipes' Motion to Exclude Purported Expert Testimony of William C. Kerr, (Doc. 149), is GRANTED IN PART AND DENIED IN PART. The Court finds that Mr. Kerr is qualified to testify as an expert with respect to the four "Bills of Exchange" signed by Defendant Snipes, and that, with one exception, his opinions are reliable. See Fed. R. Evid. 702; Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 589 (1993); Kumho Tire Company Ltd., et al. v. Carmichael, 526 U.S. 137 (1999). Mr. Kerr may provide expert testimony concerning the "Bills of Exchange" as described in the Parties' moving papers, but may not provide any testimony or render any conclusions to the effect that the "Bills of Exchange" were "created solely for the purpose of perpetrating

EXHIBIT
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fraud." As the Government concedes, any such conclusions by Mr. Kerr would constitute impermissible expert opinion concerning Defendant Snipes' mental state. See Fed. R. Evid. P. 704(b).

Defendant Snipes' Motion to Designate the Case as Complex, (Doc. 246), is DENIED AS MOOT. The Court has previously determined that this case is complex for purposes of the Speedy Trial Act. See Docs. 85, 186, 229. See also 18 U.S.C. § 3161(h)(8)(B)(ii).

Defendant Snipes' Motion to Bar All 404(b) Evidence Against Snipes From Trial, (Doc. 250) is premature and therefore DENIED WITHOUT PREJUDICE. The Court does not have the evidence at issue before it, and there is no record context in which to evaluate its admissibility. Defendant Snipes may state his objections at the appropriate time during trial, if and when the Government seeks to admit such evidence.

Defendant Snipes' Motion to Strike Surplusage, (Doc. 271), is DENIED WITHOUT PREJUDICE. As correctly stated by the Government, (Doc. 293), the proper procedure when faced with a motion to strike surplusage is to reserve ruling until the Court has heard all evidence that will establish the relevance (or irrelevance) of the allegedly surplus language. See United States v. Awan, 966 F.2d 1415, 1426 (11th Cir. 1992). Moreover, the Court has already created a redacted version of the Superseding Indictment to provide to the jury at the beginning of trial. This was previously approved by counsel for all Parties. (Doc. 216).

Defendant Snipes' Motion to Exclude the Government's Handwriting Expert Witnesses and Handwriting Exemplar From Trial, (Doc. 272), is DENIED. Defendant Snipes asserts that the Government engaged in prosecutorial misconduct during the grand jury proceedings by seeking enforcement of a grand jury subpoena compelling Defendant Snipes to provide an handwriting exemplar after the grand jury had returned the initial indictment. This argument fails, however, because it presupposes that the handwriting exemplar was relevant only to the § 287 charge in Count Two, yet it is clear that the handwriting exemplar was equally relevant to the additional charges in the Superseding Indictment - in particular the conspiracy charge - concerning which an investigation was ongoing. Because the Government "may continue an investigation from which information relevant to a pending prosecution 'may be an incidental benefit'," see United States v. Alred, 144 F.3d 1405, 1413 (11th Cir. 1998) (internal citation omitted), and given the lack of any positive evidence of prosecutorial misconduct, the motion is due to be denied.

Defendant Snipes' Motion to Exclude the Government's Expert Witnesses From Trial for Untimely Disclosure, (Doc. 273), is DENIED AS MOOT. Defendant Snipes seeks to exclude Agent Combs as an expert witness on the grounds that the Government did not identify Agent Combs until several months after the Court's disclosure deadline. During the December 11, 2007 hearing, the Assistant United States Attorney stated that the Government no longer intends to call Agent Combs as a witness, unless and until an issue arises during trial requiring his individual expertise. Accordingly, the relief requested by

Defendant Snipes is no longer necessary; however, Defendant Snipes may revisit this issue should the Government seek to call Agent Combs as an expert witness during trial.

