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T A B L E O F C O N T E N T S

<b>Witness:</b>	<b>Page</b>
<b>WILLIE A. DAVIS</b>	
Direct Examination by Mr. Harvey:	28:3
Cross-Examination by Mr. Harris:	29:23
Examination by The Court:	34:16

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Exhibits

No. 1	Various Documents	28:1
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1 THE COURT: Willie Davis, that's going to be for a  
2 short hearing, I think.

3 MR. HARRIS: Your Honor, there's also -- he's  
4 hired co-counsel for this morning.

5 MR. HARVEY: Good morning, Your Honor.

6 THE COURT: Okay. This is a Motion for New Trial,  
7 so that's what we're here about; correct?

8 MR. HARRIS: Yes, Your Honor.

9 THE COURT: Now, I haven't -- I still haven't seen  
10 the transcript, but I think we can go ahead and have the  
11 motion and just hear -- this is just argument; right?

12 MR. HARVEY: And, Your Honor, I did just arrive  
13 from Memphis. I did want a chance just to speak with  
14 co-counsel here, and --

15 THE COURT: Well, I assume you don't have any  
16 proof since this is just Motion for New Trial.

17 MR. HARVEY: I think, briefly, we will need proof,  
18 just to the good cause issue under Rule 12, which would  
19 just be my client.

20 THE COURT: Okay. Well, I'm not prepared to have  
21 a hearing today, anything other than argument on this  
22 issue. Remember, I didn't handle the trial. I'm going to  
23 have to read the transcript. I was prepared to listen to  
24 the arguments about the Motion for New Trial. But, I  
25 wasn't prepared to hear witnesses today. I don't know

1           what --

2           MR. HARRIS: I have none.

3           THE COURT: I know. He said he has one, for some  
4 reason, in a Motion for New Trial.

5           MR. HARVEY: Your Honor, one of the issues --

6           THE COURT: Why don't you get to the microphone,  
7 please, sir.

8           MR. HARVEY: One of the basis for the Motion for a  
9 New Trial is that the Indictment should have been  
10 dismissed. Under Rule 12, obviously, that motion should  
11 have been raised before trial. Because it was not raised  
12 before trial we need to show good cause. I can put on the  
13 record what the proof would be toward that good cause, but  
14 it would just be a matter of --

15           THE COURT: Well, are you alleging ineffective  
16 assistance of counsel? Is that what you're alleging as  
17 part of your Motion for New Trial?

18           MR. HARVEY: No, Your Honor. The basis for the  
19 Motion to Dismiss the Indictment was not discovered until  
20 after trial.

21           MR. HARRIS: I would say the issue is waived.

22           THE COURT: I was going to say, have you responded  
23 -- I mean, did you know that was an issue, General? So,  
24 have you had a chance to respond in writing?

25           MR. HARRIS: Mr. Davis, is, I guess, wanting to

1 charitably call it, taking a shotgun approach to a number  
2 of issues as it relates to this prosecution, one of which  
3 was the Indictment. But the issue he is alleging in his  
4 Motion for a New Trial wasn't an issue that he alleged,  
5 regarding the Indictment, until after the trial had  
6 concluded.

7 So, he had alleged a conspiracy from, I think  
8 Sarah Sanders, Huckabee-Sanders, all the way down to my  
9 office, saying that this Indictment was invalid. And so,  
10 Mr. Davis went ahead with the trial. And now he has  
11 raised another issue with the Indictment that he would --  
12 he could have, and should have, raised pre-trial.

13 THE COURT: Okay. Did you all have motion -- keep  
14 in mind that I did not try this case. It was transferred  
15 to me after the fact. So, did you have motions at the  
16 time of trial or prior to trial about that issue?

17 MR. HARRIS: Written motions?

18 THE COURT: Written motions. But, was there any  
19 --

20 MR. HARRIS: Not to my recollection. I don't  
21 believe we did.

22 THE COURT: Is there anything that I would need a  
23 transcript for that? Because I would have to review that.

24 MR. HARRIS: I think -- and there were a number of  
25 dates on this case. On those court dates, Mr. Davis had

1       alleged a number of things just, sort of, in the  
2       microphone. Did he ever file the issue? Did we litigate  
3       it? No. Could he have mentioned something to that  
4       effect, dealing with the Indictment? It's possible. But,  
5       for the Court's concern, I have no recollection of the  
6       issue he has raised post-trial, that he ever raised that  
7       issue pre-trial.

8               THE COURT: Okay.

9               MR. HARRIS: He had raised other issues with the  
10       indictment.

11              THE COURT: Okay. I am just trying to find out if  
12       there is anything in the record that would, either by  
13       microphone, or otherwise, that I would need to capture as  
14       part of the transcript, and for me to assess it.

15              MR. HARRIS: Regarding the issue he has alleged in  
16       the Motion for New Trial, no. I do not believe -- in good  
17       faith, I do not believe there is.

18              THE COURT: Okay.

19              MR. HARRIS: And there was, certainly, never  
20       anything filed.

21              THE COURT: Okay. Well, it would be the defense's  
22       responsibility to provide a transcript if that issue was  
23       raised.

24              MR. HARVEY: And, Your Honor, the issue was not  
25       discovered until after the trial. The issue was one of

1 the --

2 THE COURT: You can't -- the problem -- you are  
3 alleging something in the Indictment and you can't  
4 discover it until after the fact.

