

**STATE OF LOUISIANA**

**20TH JUDICIAL DISTRICT COURT**

**v.**

**PARISH OF WEST FELICIANA**

**ALBERT WOODFOX**

**CASE NO. 15-WFLN-088, DIV. B**

**MOTION FOR CHANGE OF VENUE**

COMES NOW the defendant, Albert Woodfox, who respectfully moves the Court pursuant to Louisiana Constitution Article I, Section 16, Louisiana Code of Criminal Procedure, Articles 621 and 622, and the Sixth and Fourteenth Amendments to the United States Constitution, for a change of venue on the basis of local prejudice which undermines his right to a fair and impartial trial in West Feliciana Parish. In support of this motion, Mr. Woodfox states as follows:

1. Pursuant to a February 12, 2015 indictment for April 17, 1972 murder of Brent Miller, under the (1972) La. R.S. 14:30 murder statute, the State seeks to re-prosecute the case following a grant of habeas corpus relief from Judge James Brady in the United States District Court in the Middle District of Louisiana, which was affirmed by the Fifth Circuit Court of Appeals and which vacated Mr. Woodfox's 1998 conviction and sentence.

2. The murder of Brent Miller was and remains an infamous and notorious crime in West Feliciana Parish. At the time of his death, Mr. Miller was only 23 years old. He had been a well-known high school athlete and came from a large family deeply rooted at Angola. Anne Butler and C. Murray Henderson, *Dying To Tell: Angola, Crime, Consequence, Conclusion at Louisiana State Penitentiary* (Center for Louisiana Studies, University of Southwestern Louisiana, 1992) at 8. His young wife was similarly rooted in that community. *Id.* at 8 (describing Mr. Miller's wife as the daughter of an engineer in Angola's sugar miller). Mr. Miller's murder became emblematic of issues at Angola including underfunding, unsafe working conditions for guards, lawlessness, and the purported threat of black radicalism. *Id.* at 17-18. These issues played out in the media and in the community following the murder. The angry aftermath of the murder led to threats of strikes by the Angola guards, calls for the National Guard and state police to provide security at Angola, and a violent, near fatal attack on the deputy warden of the prison by one of Miller's brothers. *Id.* at 13; "Normal Prison Routine Noted, Visiting Privileges Are Restricted at Angola," Associated Press, April 23, 1972 ("Deputy Warden Lloyd Hoyle Friday was beaten and knocked through a window when prison officials said he was attacked by the brother of the guard killed on Monday. Hoyle was treated at a Baton

Rouge hospital and released. Protesting guards Friday had demanded Hoyle be fired.”) Judge William Bennett created a special grand jury investigation concerning Mr. Miller’s murder and the safety of guards at the prison. “Special Meeting to Probe Killing of Grand Jury,” Baton Rouge Advocate, April 20, 1972. As described in a 1992 account in the Baton Rouge Advocate, the murder was a signature event in Angola’s history and the history of West Feliciana Parish that created “shockwaves” in the community:

The brutal slaying of a young prison guard more than 20 years ago sent shock waves through the small, close-knit community of employees living on the grounds of the Louisiana State Penitentiary. The shock waves reverberated from Angola, through West Feliciana Parish and across the state, damaging fragile relationships among prison administrators, employees and local politicians with close ties to Angola.

James Minton, “Angola Slaying Case Back After 20 Years,” The Baton Rouge Advocate, November 12, 1992.<sup>1</sup>

3. The local media and community followed the investigation and subsequent trial closely, with media accounts recounting statements from Angola administration linking Mr. Miller’s murder to an attempted murder by arson of a guard the day before the incident and identifying black radicals as the culprits.<sup>2</sup> The alleged perpetrators were soon identified as Albert Woodfox, Herman Wallace, Chester Jackson, and Glibert Montegut, who became pariahs even among Angola’s outcasts in the eyes of the community.<sup>3</sup> The community was told that Mr. Miller’s murder was a senseless act of anti-white racial violence and that the victim could have just as easily been any other white prison guard at Angola. “Militants Said Cause of Death, ‘Black Power’ Backers Blamed at Angola,” Associated Press, April 19, 1972 (quoting Warden Henderson, “I don’t think this guy was picked out at all. . . . He was a popular man. I think it would have happened to any white guard who happened to have been in there at that time.”)

