

Defense Motion No. 18

**IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA**

CASE NO.: 16-2012-CF-6463-AXXX-MA

DIVISION: CR-D

STATE OF FLORIDA,

VS.

DENNIS THURNADO GLOVER.

_____ /

**MOTION FOR DISCOVERY RELATED TO MOTION TO DECLARE
DEATH QUALIFICATION UNCONSTITUTIONAL**

“The way to right wrongs is to turn the light of truth upon them.” Ida B. Wells, *THE LIGHT OF TRUTH: WRITINGS OF AN ANTI-LYNCHING CRUSADER* (Penguin Classics 2014).

Concurrently with this motion, Defendant **DENNIS THURNADO GLOVER** is filing a motion to prevent the State from engaging in death qualification because it violates his constitutional rights (Motion No. 15), whose legal authorities and argument are incorporated herein but not repeated for economy. That motion is predicated in large part on a study, by Florida Central University Professor Jacinta Gau, demonstrating that Duval County death qualification by the State Attorney has (over the course of twelve capital trials since 2010 (all of the trials available)) overwhelmingly and disproportionately discriminated against and excluded Black potential jurors and other jurors of color. In comparison to white potential jurors, Black potential jurors are excluded at more than a two to one ratio, and other jurors of color by an even higher ratio. Of those willing, eligible, and qualified to serve, nearly 40% of Black potential jurors are excluded through this process and over 40% of other jurors of color. The study further shows that, when combined with peremptory strikes, death qualification has excluded 62% of

Black potential jurors otherwise willing, eligible, and qualified to serve, and 67% of Black women potential jurors. Jurors of color, under all measures, are excluded at rates of twice as high and higher than white potential jurors.

The request for discovery here is needed for Mr. Glover to prepare for an evidentiary hearing on the motion to bar death qualification and is simple: Mr. Glover seeks an order requiring the State to provide all data in its possession relevant to the claims in Motion Number 12, including, but not limited to, the “juror charts” it maintains (on information and belief) in each case. On information and belief, these charts record the name of each potential juror in the venire, their race, their gender, and the outcome for the juror (selected as a juror, selected as an alternate, excluded by defense or prosecution peremptory, or excluded by cause challenge). In other words, the data in the State’s own possession tracks every data point Dr. Gau has collected as part of her study except for the basis for cause challenges (which, by the numbers are overwhelmingly but not entirely based on death qualification). It is thus anticipated that the information in the State’s possession will corroborate the study on which Mr. Glover’s motion is based. Further, the State’s possession of this information, including the race of jurors excluded through this process, bears on the State’s own knowledge of the discriminatory practice engaged in since at least 2010, and thus far in this case seeks to continue.¹ Without the State’s information being provided to the defense, and made available to the Court through the litigation process, Mr. Glover’s rights to a full and fair hearing on his claims will not be honored, the constitutionality of death qualification will not be vetted, and this Court’s ability to decide the

¹ Based on the study, a first of its kind in this state and one of few in the country, as well as the law and other authorities cited in Mr. Glover’s motion to prevent death qualification, and the prosecutor’s duty to seek justice rather than convictions and death sentences, *Berger v. United States*, 295 U.S. 78, 88 (1935), Mr. Glover is asking the State to voluntarily cease the practice. It has so far not pledged to do so.

motion in a reliable manner based on the facts in the State's own possession will not be facilitated.

For reference, as follows are the cases for which Mr. Glover seeks this discovery, a list which includes seven trials whose juror information has been sealed (indicated with an *). Mr. Glover is filing a separate motion, concurrently with this one, for that information to be unsealed for the limited purpose of this litigation:

2021	Tillis, Russell*
2019	Smith, Donald*
2019	Deviney, Randall*
2018	Collins, Keith
2018	Jackson, James
2018	Newberry, Ronald*
2017	Bright, Raymond
2017	Deviney, Randall*
2014	Newberry, Rodney
2013	Glover, Dennis
2013	Jackson, Kim
2012	Phillips, Terrance

2012	Sheppard, Billy
2012	Martin, Arthur*
2011	Brown, Thomas
2011	Sparre, David
2010	Dubose, Rasheem
2010	McMillian, Justin
2010	Smith, Terry*

WHEREFORE, this Court should enter an order requiring the State to provide the discovery requested herein, including but not limited the “jury charts” it has completed in each of the above capital cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this motion today has been served, via the electronic portal, on the State of Florida, represented by Assistant State Attorney Alan Mizrahi.

/s/ Brian W. Stull

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This the 17th day of February, 2022.