5 MR. HARVEY: It is not in the Indictment, Your  
6 Honor. It has to do with the grand jurors who were  
7 sitting on the Grand Jury when the Indictment was brought  
8 down. One of the Grand Jurors was an active duty law  
9 enforcement officer; who was, also, at the time of the  
10 incident, an off duty security guard at the church. He  
11 confronted the defendant. He was there for, not only an  
12 active duty law enforcement officer at the time, he sat on  
13 the Grand Jury, which the Tennessee Supreme Court has  
14 stated is improper; but, was, also, a fact witness in the  
15 case. That was not discovered until after the trial.

16 THE COURT: Okay. Never mind. We are not going  
17 to deal with this right now. I am trying to finish  
18 calling the docket. Okay? So, I am not sure what we are  
19 going to be able to do today. Okay?

20 MR. HARVEY: And, if I may, I apologize for the  
21 interruption, Your Honor. Just to add, I did serve the  
22 motion on the attorney general, but --

23 THE COURT: Did you serve it on the Court?

24 MR. HARVEY: I planned to file it this morning. I  
25 did share it with your clerk by e-mail.

1 THE COURT: That's not very helpful if you don't  
2 serve it on the Court. You understand that; don't you?

3 MR. HARVEY: I understand, Your Honor. I did  
4 check with your clerk in advance, and explained I was  
5 coming up from Memphis and asked if I could file it this  
6 morning.

7 THE COURT: All right. One thing you need to know  
8 about Division III is, if you file something with the  
9 D.A.'s Office you, also, have to file it, a courtesy copy,  
10 with the Court. It is one of my rules, that way I am  
11 noticed, also. Okay?

12 MR. HARVEY: I did share a courtesy copy with your  
13 clerk. Yes, Your Honor.

14 MR. HARRIS: And, Judge, I will say, in Mr.  
15 Harvey's defense, he had asked me, and I said -- "What  
16 would be the most helpful?"

17 And I said, "Well, I would send a copy to Ms.  
18 Wetzel beforehand."

19 And I was on the e-mail where she was sent it,  
20 because I was sent the same copy. So, I know a copy had  
21 been sent to chambers the same time that I got it. It  
22 would have been Wednesday afternoon.

23 THE COURT: Wednesday afternoon?

24 MR. HARRIS: Yes, ma'am.

25 THE COURT: All right. Just mark it ready.



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MR. HARVEY: Thank you, Your Honor.

(Other matters came before the Court,  
unrelated to this cause, after which  
the proceedings were continued as follows:)

THE COURT: We have been continuing this Motion  
for a New Trial for some time, in order to get a  
transcript of the actual trial testimony. I still don't  
have that. Nobody has ever provided me with that. You  
haven't provided that.

MR. HARVEY: The Court doesn't have the trial  
transcript?

THE COURT: I do not. I do not have a copy of the  
trial transcript.

MR. HARVEY: Your Honor, we have -- I was --

THE COURT: I mean, one of the reasons we have  
been continuing it is so I can get a copy of it. I know  
it has been done.

MR. HARVEY: We do have the trial transcript. We  
do not have the jury selection. I was not --

THE COURT: Right. And I got an e-mail today from  
the court reporter that is doing that and said she would  
have it prepared by Monday. So, with regard to any of  
your issues, which I will quickly -- and the Motion for

1 New Trial was, actually, filed today.

2 MR. HARVEY: Yes, Your Honor.

3 THE COURT: Okay. So --

4 MR. HARVEY: I wanted to seek direction from the  
5 Court as to whether or not you wanted to hear anything  
6 today or whether we needed a new date?

7 THE COURT: Well, let's go over what the issues  
8 are here. You have something about Indictment being  
9 quashed. That is one of your big issues. And, then,  
10 deals with the Grand Jury. And I have some questions  
11 about that, in terms of what your proof is.

12 MR. HARVEY: Yes, Your Honor.

13 THE COURT: And, then -- that's one ground. And,  
14 then, we have the Defendant's Motion for New Trial. So,  
15 the question is: You represent him; correct?

16 MR. HARVEY: Yes, Your Honor.

17 THE COURT: So, why do I have something called the  
18 Defendant's Motion for New Trial?

19 MR. HARVEY: I believe that was his pro se motion.

20 THE COURT: Okay. That's just the pro se.

21 MR. HARVEY: Yes, Your Honor, before he had  
22 counsel.

23 THE COURT: Okay. But, attached to that he's got  
24 the Grand Jury final report. I'm not sure what that has  
25 to do with anything. But, attached to that, also, is

1 another Motion for New -- about a FaceBook photo of  
2 Solomon Holley. And, then, we have, attached to that, is  
3 a copy of the Indictment. We have a Motion for New Trial.  
4 Exhibit 4 is some kind UTube I can go look at. And, then,  
5 we have attached photos of the -- I guess, the Indictment.  
6 I am not sure -- that's not in your Motion for New Trial.  
7 This isn't in your motion.

8 And, then, we have Mr. Davis's declaration. And I  
9 am not sure what I am supposed to do with that. And,  
10 then, there is a recusal order that Judge Dozier did,  
11 after the trial, about a probation violation, which is  
12 when it got sent to me. And there are highlights and  
13 comments made on this order, which, I think, would be,  
14 kind of, highly inappropriate, if you're using that as a  
15 copy of what the order is. That is something that  
16 somebody has written on it. It's not Judge Dozier's  
17 handwriting, either.

