



State of Florida

Nineteenth Judicial Circuit

January 3, 2005

St. Lucie County Courthouse
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Ben L. Bryan Jr.
Circuit Judge

Honorable Thomas Bateman III
Circuit Judge
301 South Monroe Street, Room 365-C
Tallahassee, Florida 32301-1861

Dear Judge Bateman:

I read that you are Chair of the Workshop on Standards for Jury Panel Sizes. I have been trying civil cases for the last 6 or 7 years. When the order first came out from the Supreme Court that we were to have no more than 18 prospective jurors, I decided they could not be serious. I did what I understand most judges did and ignored it. When the followup order came out approximately 1 ½ or 2 years ago, supplemented by one from our Circuit's Chief Judge, I decided folks were serious and ordered 18 jurors. Well over half the time I ended up with mistrials and a down week because we were not able to get jury panels out of 18. Those cases were neither controversial nor lengthy. They were run-of-the mill cases. I also tried having back-up cases with the second set of lawyers sitting in and trying to get a jury when the first one failed. That didn't work either. I believe 18 is not workable and will in most instances be insufficient to get a jury. After what I considered a fair effort, I reverted to requesting 22 - 24. I did not deviate from the order lightly and am uncomfortable doing so.

What really bothered me was that during this period I became concerned that in ruling on challenges for cause I was subconsciously letting myself be influenced by the number of jurors remaining. I don't think judges should be under this form of pressure either directly or indirectly. I also had cases in which counsel withdrew peremptory challenges in order to try to get a jury. I don't think this is fair to the parties.

I hope that your committee will take a realistic approach to this and allow a sufficient number of jurors to be called. It seems to me it is more cost efficient to get a jury with one or two not being needed than to have whole panels sit most of the day, not be able to get a jury, and roll the case to the next docket.

I appreciate any consideration you give this.

Yours very truly,

Ben L. Bryan Jr.

BLB/an
cc: Robert R. Makemson, Circuit Judge
Benjamin H. Hill III, Esq.