4. Because of the extent of the publicity and the community’s antipathy for these defendants, the district court ordered a change of venue for the two trials of these men. James

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<sup>1</sup> A 2003 press account, 31 years after Miller’s death, noted the continued anger and emotions of the West Feliciana community concerning the murder. Gwen Filosa, “Two of ‘Angola Three’ Counting Days Still – Guards Killing Brings 3 Decades of Lockdown,” Times-Picayune, May 2, 2002 (“The civil action [of Mr. Woodfox and Mr. Wallace], backed by the American Civil Liberties Union, is very much alive. And for the prison staff and their families who call West Feliciana Parish home, so is the bitterness of a young prison guard’s death more than a generation ago.”)

<sup>2</sup> Bill Bankston, “Militants Blamed for Guard Death,” Baton Rouge Advocate, April 18, 1972 (“A black militant element was behind the slaying of a guard of the Louisiana State Penitentiary here yesterday.”); “Normal Prison Routine Noted, Visiting Privileges Are Restricted at Angola,” Associated Press, April 23, 1972 (“Henderson blamed the violence at the prison on black militant inmates.”); “Several Suspected in Killing at Angola,” Baton Rouge Morning Advocate, April 18, 1972.

<sup>3</sup> Richard Munson, “Guard Death See Four Face Charges,” Baton Rouge Advocate, May 2, 1972; “Trial

Minton, “Angola Inmate Locked in Solitary for 24 Years to Be Retried,” Baton Rouge Advocate, April 17, 1996 (noting that trials for the defendants were “were moved to other parishes because of community reaction to the killing.”); “Angola Murder Case Trial Site Changed,” State Times Advocate, September 16, 1972 (noting that the district attorney considered the initial East Feliciana Parish venue change insufficient and “would file motions later to move the trial even further away”). Iberville Parish was ultimately chosen as the venue for Albert Woodfox’s 1973 trial. Herman Wallace, Chester Jackson, and Albert Montegut’s were tried in East Baton Rouge Parish in 1974. The press closely followed both cases and the resulting trials, which made daily front page news.<sup>4</sup> Exemplifying the tone of the media during this time, the front page of the March 7, 1973 State Times Advocate had a large top-of-the-flap photograph of two heavy armed Angola guards in front of the courthouse for Mr. Woodfox’s trial, with the caption: “Provide Security – These Angola correctional officers are among more than a dozen assigned outside and inside the Iberville Parish Courthouse during the trial of the first Louisiana State Penitentiary inmate charged with the slaying of prison guard Brent Miller.” Exhibit A, Front Page, States Times Advocate, March 7, 1973. After trials at which Albert Woodfox and Herman Wallace were convicted, the murder of Brent Miller and the allegations against Mr. Woodfox and Mr. Wallace were not at all forgotten.

5. Since his death, the firing range at Angola was named in memorial to Brent Miller, serving as a constant reminder to the community of Mr. Miller’s murder. “Pistol Range,” Morning Advocate, October 26, 1979 (Angola firearms range dedicated to Brent Miller). Relatedly, Mr. Woodfox and Mr. Wallace were permanently cast into solitary confinement with Mr. Miller’s murder regularly providing Angola’s justification for their security status over the years and decades that followed Mr. Miller’s murder.

6. When Mr. Woodfox’s conviction was reversed in post-conviction review in the

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of 4 Inmates in Guard Slaying Set,” Baton Rouge Advocate, June 17, 1972.

<sup>4</sup> See e.g., “Recusal Hearing Slated in Angola Murder Trial,” Baton Rouge Advocate, January 10, 1973 (district attorney seeking recusal due to his prior representation of Miller’s brother and father); Bob Dardenne, “Inmate Airs Witnessing Guard Death,” States Times Advocate, March 6, 1973; Richard Munson, “Inmate Tells of Stabbing at Angola,” Baton Rouge Advocate, March 7, 1973; Bob Dardenne, “Slayer Role Disavowed by Inmate,” States Times Advocate, March 7, 1973; Richard Munson, “Black Angola Inmate Convicted of Murder,” Baton Rouge Advocate, March 8, 1973; “Trial Date Set in Slaying of Angola Guard,” States Times Advocate, May 2, 1973; “Area D.A. to Appeal Judge’s Order in Angola Murder Case,” States Times Advocate, May 15, 1973; Gibbs Adams, “Prison Inmate Gives Evidence on Slaying of Guard at Angola,” Baton Rouge Advocate, January 10, 1974; Bill Bankston, “4 Witnesses Provide Alibis for Angola Murder Suspects,” States Times Advocate, January 10, 1974; Gibbs Adams, “Convict Complains About Jury Makeup,” Baton Rouge Advocate, January 11, 1974; Richard Denney, “Angola Inmate Seeking New Trial in Slaying,” States Times Advocate, January 18, 1974.