18 MR. HARVEY: Your Honor, if I may take up all the  
19 Court's concerns?

20 THE COURT: Yes.

21 MR. HARVEY: Mr. Davis represented himself at  
22 trial. And he filed the initial Motion for New Trial pro  
23 se. Sometime after that Mr. King represented Mr. Davis in  
24 a violation of probation. Subsequent to that Mr. Davis  
25 retained a Memphis attorney, Bobby Leatherman, who passed

1 away this spring; and my boss, Parke Morris, took this  
2 case from Bobby Leatherman's docket, if you will. And, on  
3 Monday I was asked to see about this hearing today on  
4 Friday. I immediately reached out to Mr. Harris, just to  
5 see what the posture was. I was not sure if we needed to  
6 have a hearing today or not. I wanted to be as prepared  
7 as I could be to meet any of the Court's concerns. I had  
8 a trial transcript. I was not made aware that the Court  
9 did not, yet, have a transcript. And I knew we were  
10 waiting for a jury selection transcript.

11 THE COURT: Okay. I didn't know. Because, so  
12 far, I haven't seen any grounds that are stating anything  
13 about jury selection.

14 MR. HARVEY: Based on my conversation with Mr.  
15 Davis I don't anticipate that we would find any issues in  
16 the jury selection. And, I think, the exhibits that  
17 you've commented on were the first thing I had, at hand,  
18 to try and make a record as to why -- I feel like I needed  
19 to make a record on two issues: One, is the basis for any  
20 motion to dismiss an Indictment; and, then, two, is good  
21 cause as to why this issue was not raised before trial,  
22 because under Rule 12 any motion --

23 THE COURT: So, what is the issue?

24 MR. HARVEY: The issue is that one of the grand  
25 jurors who sat on the Grand Jury that brought down Mr.

1 Davis's second Indictment, which is the basis of his  
2 conviction, was an active duty Davidson County Sheriff's  
3 Officer; and, was, also, a private security guard on duty,  
4 on the day that Mr. Davis was confronted and arrested.

5 THE COURT: All right. But the research that you  
6 attached is that he is law enforcement. Are you familiar  
7 with the fact that in Davidson County the Sheriff's  
8 Department has no law enforcement powers. Did you know  
9 that?

10 MR. HARVEY: No, Your Honor.

11 THE COURT: Okay. That is a crucial issue. Law  
12 enforcement in Davidson County is strictly handled by the  
13 police department. It is not handled by the Sheriff's  
14 Department. The Sheriff's Office is only considered a  
15 custodian of prisoners. They do not have law enforcement  
16 powers.

17 So, I thought you might want to know that --

18 MR. HARVEY: Thank you, Judge.

19 THE COURT: -- in terms of, if that is going to be  
20 your grounds, and --

21 MR. HARVEY: And, I think, I would still like to  
22 --

23 THE COURT: So, what kind of proof are you going  
24 to put in, is what I'm a little unclear on.

25 MR. HARVEY: The proof would be -- we have the

1 exhibits just to make the connection between --

2 THE COURT: Well, all you have is -- he signed the  
3 -- actually, it was one of my Grand Juries --

4 MR. HARVEY: Grand juror.

5 THE COURT: -- January through March, and it was a  
6 report. Now, that doesn't necessarily mean that he was  
7 there present on the day they reviewed this, or  
8 participated in it.

9 MR. HARVEY: Correct.

10 THE COURT: So, it is going to be your  
11 responsibility to prove that.

12 MR. HARVEY: And, Your Honor, I believe, the  
13 appropriate -- so, I -- and this is the dilemma I was  
14 trying to address within the last four days: And that is,  
15 obviously, Motion for New Trial is not the proper timing  
16 for a Motion to Dismiss an Indictment.

17 THE COURT: Correct.

18 MR. HARVEY: And, in the event that I had to go  
19 forward today I wanted to bring forward as much proof as  
20 possible to make the record. But, I, also, needed to  
21 bring forward some proof as to go toward a good cause  
22 exception under Rule 12. For that purpose I would be  
23 calling Mr. Davis, if we go forward here today, just to  
24 discuss the timing as to when he discovered that Solomon  
25 Holley was a member of the Grand Jury during this period

1 of time.

2 If this is -- and, so, I think, this can go one of  
3 two ways -- and, perhaps, more than that -- but, if we  
4 have the hearing today; and, then, the jury selection  
5 transcript comes out and I find no new issues, then, I  
6 think, we're done with the Motion for New Trial and it's  
7 right for the Court to rule. My record has then been made  
8 and the Appellate Court can decide whether or not the case  
9 needs to be reopened to actually litigate the Motion to  
10 Dismiss the Indictment. If the Court finds that this  
11 isn't colorable issue --

12 THE COURT: Okay. Well, I mean, but -- okay.  
13 This is the question, though, the exhibits that you have  
14 -- I'm not sure what these are. These disks.

15 MR. HARVEY: Those are the videos that were  
16 mentioned by the -- two videos.

17 THE COURT: Okay. They have the Grand Jury --=  
18 but, you have pictures; and, then, you have, again, his  
19 declaration, which I am not sure what I am supposed to do  
20 with that. And, then, we have this order, from which  
21 there is -- Judge Dozier recused himself after the trial.  
22 And there are these highlighted comments that are highly  
23 inappropriate to be in any exhibit.

24 MR. HARVEY: And I would be more than happy to  
25 withdraw that and substitute a clean copy of that order.

1 I did not have one at hand when I prepared this motion.

2 THE COURT: But, let's go back to -- if you want  
3 -- why would I allow an exhibit of a declaration of Mr.  
4 Davis? When I read through it, I mean, it's --

5 MR. HARVEY: Well, the exhibit -- Mr. Davis's  
6 declaration just goes to paragraph sixteen, which is a  
7 separate issue. I kept that in there, because, I believe,  
8 I have a duty to preserve any issue that may need to be  
9 preserved. Number sixteen is, specifically, the  
10 contention that Judge Dozier should have recused himself  
11 before trial.