Defendant Snipes' Motion in Limine to Preclude the Admission of Alleged Co-Conspirator Statements Absent a Pretrial Showing Under Federal Rule of Evidence 801(d)(2)(E) and Request for a James Hearing, (Doc. 274), is DENIED WITHOUT PREJUDICE. As Defendant Snipes correctly notes, a hearing pursuant to United States v. James, 590 F. 2d 575, 579-80 (5th Cir. 1979), is not mandatory. See United States v. Hasner, 340 F.3d 1261, 1274-75 (11th Cir. 2003); United States v. Van Hemelryk, 945 F.2d 1493, 1498-99 (11th Cir. 1991). Any issue concerning Fed. R. Evid. 801(d)(2)(E) will be carried with the case and determined at trial when appropriate objections, if any, are made.

Defendant Snipes' Motion for Attorney Conducted Voir Dire and For Use of a Juror Questionnaire, (Doc. 275), is DENIED for the reasons stated by the Court during the December 11, 2007 hearing. (Doc. 328). The Parties may submit to the Court proposed voir dire questions at any time up to and including the time the jury is empaneled.

Defendant Snipes' Motion to Disclose Grand Jury Transcripts, (Doc. 276) and Motion to Unseal the Record For a Case Related to Underlying Grand Jury (Doc. 277) are DENIED. Defendant Snipes seeks disclosure of the entire grand jury transcript as well as the entire record of all grand jury proceedings relating to the issuance of the Superseding Indictment in this case in order to ascertain whether any prosecutorial misconduct took place during grand jury proceedings, and in particular, to verify what the Assistant United States Attorney represented to the United States District Judge with respect to the use of

Snipes' handwriting exemplar. Defendant Snipes has not satisfied the standards for disclosure set forth in Douglas Oil Co. of California v. Petrol Stops Northwest, 441 U.S. 211 (1979). In particular, the Court finds the request to be overly and unnecessarily broad - more in the nature of a "fishing expedition" - and that Defendant Snipes has not established any potential injustice or compelling need that would be require or justify disclosure of this information.[1] See Pittsburgh Plate Glass Co. v. United States, 360 U.S. 395, 400 (1959) ("The burden . . . is on the defense to show that 'a particularized need' exists for the minutes which outweigh the policy of secrecy."). See also Fed. R. Crim. P. 6(e)(3)(E)(ii).

Defendant Snipes' Motion to Dismiss or Transfer Based on Racially Discriminatory Venue Selection, (Doc. 278), is DENIED. Notably, Defendant Snipes does not contend that venue is improper in this Court. In fact, during the December 11, 2007 hearing, counsel for Defendant Snipes conceded that venue is proper in this District for at least the conspiracy charge (Count I) and the § 287 fraud charge (Count II). With respect to the failure to file counts (Counts III through VIII), counsel for Defendant Snipes also conceded that the proper procedure for challenging venue is to submit all disputed issues of fact to the jury under a preponderance of the evidence standard of proof.[2] See United States v. Stickle, 454 F.3d 1265, 1271-72 (11th Cir. 2006); United States v. Breitweiser, 357 F.3d

[1]The Court also notes that the Assistant United States Attorney, as an officer of the Court, has represented that no one from the Government has ever affirmatively stated that the handwriting exemplar is relevant only to the § 287 charge.

[2]Upon direct questioning by the Court, counsel was unable to provide any legal authority to support his request that venue be determined in advance of trial.