early 1990's, the community's old wound was re-opened and the case was once again in the news. James Minton, "Angola Slaying Case Back After 20 Years," *The Baton Rouge Advocate*, November 12, 1992 ("The shock waves still reverberate, as veteran Angola employees struggle to comprehend the legal maneuvering that may result in freedom for a man convicted in the slaying - a man they thought would remain locked up for life.") The pretrial proceedings were followed closely in the local press.<sup>5</sup> The atmosphere in the community remained so negative to Mr. Woodfox that the State and the Defense agreed to again change the venue. *See* October 4, 1993 Order, Case No. W-93-3-328 ("Considering the stipulation entered into, IT IS ORDERED that the Motion for Change of Venue is granted, and the matter is transferred to the 21st Judicial District Court, Parish of Tangipahoa."); James Minton, "Judge Sets New Trial for Ex-Inmate in Security Officers 1972 Slaying," *Baton Rouge Advocate*, March 18, 1997 ("Prosecutors and defense attorneys agreed to move the trial to the 21st Judicial District because of lingering community reaction to the brutal stabbing . . .") There were detailed daily articles in the paper when the trial commenced covering the witness testimony and Mr. Woodfox's ultimate conviction.<sup>6</sup> Following Mr. Woodfox's conviction, the press detailed the jubilation of Mr. Miller's family, noting comments from the victim's brother including: "This is like an early Christmas present to the family," said Stan Miller, brother of the victim and spokesman for the family"; "The last wish of my father has come true. I just wish my father was here to see it"; "[Assistant District Attorney] Julie [Cullen] was such an angel. Angels do come at Christmas".) James Minton, "Slain Guards Family Believes Justice Done," *Baton Rouge Advocate*, December 23, 1998. *See also*, James Minton, "Former Black Panther Sentenced to Life in Prison for 1972 Murder," *Baton Rouge Advocate*, February 24, 1999 (noting comment from Mr. Miller's brother

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<sup>5</sup> *See e.g.*, James Minton, "1972 Slaying Case Against Inmate Reopened," *Baton Rouge Advocate*, March 17, 1993 (discussing expected indictment); James Minton, "Angola Inmate Indicted in Guard's 1972 Death," *Baton Rouge Advocate*, March 18, 1993; James Minton, "Inmate Accused on Killing Guard Wants New Indictment Thrown Out," *Baton Rouge Advocate*, April 30, 1993; "Judge Upholds Murder Charge on Inmate," *Baton Rouge Advocate*, February 22, 1995; James Minton, "Angola Inmate Locked in Solitary for 24 Years for Killing to Be Retried," *Baton Rouge Advocate*, April 17, 1996 (noting that "Woodfox is one of a small group of Angola prisoners who have spent more than two decades in extended lockdown at a unit known as 'CCR' near death row."); James Minton, "Writer Gives Court Notes for Book on Slaying," *Baton Rouge Advocate*, November 5, 1998.

<sup>6</sup> James Minton, "Inmate's Retrial Opens in '72 Slaying," *Baton Rouge Advocate*, December 8, 1998; James Minton, "Testimony to Begin in Inmate Murder Trial," *Baton Rouge Advocate*, December 9, 1998; James Minton, "Inmate's Retrial Opens in 1972 Slaying of Guard," *Baton Rouge Advocate*, December 10, 1998; James Minton, "Former Inmate Testifies He Saw Woodfox Flee, Found Body," *Baton Rouge Advocate*, December 11, 1998; James Minton, "Judge Refuses to Throw Out Murder Charge," *James Minton*, December 12, 1998; James Minton, "Woodfox Jurors Hear 1973 Testimony," *Baton Rouge Advocate*, December 13, 1998; James Minton, "Former Angola Officials Testify in Retrial of 1972 Slaying," *Baton Rouge Advocate*, December 15, 1998; James Minton, "Ex-Inmate Denies Role in Guard's Death," *Baton Rouge Advocate*, December 16, 1998; James Minton, "Jury Finds Former Inmate

that “he and his mother hoped to ‘get some closure’ from the proceeding.”)