12 Because of my lateness to the party I --

13 THE COURT: Okay. Well, do you have any order,  
14 and not only order, but anything in the record, any filing  
15 that was filed prior to the trial, which is required by  
16 the Rule, if you are wanting a Judge to be excused. I  
17 have forgotten the Rule -- the Supreme Court Rule.

18 MR. HARVEY: Rule 10-B, Your Honor.

19 THE COURT: 10-B, has to be in writing.

20 MR. HARVEY: Yes, Your Honor. And it was Judge  
21 Dozier's connection to -- having family members at  
22 Covenant Presbyterian Church.

23 THE COURT: I am not into the contents of it. I'm  
24 into the fact that you're trying to preserve the record,  
25 but the way to preserve the record would be to show that



1 he had actually filed -- because you said he didn't recuse  
2 himself -- but that he, actually, filed for a motion for  
3 Judge Dozier to recuse himself. Because the Rule requires  
4 a written request by the defense --

5 MR. HARVEY: Yes, Your Honor.

6 THE COURT: -- stating out all the reasons, and  
7 the Judge, then, has to respond to it. So, what I am  
8 wanting to know is, isn't that what you need to put in the  
9 record, if it exists?

10 MR. HARVEY: If it existed I would have -- I would  
11 use it.

12 THE COURT: Okay. So, then, why would you want me  
13 to consider this declaration, if it was about Judge Dozier  
14 recusing himself?

15 MR. HARVEY: Because it lays out the timing of Mr.  
16 Davis's discovery of Judge Dozier's --

17 THE COURT: We're into two different issues.  
18 You've got two different issues. You're talking about  
19 Judge Dozier recusing himself; and, then, you're talking  
20 about this person being on the Grand Jury, which is a  
21 different -- those are two separate issues --

22 MR. HARVEY: Yes, Your Honor.

23 THE COURT: -- not related to each other.

24 MR. HARVEY: Correct.

25 THE COURT: Okay. So, how is it that putting his

1 declaration in this record is going to satisfy the issue  
2 that you have to show that there was a written request for  
3 Judge Dozier to recuse himself, prior to trial?

4 MR. HARVEY: It would not satisfy that, Your  
5 Honor. It would be --

6 THE COURT: Okay. So, he never then asked him to  
7 be recused.

8 MR. HARVEY: Correct. And the declaration is in  
9 there to show that Mr. Davis did not -- was not aware of  
10 the basis that would have been the basis of his motion  
11 until after the trial.

12 The last exhibit is --

13 THE COURT: Well, but, that is not how you are  
14 going to solve this problem. Because his declaration  
15 still doesn't get to the very core of it; and, that is, he  
16 would have had to have filed all these things and, then,  
17 Judge Dozier, himself, sitting as the trial judge, would  
18 have to see whether or not that was sufficient grounds for  
19 him to recuse himself. And he would have had to have done  
20 a written order.

21 I can't do that. I mean, because I would not know  
22 what he would say. So, it seems to me as if the only way  
23 for you to even get beyond Rule 12 is to show what your  
24 ground was; and, then, to have Judge Dozier testify about  
25 what he would have said about it, I guess. I don't know.

1 But, you're declaration of Mr. Davis, I mean, that is just  
2 not grounds enough to do. Because you are going to have  
3 to show, whatever his grounds were, that the Judge looked  
4 at it and made a determination that either he would have  
5 recused himself, or he wouldn't have recused himself, and  
6 why. That is what you have to do to satisfy Rule 12;  
7 correct?

8 MR. HARVEY: I would --

9 THE COURT: And the Rule requires that if the  
10 Judge does not recuse himself you have to immediately  
11 appeal to the Court of Criminal Appeals and let them --  
12 and all proceedings stop until that is resolved, so that  
13 we don't get into a mess. Is that not what the Rule says?

14 MR. HARVEY: Your Honor, I believe that is mostly  
15 correct. However, I would, also, just point out, that  
16 under Rule 10 the Court has a duty to disclose when there  
17 are certain familial connections.

18 And, I think, the argument that we're seeking to  
19 preserve here is, that the Judge's failure to disclose  
20 those familial connections out of an abundance of caution  
21 was --

22 THE COURT: You still have to get, for Rule 12,  
23 what did Mr. Davis do when you say he asked him to be  
24 recused. Didn't you say he asked him to recuse himself?

25 MR. HARVEY: What did Mr. Davis do?

1 THE COURT: Yes. I mean, in order to preserve any  
2 issue, to say it was done before trial there has to be a  
3 written request for him to recuse himself.

4 MR. HARVEY: But, it was not done before trial.

5 THE COURT: Well, I guess, that's what I'm -- so,  
6 then, why are you saying -- to use his obvious statement  
7 here, why should I use it, as showing that he has  
8 preserved the issue? I guess I don't understand why it is  
9 -- back to the question is, why should this be allowed as  
10 an exhibit, his, Declaration of Willie Austin Davis.

11 MR. HARVEY: Well, the -- it may not be necessary,  
12 Your Honor. Perhaps the only thing that would be  
13 necessary is Judge Dozier's footnote in the order, which  
14 was dated after the trial, which does point out the  
15 familial connection.