1249, 1253 (11th Cir. 2004). Rather, in addition to making numerous accusations of prejudice and bigotry on the part of the residents of the Ocala Division, Defendant Snipes argues that venue in the Ocala Division of the Middle District of Florida is improper because the racial disparity between the jury venire for the Ocala Division and the Manhattan Division of the Southern District of New York is far greater than 10%.[3]

However, as the Government correctly points out, (Doc. 294), Defendant Snipes has engaged in a faulty comparison. To determine whether a defendant's Fifth and Sixth Amendment rights have been violated by selection of a racially discriminatory venue, the proper comparison is between the percentage of the distinctive group in question that is among the qualified jury wheel and the percentage of that same group in the population eligible for jury service. United States v. Grisham, 63 F.3d 1074, 1078-79 (11th Cir. 1995). Comparison between different venues is not appropriate. See, e.g. United States v. Pepe, 747 F.2d 632 (11th Cir. 1984); United States v. Tuttle, 729 F.2d 1325 (11th Cir. 1984). Given the lack of any evidence of a constitutionally relevant racial disparity in the Ocala Division's jury venire, Defendant Snipes' motion is due to be denied.[4]

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[3]According to Defendant Snipes, African-Americans (21%) and Latinos (30%) constitute more than half of the jury venire in the Manhattan Division, whereas African-Americans (9%) and Latinos (7%) constitute only 16% of the jury venire in the Ocala Divison.

[4]The Court is also unpersuaded by Defendant Snipes' arguments under Fed. R. Crim. P. 21(b) that venue should be transferred to the Southern District of New York in the interests of justice. As the Court has previously made abundantly clear, (see Doc. 188, pp. 13-21), there are no compelling reasons to transfer this case to another venue, particularly where the case involves two co-conspirators with strong ties to Florida, and where the question of Defendant Snipes place of residence during the relevant time period remains a fact question very much in dispute. (continued...)

Defendant Snipes' Motion to Dismiss Indictment or For an Alternative Sanction, (Doc. 280), is DENIED. The motion asserts the following alleged acts by the Government: (1) an improper disclosure of Defendant Snipes' income tax returns in another related civil matter; (2) a false representation during grand jury proceedings concerning the use of Defendant Snipes' handwriting exemplar; (3) the failure to offer Snipes his conferencing rights under United States v. LaSalle National Bank, 437 U.S. 298 (1978); and (4) the Government's reference to Snipes in the press as a fugitive. The Court has carefully reviewed Defendant Snipes' allegations, as well as the relevant case law and finds that the Government did not engage in any improper conduct.[5] More importantly, Defendant Snipes has utterly failed to demonstrate any prejudice that he has or will suffer as a result of these alleged Government actions.

---

[4](...continued)
Defendant Snipes' reliance on Rule 1.02(d) of the Local Rules of the Middle District of Florida is equally misplaced. The Superseding Indictment alleges actions by the Defendants in both Lake County, which is within the Ocala Division, and Orange County, which is within the Orlando Division. Because at least some of the acts are alleged to have taken place within the Ocala Division, transfer of this case is not appropriate. Moreover,"an indictment returned in any Division shall be valid regardless of the county or counties within the District in which the alleged offense or offenses were committed." Local Rule 1.02(d). See also Pepe, 747 F. 2d at 647, n. 15 (noting that defendants have no constitutional rights to venue within a division).

[5]For example, the Court finds that the Government did not violate any disclosure rules when it attached Defendant Snipes' 1997 amended tax return to a filing in a tax civil matter against co-Defendant Rosile. See 26 U.S.C. § 6103(h)(4)(C). The Court further finds that to the extent any pre-indictment conference rights may exist under LaSalle or any other legal authority, they do not apply to grand jury investigations and do not apply where the defendant does not request such a conference, as appears to be the case here.

Defendant Snipes' Motion to Exclude Exemplars Taken in Violation of the Fifth Amendment, (Doc. 281), is DENIED. In the motion itself, Defendant Snipes concedes "that current Eleventh Circuit case-law allows state compelled exemplars without meaningful limitation and simply preserves a good faith challenge to that existing precedent." See Doc. 281, p. 1; see also Gilbert v. California, 388 U.S. 263, 266-67 (1967); United States v. Stone, 9 F. 3d 934, 942 (11th Cir. 1993). Defendant Snipes' objection is duly noted for the record.

