

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2007 OCT 12 A 9:08

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND – BALTIMORE DIVISION

ALBERT SNYDER,
Plaintiff,

vs.

Case No. 1:06-cv-1389-RDB

FRED W. PHELPS, SR.;
SHIRLEY L. PHELPS-ROPER;
REBEKAH A. PHELPS-DAVIS; and,
WESTBORO BAPTIST CHURCH, INC.,

Defendants.

**RESPONSE TO PLAINTIFF'S MOTION IN LIMINE
REGARDING JURY CHALLENGES**

Defendants make the following response to "Plaintiff's Motion in Limine" requesting that no jurors be stricken based upon defendants' religious picketing of October 20 and 21, 2007.

1. The law requires that a juror with bias be dismissed. The Fourth Circuit has said:

.... **As our precedent makes clear, a failure to excuse a prospective juror for cause constitutes an abuse of discretion** in only two situations: (1) where a per se rule of disqualification applies; and (2) **where the court "demonstrates a clear disregard for the actual bias" of the juror.** *Id.* at 115 (internal quotation marks omitted).

United States v. Fulks, 454 F.3d 410, 432 (4th Cir. 2006); emphasis added. Further,

As a matter of law, the trial court is to exclude veniremen who cannot be impartial. "[A] juror is impartial only if he can lay aside his opinion and render a verdict based on the evidence presented in court." *Patton v.*

Yount, 467 U.S. 1025, 1037 n. 12, 104 S.Ct. 2885, 81 L.Ed.2d 847 (1984).

....

[A]lthough ordinarily the question as to whether a juror is fair and impartial is a matter addressed to the discretion of the trial judge, **we think that the judge is bound either to make or to permit such inquiries to be made as will enable him in the exercise of his discretion to exclude from the jury persons who have formed fixed opinions about the case and are not fair and impartial jurors within the contemplation of the law. This is true in all cases....**

United States v. Turner, 389 F.3d 111, 117-118 (4th Cir. 2004); emphasis added.

2. Whether a juror is biased because of defendants' religious picketing on October 20 and 21, 2007, or any other time in the last seventeen years, a biased juror is not permitted to sit on a case. Defendants have picketed all over the country for over 17 years, with the same core messages. This is a religious practice by defendants. Allowing a biased juror to sit on the jury *no matter the source of the bias* would be a further penalizing of defendants' religious beliefs, contrary to the First Amendment, and settled law. It would amount to prohibiting the free exercise of religion.
3. From the outset of this case, defendants have objected to this Court taking personal jurisdiction over them and this case. **Defendants again reassert their objection to the Court taking personal jurisdiction over them, for all reasons previously stated, and fully incorporate all previous arguments against personal and subject matter jurisdiction.**

4. Even so the Court has taken personal jurisdiction, so these defendants and others from Westboro Baptist Church traveled to Maryland to get ready for a 2-week trial beginning October 22. For the past 17+ years, it has been an *integral part of defendants' worship service* to picket outside of churches *every weekend*. (This is so because of a fervently and sincerely held religious belief that the churches are responsible to teach the people not to sin; and they have failed this nation in that duty.) Further, as an *integral part of defendants' worship service and service to their God* defendants publish where they are picketing, to broadcast and drop the words as the Scriptures command. Thus, wherever they are on Saturday and Sunday, they picket outside of churches, and they publish the fact they are doing so. Defendants didn't ask to be in Maryland for trial; they were forced to do so. Thus, they engaged in their regular worship activities in Maryland, and should not be punished for doing so.
5. In truth, defendants have never received the degree of attention from the Maryland media, in particular the Baltimore media, as they have as a result of this case. Plaintiff filed the lawsuit; and held a press conference when doing so. Thus, it is untenable to suggest that the level of media attention on these defendants in this area of the country is primarily attributable to defendants, when in fact it is primarily attributable to this case.

It is even more untenable to suggest that the settled rule of law that biased jurors cannot sit on juries should be completely ignored because defendants engaged in the same religious worship they have engaged in for the past 17 years.

Respectfully submitted,



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CERTIFICATE OF SERVICE

We hereby certify that the foregoing response was served on October 22, 2007, by hand delivery to the Court and counsel.



Rebekah A. Phelps-Davis, Defendant Pro Se



Shirley L. Phelps-Roper, Defendant Pro Se