16 THE COURT: Well, what is highlighted is, said (as  
17 read): *"He's aware that the defendant has been arrested  
18 on the probation violation signed by Judge Blackburn on  
19 October 20th, 2017."*

20 MR. HARVEY: It is on the October 23rd order from  
21 2017, page one, footnote one, going to the second page.  
22 It is about the third or fourth paragraph from that  
23 footnote. (As read): *"At or before the trial the Court  
24 had no information regarding the church membership of an  
25 uncle."*

1 THE COURT: Well, what the footnote says (as  
2 read): *"The Court has not thoroughly reviewed the new*  
3 *e-mails"* -- which would be the basis for the, I guess, the  
4 probation violation -- *"but is aware that apparently the*  
5 *defendant claims some conflict of interest based on the*  
6 *Court's uncle at some point being a member of CPC. The*  
7 *defendant has not filed a motion to recuse, but the Court*  
8 *considers the defendant's allegations as such. The*  
9 *defendant's premise toward the Court is based upon*  
10 *inaccurate information. At or before the trial the Court*  
11 *had no information regarding the church membership of an*  
12 *uncle. If it is analyzed, the defendant's current*  
13 *mailing, the Court may know dozens of former or current*  
14 *members, however, this information would have no bearing*  
15 *on this case or be determinative on whether the defendant*  
16 *could have received a fair trial and/or sentence."*

17 So, he did address it.

18 MR. HARVEY: After trial.

19 THE COURT: Well, but that is not because the  
20 defendant filed anything.

21 MR. HARVEY: Correct. And so, I -- which is why I  
22 am in partial agreement with the Court here today, which  
23 is that, perhaps, this footnote is enough for the Court of  
24 Appeals to look at this and decide whether or not this  
25 should have been addressed before trial. Because it was

1 not --

2 THE COURT: Okay. So, what you are saying is you  
3 are relying upon Judge Dozier's, this footnote, in the  
4 motion where he does recuse himself. So, that is what you  
5 -- so, you really don't need, then, this declaration,  
6 because I am not going to consider it as an exhibit, if  
7 that's what we were trying to get to.

8 MR. HARVEY: And, I think, that is probably fine,  
9 Judge, for the purpose of preserving the record and  
10 issues.

11 THE COURT: Okay. Because I am not going to  
12 consider this declaration. I am not even going to allow  
13 it to be coming in as an exhibit to this. I don't know  
14 about the other issues.

15 MR. HARVEY: So, exhibit --

16 THE COURT: I have -- this is it, as far as what I  
17 have as a Motion to New Trial. I haven't seen the  
18 transcript. Obviously, I haven't read it. I haven't seen  
19 the -- if any issues come up with -- what is it we have to  
20 do today, is what I am trying to find out.

21 MR. HARVEY: Well, Your Honor, if the Court would  
22 prefer to take a continuance I understand. If the Court  
23 would --

24 THE COURT: I just don't know what I'm continuing.  
25 I mean, the State hasn't had an opportunity to respond to

1 Motion for New Trial.

2 MR. HARVEY: What I was proposing, and what I had  
3 discussed with the State, would be for me to just put on  
4 the record that the grand juror security guard connection  
5 was not made until after trial. Because, as the Court is  
6 aware, under Rule 12 a Motion to Dismiss the indictment  
7 must be filed prior to trial. Exceptions under Rule 12  
8 can be found for good cause. And the discovery of the  
9 grand juror'S connection to Covenant Presbyterian as a  
10 security guard, was not made until after trial.

11 And so, we would be arguing that that is good  
12 cause under Rule 12 for the Court to consider this Motion  
13 to Dismiss the Indictment issue along with the Motion for  
14 New Trial.

15 THE COURT: Well, but, just because -- back to my  
16 -- so, you want to rely on what you have provided, with  
17 regard to that person, is that -- the security guard, is  
18 what you have alleged?

19 MR. HARVEY: Your Honor, I believe what we have  
20 provided is sufficient for the Court to make a  
21 determination as to whether or not the Motion to Dismiss  
22 the Indictment needs to be heard. Because I don't think  
23 the Motion to Dismiss the Indictment can properly be heard  
24 unless the Motion for New Trial is granted.

25 And the -- similarly, I think, what we have put in

1 the record is sufficient for the Court of Appeals to  
2 decide if the case needs to be reopened in order for a  
3 Motion to Dismiss the Indictment to be heard. Because we,  
4 obviously, can't bring a Motion to Dismiss the Indictment  
5 today.

6 THE COURT: Okay. All right. I still don't know  
7 where we're at.

8 General, would you, please, respond to any of the  
9 issues?

10 MR. HARRIS: Judge, I think where we're at is, the  
11 only thing that needs to happen after today is for the  
12 Court to review the record of the trial, of the jury  
13 selection -- whatever the defense would like to provide --  
14 to determine whether or not any of the allegations that  
15 exist in both Mr. Davis's motion and, also, Mr. Harvey's  
16 motion on behalf of Mr. Davis, meet the legal standard for  
17 the Court to reverse the conviction and order a new trial  
18 in this case.

19 As a matter of law -- and the Court articulated it  
20 better than I could -- I do not think this issue with the  
21 Indictment is something the Court should rule on, or can  
22 rule on, because of the distinction the Court made about  
23 the Davidson County Sheriff's Office's non-law-enforcement  
24 abilities in this jurisdiction.