Defendant Snipes' Renewed Motion For Transfer to District of Residence Pursuant to 18 U.S.C. § 3237(b), (Doc. 282), is DENIED. The Court previously denied this very same motion on timeliness grounds, see Doc. 188, p. 11-13, and Defendant Snipes' new counsel have not raised any additional arguments to persuade the Court that this prior ruling should be altered.

Defendant Snipes' Motion for Pretrial Status Conference, (Doc. 296), and the United States' Motion for Hearing Regarding Candor to the Court and Potential Conflict of Interest, (Doc. 303), are DENIED AS MOOT. The Parties had an opportunity to be heard on all pending motions, including the issues raised in both of these motions, during the December 11, 2007 hearing. In addition, the majority of the issues Defendant Snipes' counsel wishes to address with the Court were previously resolved in the Court's October 3, 2007 Order. (Doc. 216).

II. Motions of Defendant Eddie Ray Kahn

Defendant Eddie Ray Kahn's Motion to Continue Trial, (Doc. 262), is DENIED. Defendant Kahn seeks a 138-day continuance on the grounds that he has not received any discovery in this case, and requires additional time to review over 800,000 discovery documents. This motion is without merit because the Government has provided Defendant Kahn with all discovery as it has become available, and informed Defendant Kahn of the existence of any other discovery that would be available for review. A continuance is not warranted based on Defendant Kahn's own failure to engage in discovery review.[6]

Defendant Kahn's Motion for All Discovery, (Doc. 263), and Motion To Exclude All Evidence Against Kahn For Massive Discovery Violations, (Doc. 268), are DENIED for the same reasons. The Government has either provided to Defendant Kahn all discovery, or made discovery available for inspection and review. To the extent Defendant Kahn seeks Giglio or Brady discovery materials, that request is due to be denied for the same reasons set forth in the Court's November 2, 2007 Order denying Defendant Snipes' identical request. See Doc. 261.

Defendant Kahn's Motion to Dismiss for Want of Personal Jurisdiction, or Alternatively, Motion for Plaintiff's Misconduct, (Doc. 264), is DENIED for the reasons set forth in the Government's response in opposition. (Doc. 286). See also United States v.

[6]See the United States' Combined Response. (Doc. 285). The record is not inconsistent with the representations of the Government made in that Response.

Alvarez-Machain, 504 U.S. 655 (1992); United States v. Arbane, 446 F.3d 1223 (11th Cir. 2006).

Defendant Kahn's Motion to Adopt Snipes' Motion for Immediate Brady and Giglio Material as His Own, (Doc. 266), is DENIED AS MOOT. The Court previously denied Defendant Snipes' underlying motion on November 2, 2007. See Doc. 261.

Defendant Kahn's Motion for Disclosure of State Department File, (Doc. 267), is DENIED. The Government asserts that it is unaware of the existence of any such file, and Defendant Kahn has not demonstrated why the disclosure of such a file, assuming it does exist, would be relevant to any issue in this case.

Defendant Kahn's Notice of Motion and Motion to Depose Judge With Accompanying Memorandum of Law, (Doc. 269), is without merit, does not cite to any relevant legal authority, and is therefore DENIED.

Defendant Kahn's Motion to Disqualify Judge Wm. Terrell Hodges From Case #5:06-cr-22, (Doc. 270), is DENIED. Defendant Kahn bases his motion on the fact that he believes I have a "vendetta" against him and because the Court has denied all of Kahn's motions and "notices" as frivolous and without merit. Defendant Kahn further contends, without any legal or factual support, that I am not an Article III Judge, but am in actuality impersonating a federal judicial officer.[7] In other words, Defendant Kahn bases his entire

[7]This claim comes as a surprise after thirty-six years of service, especially since I have the benefit of a mandate of the Supreme Court of the United States (perhaps the only one of its kind) refusing certiorari to review the Court of Appeals' refusal to enjoin my investiture in 1971. Fair v. (continued...)

