

UNITED STATES DISTRICT COURT
DISTRICT OF DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

CAUSE NUMBER 21-cr-28

MICHAEL GREENE,

Defendant

**DEFENDANT MICHAEL GREENE'S
MOTION FOR JOINDER AND RENEWED MOTION FOR CHANGE OF VENUE
AND/OR FOR EXPANDED VENIRE
AND ADDITIONAL PEREMPTORY CHALLENGES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MICHAEL GREENE, Defendant in the above entitled and numbered cause, by and through Counsel, and moves the Court as follows:

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Defendant Michael Greene respectfully moves to join Defendants Thomas Caldwell's and Connie Megg's Joint Motion to Transfer Venue, docketed at ECF No. 654. Defendant Greene asks to join in all respects and renews the motion. As stated in that Motion, since the first televised proceedings of the U.S. House of Representatives Select Committee on June 9, 2022, the prejudice of all the defendants in 21-cr-28 is "so great" under Fed. R. Crim. P. 21 that the defendants, including and especially Defendant Greene, who was arrested shortly thereafter on June 22, 2022, "cannot obtain a fair and impartial trial" in the District of Columbia. This idea has been empirically supported from polling conducted in the Spring and Fall of 2022, and the reviews of D.C.'s jury pool at the outset of the jury selection process in prior proceedings. The press and conclusion of *United States v. Rhodes*, Case No. 22-cr-00015-APM, has bolstered this belief.

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In the alternative to a change of venue, Defendant Michael Greene requests to expand the venire of prospective jurors. Defendant has the right to select a fair and impartial jury under the Sixth Amendment of the U.S. Constitution. In order to do so, Defendant requests an increased number of potential jurors to allow for adequate selection of a fair and impartial jury. When a likelihood exists that an impartial jury will be difficult to attain, a trial court may take a number of steps, including enlarging the venire of potential jurors, in order to ensure that jurors who are free from prejudice are selected. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 554-55 (1976); *Sheppard v. Maxwell*, 384 U.S. 333, 261-62 (1966). In certain cases, the Court has discretion to expand the jury pool much larger than its normal size in order to ensure the selection of an unbiased jury. *United States v. Blom*, 242 F.3d 799, 804 (8th Cir. 2001).

Defendant Michael Greene would further request additional peremptory challenges pursuant to Rule 24(b) of the Federal Rules of Criminal Procedure. Rule 24(b) states:

“(b) PEREMPTORY CHALLENGES. . . . The court may allow additional peremptory challenges to multiple defendants, and may allow the defendants to exercise those challenges separately or jointly...

Notes of the Advisory Committee on Rules-1944. *Note to Subdivision (b)*. . . . While continuing the existing rule that multiple defendants are deemed a single party for purposes of challenges, the rule vests in the court discretion to allow additional peremptory challenges to multiple defendants and to permit such challenges to be exercised separately or jointly. Experience with cases involving numerous defendants indicates the desirability of this modification.”

Fed. R. Crim. P. Rule 24

Since this case involves multiple defendants, Defendant Greene requests additional peremptory challenges to be exercised separately in order to insure due process.

WHEREFORE, PREMISES CONSIDERED, the Defendant Michael Greene respectfully prays this Honorable Court grant this motion.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

On the 16th day of December 2022, I filed the foregoing document electronically with the Clerk of the Court for the United States District Court for the District of Columbia by using the Court's CM/ECF system, which will provide electronic service on all counsel of record.



Britt Redden