25 I mean, the just plain reading, even -- I would



1 submit, it's not a -- the reading of the case that Mr.  
2 Davis, or that Mr. Harvey cites, is it is not a complete  
3 prescription. The Rigby case doesn't give a complete  
4 prescription. It is talking about law enforcement should  
5 not be on a Grand Jury, but it doesn't say shall not,  
6 number one. Number two, we can't, you know, confuse  
7 police and law enforcement in this case. The language in  
8 the Rigby case says police. As the Court knows Mr. Holley  
9 -- even if everything else is true -- is not police. The  
10 case law is voluminous about people that are witnesses can  
11 serve on Grand Juries; people that have a connection can  
12 serve on Grand Juries; defense attorneys can serve on  
13 Grand Juries; you know, and I don't know about District  
14 Attorneys, but that is not an issue here.

15 I mean, the way --- we live in a world where  
16 people sometimes are going to have connections to a case,  
17 heard about a case, seen it on the news; and, it doesn't  
18 provide any relief -- especially for Mr. Davis in this  
19 case -- to say that the superceding Indictment isn't  
20 valid. I think, as a matter of law, the Court can reject  
21 that on it's face.

22 And so, for today's purposes, I think, the only  
23 thing that needs to happen is for the Court to consider  
24 whether or not, based on the record of the trial, any of  
25 the other issues alleged in Mr. Harvey's motion should

1           compel the Court to order a new trial.

2                     The State is not asking for anything other than a  
3           normal application of Rule 12 on issues that could have  
4           been raised, that were not raised. And, I think, the  
5           Court will find that Judge Dozier had a very liberal  
6           approach to allowing Mr. Davis to discuss a number of  
7           things. That will be presented in the trial transcript.

8                     And so, all the State would be asking would be for  
9           the Court to rule on the Indictment issue today. I think  
10          it is very, very clear; and, just for the Court to review  
11          the trial record. I have got an argument on some of the  
12          exhibits that Mr. Harvey has provided. I will be happy to  
13          provide that, if the Court would like to hear it. But, I  
14          think the only thing that needs to happen today is for the  
15          Court to read the trial transcript and issue an order.  
16          The only other --

17                    THE COURT: Well, are you going to file a  
18          response?

19                    MR. HARRIS: Would the Court like for me to?

20                    THE COURT: Yes.

21                    MR. HARRIS: Yes, ma'am. I will be happy to do  
22          that.

23                    THE COURT: Okay. So, I am just trying to find  
24          out what now needs to, also, be put in the record before I  
25          can start issuing an order -- start reading the

1 transcript.

2 What else do you want in this record?

3 MR. HARVEY: Your Honor, I would just like Mr.  
4 Davis's testimony that he did not discover the Grand Jury  
5 connection until after the trial.

6 THE COURT: You are limited to that one issue.

7 MR. HARVEY: Yes, Your Honor.

8 THE COURT: Okay. And that's all you want to do  
9 is put him on to say, I didn't discover it.

10 MR. HARVEY: Yes. Just an offer of proof, if you  
11 will, even if the Court decides not to consider it.

12 THE COURT: Okay.

13 MR. HARRIS: This would be fine, Judge. I've got  
14 some questions to ask about that, too.

15 THE COURT: All right. Well, let's do that.  
16 Okay. And that's all. Okay? Make sure that Mr. Davis  
17 abides by that.

18 So, I will introduce these things as exhibits, for  
19 whatever they're worth. But, again, I am not considering  
20 his declaration.

21 MR. HARVEY: Thank you, Judge.

22 THE COURT: All right. And you need to go to the  
23 other microphone.

24 MR. HARVEY: Thank you, Judge.

25

1                   **(Exhibit No. 1, collective, was marked and**  
2                   **entered.)**

3  
4                   **WILLIE A. DAVIS.**

5                   **was called and having been duly sworn was examined and**  
6                   **testified as follows:**

7                   **DIRECT EXAMINATION**

8                   **BY MR. HARVEY:**

9                   Q.           Please, state your name.

10                  A.           Willie Austin Davis, Jr.

11                  Q.           Were you the defendant in this case?

12                  A.           Yes.

13                  Q.           Were you, also, the trial attorney in this case?

14                  A.           I'm sorry. I don't hear good.

15                  Q.           Were you, also, the trial attorney in this case?

16                  A.           Correct. I was pro se.

17                  Q.           When were you arrested?

18                  A.           November 15, 2015.

19                  Q.           When was your first Indictment brought down?

20                  Approximately is fine.

21                  A.           On or about August 1, 2016.

22                  Q.           And when was your second Indictment brought down?

23                  A.           On or about January the 24th of 2017.

24                  Q.           When was your trial?

25                  A.           September 11th and 12th, 2017.

1 Q. And after your trial and conviction, did you begin  
2 investigating what had happened with your Grand Jury?

3 A. Yes.

4 Q. At some point, did you discover that Solomon  
5 Holley was a signature of the final report of the Grand  
6 Jury, during the time period that your indictment was  
7 brought down?

8 A. Yes.

9 Q. And then, at some point, did you make the  
10 connection that Solomon Holley was, also, the security  
11 guard that detained you at Covenant Presbyterian Church on  
12 the day of your arrest?

13 A. Yes.

14 Q. Approximately when did you make that connection?

15 A. On or about April the 30th, 2019.

16 Q. About how long after trial was that?

17 A. Well, it would have been, at least a year and a  
18 half, I think, is the math on that.

19

20 MR. HARVEY: No further questions.

21 THE COURT: Any questions, General?

22 MR. HARRIS: Just a few.

23

24 **CROSS-EXAMINATION**

25 **BY MR. HARRIS:**

1 Q. If I could approach Mr. Davis. And I am going to  
2 show him what is attached to his filing, as, I believe,  
3 Exhibit No. 1, and ask Mr. Davis to look at that, please.