motion on judicial rulings and other actions I have taken in my role as United States District Judge - he has presented no evidence or made any allegations that any supposed bias stems from extrajudicial sources. See 28 U.S.C. §§ 455(a), (b)(1); United States v. Grinnell Corp., 384 U.S. 563, 583 (1966) (judicial rulings alone almost never constitute a valid basis for recusal based on bias or partiality); Litekey v. United States, 510 U.S. 540 (1994) (judicial rulings, without any evidence of extrajudicial bias, may form the basis of an appeal, not recusal); United States v. Bailey, 175 F.3d 966, 968 (11th Cir. 1999) ("Bias sufficient to disqualify a judge under § 455(a) and § 455(b)(1) must stem from extrajudicial sources, unless the judge's acts demonstrate 'such pervasive bias and prejudice that it unfairly prejudices one of the parties.'") (quoting United States v. Ramos, 933 F.2d 968, 973 (11th Cir. 1991). Accordingly, Defendant Kahn has failed to satisfy the statutory standards for recusal set forth under 28 U.S.C. § 455.

III. Motions of Defendant Douglas P. Rosile

Defendant Douglas P. Rosile's Motion to Strike Surplusage From Indictment, (Doc. 203), is DENIED WITHOUT PREJUDICE. The Court will reserve ruling until the Court has heard all evidence that will establish the relevance of the allegedly surplus language. See United States v. Awan, 966 F.2d 1415, 1426 (11th Cir. 1992). Moreover, the Court has already created, with approval of all Parties, a redacted version of the Superseding

[7](...continued)
Hodges, 409 U.S. 872, 93 S. Ct. 202 (1972).

Indictment to provide to the jury at trial. (Doc. 216). Defendant Rosile may revisit this issue at the appropriate time during trial.

IV. Motions Relating to All Defendants

The United States' Motion In Limine to Exclude Anticipated Tax-Protestor "Evidence" and Argument, (Doc. 208), is CARRIED WITH THE CASE. The United States is free to raise any appropriate objection if and when any party seeks to introduce such evidence and/or argument at trial.

The United States' Unopposed Motion to Continue Trial Subpoenas, (Doc. 232), is GRANTED.

The Joint Motion By All Co-Defendants For a Continuance Based on Newly Discovered 1.6 Million or More Pages of Discovery, (Doc. 321), is DENIED. The Defendants contend that an additional three-month continuance is necessary in order to review approximately 1.6 million pages of allegedly newly discovered evidence. However, as the Government explained at the hearing, counsel for the Defendants have been well-aware of this additional discovery since at least the time of each Defendant's arraignment, and the Court finds that Defendant Snipes' new counsel received this discovery from prior counsel in a timely manner. At the time of arraignment, the Government provided each Defendant with the vast bulk of all discovery, and informed each Defendant that the electronic discovery now in question was available for inspection and copying upon request. The Government further explained at the hearing that the majority of the

electronic discovery consists either of computer software programs or copies of documents previously provided to the Defendants in hard copy or other form, and that the Government intends to use at trial only approximately 20 documents which originated from electronic form. The Court is therefore convinced that the Government has not deliberately withheld any important discovery materials from any Defendant, and that the Defendants have had an ample opportunity to review and analyze the discovery material and prepare adequately for the trial of this case. Moreover, the Defendants have not demonstrated any specific prejudice that will result from the denial of a continuance to review what are largely irrelevant and/or duplicative materials.

The Clerk is directed to send a copy of the transcript from the December 11, 2007 hearing directly to Defendant Snipes, along with a copy of this Order.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 24th day of December, 2007.

UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record
Maurya McSheehy, Courtroom Deputy
Wesley Trent Snipes
Eddie Ray Kahn
Douglas P. Rosile5:06cr23

It Takes Forever To Confirm Federal Judges These Days: Proof in a Chart

By Doug Kendall | Posted Thursday, Sept. 27, 2012, at 4:11 PM
| Posted Thursday, Sept. 27, 2012, at 4:11 PM
Slate.com

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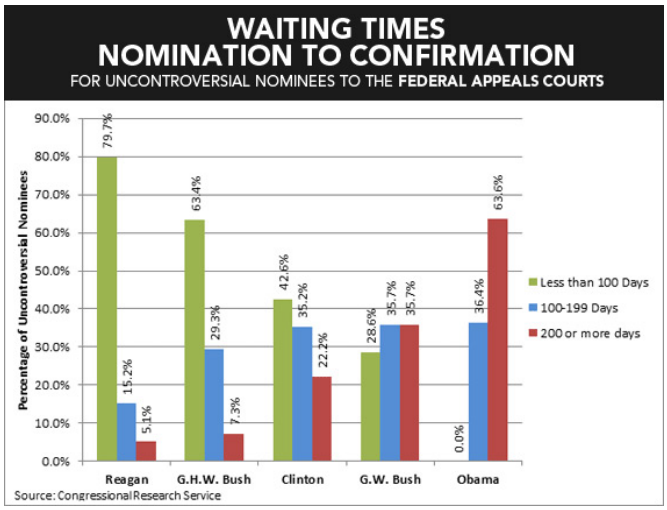
That's how long uncontroversial nominees are waiting to join the federal bench.

Just how long does it take to get onto the federal bench these days? The molasses pace of the judicial confirmation process during the Obama presidency has been apparent. But now the Congressional Research Service has crunched the numbers and found clear proof that Senate Republicans are engaging in an unprecedented form of obstruction of President Obama's judicial nominees. The Republicans are holding even the most uncontroversial nominees hostage, in an effort to leave as many seats as possible open for a future Republican president to fill. In short, the uncontroversial nominees are pawns in a fight over the future of the federal judiciary.

CRS defines an uncontroversial nominee as one with little or no opposition when votes are actually cast in the Senate Judiciary Committee and on the Senate floor. This definition isn't perfect, because it allows senators to manufacture a "controversy" simply by voting against a nominee, and some Republicans have now taken to voting against every Obama nominee, no matter what. But the CRS numbers are still striking.

The gist is this: The average confirmation time for uncontroversial circuit court nominees rose from 64.5 days under Reagan to 227.3 days under Obama. There simply are no Obama appeals court nominees who make it through the confirmation process in 100 days or less—whereas nearly 30 percent of President George W. Bush's nominees sped through in that amount of time. Similarly, the average waiting time for uncontroversial district court nominees increased from 69.9 days under Reagan to 204.8 days under President Obama. And the number of district court nominees who wait more than 200 days has doubled from George W.'s time to Obama's.

The slowdown is bad because it surely means that some of the best judicial candidates decide not to put themselves through this stalled process. It also leaves unfilled vacancies that the judiciary has declared "emergencies" because of the heavy workload facing the sitting judges on those courts. Our federal judiciary, and the people it serves, deserve far better.



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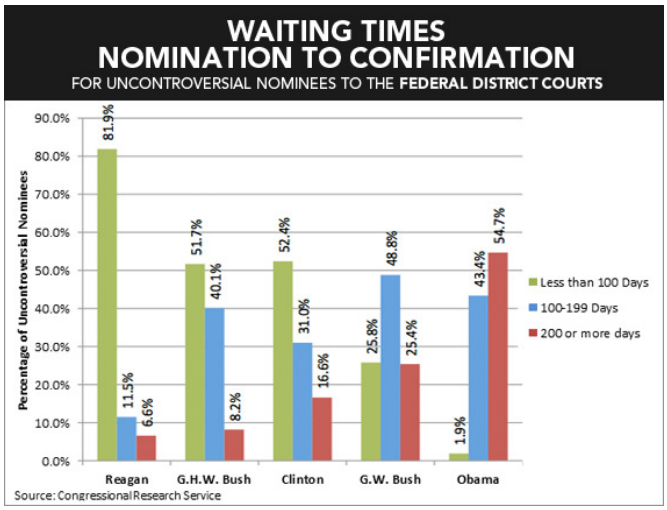

120927_WaitingTimesChart_DISTRICT

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EXHIBIT 11

Tampa Bay Legends

Jim Fair

Every town has at least one...Jim Fair counted for ten. This decorated World War II hero returned to Tampa after the war to start Tampa's premier discount "Get It For You Wholesale" Center on South Franklin Street, just north of where the Crosstown Expressway would eventually pass by. That was long before skyscrapers made their appearance downtown.