4 A. (Viewing document).

5 Q. What are we looking at Mr. Davis?

6 A. I'm sorry?

7 Q. What are we looking at?

8 A. It says: "Grand Jury final report, the Honorable  
9 Judge Cheryl Blackburn, Criminal Court Division III,  
10 Davidson County, January through March 2017, Stan Fossick  
11 foreperson."

12 Q. That is a copy of the Grand Jury report that you  
13 provided Judge Blackburn, as it relates to this motion; is  
14 that correct?

15 A. Correct.

16 Q. If you could flip to the final page of that  
17 exhibit.

18 A. Okay.

19 Q. And is there a term of months, that is indicated  
20 on the final page, of the period that that Grand Jury  
21 served?

22 A. Yeah. It says January through March 2017 term.

23 Q. Okay. And you previously testified that your  
24 trial date was around September the 11th, 2017; is that  
25 correct?

1 A. Correct.

2 Q. And so, from the end of that Grand Jury term you  
3 would have had, approximately, four to five months of time  
4 to determine the makeup of the Grand Jury; to take a look  
5 at the Grand Jury report, to see who was on it; address  
6 some issues as it relates to the Grand Jury; is that  
7 correct?

8 A. Well, I thought Grand Juries were secret, so I  
9 wouldn't have been looking at anything.

10 Q. No, sir. I am just asking about the period of  
11 time.

12 A. That there was a period of time between March and  
13 September?

14 Q. Correct.

15 A. Yeah.

16 Q. When that Grand Jury report would have become  
17 public record --

18 A. Correct.

19 Q. -- is that right? Okay. You would agree with me  
20 that Sergeant Holley, Solomon Holley's signature, this  
21 individual known as Solomon Holley, was in the public  
22 sphere for, approximately, five months before your trial?

23 A. Correct. And in pre-trial --

24 Q. Thank you. And I would like to approach you,  
25 again, with a copy of the handwritten motion you filed for

1 a New Trial on October the 27th, 2017. Specifically, I'll  
2 point your attention to the bottom page, paragraph nine.

3 I'm just going to mark it with a blue "X."

4 A. (Viewing document).

5 Q. Do you see that Mr. Davis?

6 A. Yeah. This is what I wrote from jail.

7 Q. Okay. And paragraph nine says what?

8 A. (As read): *"The defendant informed Judge Steve  
9 Dozier on multiple occasions about his concerns about the  
10 indictment process" --*

11 Q. Okay.

12 A. -- *"which included the presiding Judge Casey  
13 Moreland, long time friend of Covenant member, Attorney  
14 Worrick Robinson, who is now arrested by the FBI, indicted  
15 by a Federal Grand Jury, himself. But Judge Dozier saw no  
16 harm to impartial justice and the conflict of interest and  
17 did not disclose his own relationship with Worrick  
18 Robinson, and did not chose to voluntarily recuse himself  
19 from the defendant's case which involved Covenant  
20 Presbyterian Church, Worrick Robinson, and Jim Bobman, who  
21 were named in Sergeant Tawana Chicks police report on July  
22 2nd, 2008."*

23 Q. So, to be clear, even after your trial, you had  
24 alleged issues with the Indictment unrelated to Sergeant  
25 Holley; is that correct?



1 A. Well, I was in jail when this was written. I did  
2 not know about the Grand Jury, or any information about  
3 it.

4 Q. Would you agree with me that the Indictment issue  
5 is one of a number of issues that you're alleging, you  
6 know, would be the basis for Judge Blackburn to reverse  
7 your, conviction or her order a new trial; is that  
8 correct?

9 A. Yeah. I'm going all the way back to July 2nd,  
10 2008.

11 Q. Okay.

12 A. I think that was a false report to police.

13 Q. Okay.

14 A. The Grand Jury with -- the Casey Moreland  
15 Indictment; the first Grand Jury with Scottie Coombs on  
16 it; and, the second Grand Jury with Solomon Holley on it.

17 Q. Okay. And so, you're alleging that both of your  
18 Grand Juries have been tainted as it relates to both of  
19 the Indictments?

20 A. I am alleging that I am supposed to get a fair  
21 trial, and I am supposed to get judges who voluntarily  
22 recuse if they have got conflicts of interests; and, that  
23 it is supposed to be a fair process. And I have got a --  
24 the original judge is sitting in Federal prison.

25 Q. I am just asking about the makeup of the Grand

1 Jury --

2 A. Yeah. Because I think there is a problem with the  
3 whole chain. But, right now we're dealing with the  
4 Solomon Holley. That's what I was testifying on.

5 Q. And you would agree with me that you only brought  
6 this issue up in April of this year?

7 A. Yeah. When I found it.

8

9 MR. HARRIS: Judge, I believe those are my  
10 questions for Mr. Davis.

11 THE COURT: This is the original? It says Motion  
12 for New Trial, or -- okay. October the 27th of 2017?

13 MR. HARRIS: Yes, Your Honor.

14 THE COURT: Okay. I have the original in the  
15 file.

16

17 **EXAMINATION**

18 **BY THE COURT:**

19 Q. Mr. Davis.

20 A. Yes, ma'am.

21 Q. You said that you only discovered this recently,  
22 this Grand Jury report. How did you, actually, find this  
23 Grand Jury report? Where did you get it?

24 A. I listened to the Tim Rohan, Sports Illustrated  
25 podcast on the murder of Steve McNaire.

1 Q. No. My question is a simple one. How did you  
2 obtain it and how did you become aware of it? Did you go  
3 online and print it out?

4 A. Yes. I became concerned about the whole thing --

5 Q. Did you go --

6 A. I went online.

7 Q. So you went online to a computer; and there,  
8 listed in the Criminal Court Clerk's file is the Grand  
9 Jury reports? Is that where you got it?

10 A. Correct. I wanted to look at the -- well, I  
11 didn't know there was anything like that. But I keyed in  
12 "Davidson County Grand Jury," just to read about the Grand  
13 Juries; and, then, I saw something that came up that had  
14 them listed all the way back to 1993.

15 Q. Okay. Listed in there, and online, is all the  
16 Grand Jury reports since 1993.

17 A. Correct.

18 Q. Okay. So, they're not secret, then; correct? I  
19 mean, it's on the -- you found it on the computer.

20 A. Yeah. But I didn't -- I wasn't -- I didn't know  
21 who the grand jurors were until I found it. And nothing  
22 has been disclosed. You were the judge over that jury and  
23 nobody is disclosing to me anything about Solomon Holley.  
24 And, Judge Dozier is not disclosing anything to me about  
25 it and he was on the first Grand Jury that indicted me, so

1           --

2           Q.           Mr. Davis, you are not arguing your case. I am  
3 just trying to find out where you -- you said it was  
4 secret information. But, what you have now told me is  
5 that you, actually, went online and it was listed; and,  
6 all the Grand Jury reports are, back to 1993. Is that a  
7 correct summary of what you just said?

8           A.           Well, it feels secret to me because the process  
9 is, apparently, secret.

10          Q.           You did get it online?

11          A.           Correct. When I realized -- when I went looking I  
12 found something online that revealed some information that  
13 I didn't know existed.

14

15                   THE COURT: Okay. Thank you, sir. You can have a  
16 seat next to your attorney.

17                   Anything else you want to put in the record?

18           MR. HARVEY: Your Honor, I think with those  
19 exhibits and that testimony that that makes our record.

20                   THE COURT: Okay. So, unless you find something  
21 new in the -- even though it was never raised before --  
22 about the jury selection, I guess, then, we're ready for  
23 me to just gather all the information and do a ruling;  
24 correct?

25           MR. HARVEY: Yes, Your Honor.

1 THE COURT: Now, when you're -- I guess one of the  
2 things, it seems to me, if you want to allege that there  
3 was something wrong with the jury selection process you  
4 need to provide to me the number of challenges. This was  
5 a misdemeanor. So there were only three challenges per  
6 side -- or is it four?

7 MR. HARRIS: Four.

8 THE COURT: Depending on whether there was an  
9 alternate, I guess. As to whether or not your client  
10 exhausted his challenges.

11 MR. HARVEY: I would have to look at that.

12 THE COURT: Yes. You would have to look at that.

13 MR. HARVEY: Yes.

14 THE COURT: Because if you didn't exhaust your  
15 challenges you don't have the grounds.

16 MR. HARVEY: Yes. And, as I stated, I don't  
17 expect to find anything in the jury selection. However,  
18 being late to the case, my client has asked to review it,  
19 so I figured I will.

20 THE COURT: All right. Well, unless I hear from  
21 you -- oh, I tell you what, if you have got something, I  
22 need to hear from you by July the 26th, otherwise I will  
23 start --

24 MR. HARVEY: So, I can just put that on my  
25 calendar? Is that a court date, or is that --

1 THE COURT: No. I just give you that time. You  
2 don't have to come back.

3 MR. HARVEY: Thank you, Judge.

4 MR. HARRIS: Judge, just so I am aware -- I am  
5 absolutely -- I am happy to file a response. Does the  
6 Court -- would the Court like me to brief the issue as it  
7 relates to the Grand Jury or --

8 THE COURT: Recusal.

9 MR. HARRIS: All of it?

10 THE COURT: It seems like those are the basis.

11 MR. HARRIS: Now, the basis, or in addition to?

12 THE COURT: Looking for the Motion for New Trial,  
13 looks like the one that Mr. Morris has provided, Grand  
14 Jury; and, then, the exhibit seems to be talking about the  
15 recusal of the Judge.

16 MR. HARRIS: I understand. A number of the issues  
17 are relating more to the issues relating to facts and how  
18 the jury interpreted those and not to the law.

19 THE COURT: Right. Yeah. That's not subject for  
20 Motion for New Trial. All right.

21 MR. HARRIS: That's why I'm asking is, because  
22 those seem to be -- outside of the recusal issue there's  
23 --

24 THE COURT: Since Mr. Davis is represented by  
25 counsel, I am going to rely on the motion, counsel's

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Motion for New Trial issues.

MR. HARRIS: Yes, Your Honor.

MR. HARVEY: Yes. And there are two paragraphs in there on the sufficiency. I would just stand on the brief on those. I think the main issue is the Grand Jury.

THE COURT: I am relying strictly on that.

MR. HARRIS: Very good. Thank you, Your Honor.

**END OF TRANSCRIPT OF THE PROCEEDINGS**

**CERTIFICATE**

I, the undersigned, Debbie Sanders, Licensed Court Reporter for the State of Tennessee, do hereby certify that the foregoing transcript, is a true, accurate and complete transcript, to the best of my knowledge and ability, of all the proceedings had and evidence introduced in the captioned cause.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

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Debbie Sanders  
LCR No. 607  
Expiration: 6/30/2020

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