Jim was Tampa's beloved eccentric and political gadfly, a nut who started the Salvation Navy at the three story brick building on the east side of Franklin Street. There, Fair sold novelties and useful items to people who didn't have much money...and he gave street people a place to hang out for the night. He was friendly, always had a smile on his face, but was quick to file lawsuits about almost anything. He often said he "never met a lawsuit he didn't like."

Fair was often jailed for contempt of court for mouthing off at judges and witnesses in open court. If he had something to say, he'd say it no matter what the rules were or who was present...and he was always willing to accept the consequences and sue to have them changed.

He ran dozens of advertisements in every issue of The Tampa Tribune with his famous phone number, 2-2222 which later changed to 229-2222. He had to sue the phone company to get that particular number. He tried to get the courts to give him 1-1111 but didn't get a favorable ruling. Each advertisement he placed boasted that FAIR could "Get It 4 U Wholesale," whatever it was you wanted.

Ironically, he filed many lawsuits against the newspaper for not getting its facts straight and his love-hate relationship with reporters was legend. If there was a slow news day, and there often was in the fifties and sixties, Fair could always be counted on for a weird turn or two that would entertain readers.

Jim Fair was part of the local and well-respected Farrior family of lawyers and doctors but changed his name in the fifties as a symbol of his disowning the establishment he felt they were a part of. He despised anything "government" yet ran dozens of times for everything from mayor to county commissioner to state senator.

One year, he ran for Tampa mayor and as a publicity stunt rode his bicycle off the Platt Street bridge before a crowd of hundreds who came to see if he would drown. "Not a chance of that happening," Fair declared.

When he ran for each office, he always sued to have the filing fees declared unconstitutional. Failing at that, he found other loopholes to get his name on the ballot. After multiple failures at office seeking, a tired electorate finally voted him into the Supervisor of Election's Office in 1964. By 1966, he had screwed the operations of the rather obscure office up so bad that then Governor Claude Kirk had to remove him and appoint a successor. But he did put it on the map.

Fair spent nearly a decade of his post political years in Tampa filing lawsuits, many directed at the Florida Public Service Commission and local utilities alleging corruption and lack of public interest.

In the mid-seventies, Hillsborough County took Fair's Salvation Navy property by condemnation to make way for entrances to the soon-to-be built Crosstown Expressway. He sued to keep his property but lost. In protest, he never picked up the check for nearly $300,000 in payment that remained for him with the Clerk of the Circuit Court. He once directed WFLA-TV reporter Tony Zappone to go pick up the check and then called the clerk not to release it to him.

In 1976, as part of an agreement with a local court who had held him in contempt for numerous violations of conduct, he left Hillsborough County for the state capitol.

He wasn't in Tallahassee five minutes when he became the same center of media attention he had been in Tampa. He made speeches everywhere people would listen and sometimes he even made sense. In 1980, he ran unsuccessfully against State Senator Dempsey Barron (D-Panama City), again protesting the qualifying fee.

Fair remained in Tallahassee, fighting the utility companies and big business in local and state courts. He lived modestly in an apartment until his death in the early 90's.

He seldom made sense, he was weird but he was loved and his passing left a big gap in the collective souls of Tampa and Tallahassee when he was around no more.

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Left: Jim Fair speaks to the Tallahassee Tiger Bay Club, 1979

Above: Jim Fair relaxes outside Tallahassee courthouse after filing lawsuit.

* Photos Courtesy: UPI, Don Dughi, Bob O'Lary and Tallahassee Democrat.

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JUDGE DENIES DEFENSE MOTION

Snipes' tax evasion trial stays in Ocala

Case is set to start in January

BY RICK CUNDIFF
STAR-BANNER
Published: Thursday, December 27, 2007 at 6:30 a.m.

OCALA - In a Christmas Eve ruling, a federal judge delivered mostly coal to Wesley Snipes' legal team, rejecting motions to delay the actor's trial on tax evasion charges or move it out of Marion County.

Senior U.S. District Judge William Terrell Hodges, in a 13-page order, rejected Snipes' lawyers previous claims that Ocala was too racist for the black actor to get a fair trial. Hodges also denied a motion to postpone the trial, scheduled to start Jan 14.

"We're pleased with the judge's decision and we're ready to go to trial," Steve Cole, a spokesman for the U.S. Attorney's Office in Tampa, said Wednesday. Snipes lawyers Robert Bernhoft and Robert Barnes could not be reached for comment Wednesday.

Snipes and co-defendants Eddie Ray Kahn and Douglas Rosile are each charged with one count of conspiracy to defraud and one count of aiding and abetting the making of a false and fraudulent claim as part of an alleged tax fraud scheme. Snipes also is charged with six counts of willfully failing to timely file federal income tax returns.

Snipes' legal team sought to have the trial moved to the Southern District of New York, saying the potential jury pool was far more racially diverse than Ocala's and that Marion County was a "hotbed of Klan activity."

But Hodges ruled that the comparison between Manhattan and Ocala was faulty, saying the accurate question was whether the potential jury pool is any less diverse than the local population.

Hodges noted Snipes made "numerous accusations of prejudice and bigotry on the part of the residents of the Ocala [court] division."

"Comparison between different venues is not appropriate," he wrote. "Given the lack of any evidence of a constitutionally relevant racial disparity in the Ocala Division's jury [pool], Defendant Snipes' motion is due to be denied."

Hodges did grant part of one motion that Snipes' lawyers had requested. He agreed that a government witness would not be allowed to testify as to to whether documents created by the co-defendants were for the purpose of committing fraud.

In a joint motion, Kahn, Rosile and Snipes' lawyers had requested a three-month delay in the trial to give them time to go over what they claimed were 1.6 million pages of newly discovered records. Hodges responded that the defendants had been aware of the documents since their arraignments in 2006, and federal prosecutors had given them ample time to review the evidence.

Hodges declined to rule on one motion by prosecutors that would prevent the

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defendants from using tax-protest evidence or arguments in their defense. Instead, Hodges said prosecutors could object to any such evidence or arguments if they arise during the trial.

Hodges also denied motions by Snipes' lawyers to allow lawyers to question prospective jurors during jury selection and to use a written jury questionnaire. Unlike in state courts, where lawyers question jury prospects, Hodges alone usually questions them in jury selection in his courtroom.

Kahn moved to have Hodges disqualified from the case and sought to take a deposition of the judge. Hodges rejected both motions, saying the motion to depose was "without merit" and didn't cite any relevant legal authority.

Hodges said Kahn's claim that the judge had a "vendetta" against him was simply false.

"Kahn bases his entire motion on judicial rulings and other actions I have taken in my role as United States District Judge," Hodges wrote. "[H]e has presented no evidence or made any allegations that any supposed bias stems from extrajudicial sources."

Hodges displayed a sense of humor in rejecting a claim by Kahn he is "impersonating a federal judicial officer."

"This claim comes as a surprise after thirty-six years of service," the judge wrote in a footnote, "especially since I have the benefit of a mandate of the Supreme Court of the United States (perhaps the only one of its kind)." Hodges went on to note that the Supreme Court had refused to hear a challenge to his investiture in 1971.

Rick Cundiff may be reached at rick.cundiff@starbanner.com or 352-867-4130.

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