7. The murder of Brent Miller emerged again in the local press and community following the murder of Captain David Knapps at Angola at the hands of inmates in late 1999, the first such killing since Miller’s death. James Minton, “DA considers death in Angola case - Warrants accuse 5 of first-degree murder,” *Baton Rouge Advocate*, December 31, 1999 (“He was the first Angola security officer slain in the line of duty since a group of black militants stabbed Brent Miller to death in April 1972.”); James Minton, “Police line, crowd bid Angola officer farewell,” *Baton Rouge Advocate*, January 1, 2000 (noting hundreds of mourner at Captain Knapps funeral including Brent Miller’s brother, quoted saying, “I never thought I would see this happen again.”) Subsequent developments in the Mr. Woodfox’s case including his sentencing, his appeal, and his civil suit against Angola based on his conditions of confinement were followed closely in the local press.<sup>7</sup> However, once Mr. Woodfox’s appeal reached the federal habeas corpus stage, the notoriety of his case and the extrajudicial statements about his character by the State ballooned. Local media followed the federal magistrates recommendation that Mr. Woodfox receive a new trial, (Bill Lodge, “Man gets new trial in guard’s death, Angola inmate spent 35 years in solitary after he was convicted,” *Baton Rouge Advocate*, June 11, 2008) the State’s objections to the magistrate’s recommendation, (Bill Lodge, “State Fights Murder Retrial,” *Baton Rouge Advocate*, June 12, 2008) Judge Brady’s order adopting the magistrate’s recommendation, (Bill Lodge, “State Wants ’73 Verdict Upheld,” *Baton Rouge Advocate*, July 10, 2008) the legal basis for the reversal under *Brady v. Maryland*, (Bill Lodge, “Angola Death Case Hinges in ’63 Ruling,” *Baton Rouge Advocate*, August 1, 2008) and Judge Brady’s order that Mr. Woodfox be released or re-prosecuted at that time. “Judge: Drop Charge or Retry Suspect in ’72 Killing,” *Baton Rouge Advocate*, September 26, 2008. In response, Attorney General Buddy Caldwell, whose office remains on the prosecution team in this case, made highly prejudicial statements in the press concerning Mr. Woodfox, offering that he’s “a career criminal and a very dangerous person in my view” and stating, “I oppose letting him out with every fiber of my being, because this is a very, very

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Guilty,” *Baton Rouge Advocate*, December 17, 1998.

<sup>7</sup> See e.g., James Minton, “Former Black Panther Sentenced to Life in Prison for 1972 Murder,” *Baton Rouge Advocate*, February 24, 1999; Michelle Millhollon, “ACLU Suit Alleges Cruelty at Angola,” *Baton Rouge Advocate*, March 31, 2000 (“Cain said the inmates are in extended lockdown because they have been deemed security risks.”); Alan Sayre, “Inmate Again Appeals Conviction in Slaying,” *Baton Rouge Advocate*, November 23, 2002; Penny Brown, “Magistrate Finds Lockdown for Angola 3 Cruel, Inmates Kept in Isolation for 30 Years,” *Baton Rouge Advocate*, August 28, 2007.

dangerous man.” Bill Lodge, “Caldwell Vows to Keep Woodfox in Prison,” Baton Rouge Advocate, September 27, 2008.

8. Around this time, the national media began to focus on the Angola 3 case, the murder of Brent Miller, and its bearing on the local community. For instance, National Public Radio aired a three part series in the fall of 2008 which included interviews with many people from Angola and with close connections to the case, including Miller’s widow.<sup>8</sup> In the third segment, with Attorney General Caldwell being interviewed concerning the prospect of Mr. Woodfox receiving bail, he referred to Mr. Woodfox as “the most dangerous person on the planet.” *Laura Sullivan*, “Why Did Key Angola Witness Go To The 'Dog Pen'?,” *All Things Considered*, October 29, 2008.

9. In the subsequent seven years, with Mr. Woodfox’s case winding its way back and forth through the courts – while Herman Wallace’s case was simultaneously moving forward on appeal – both the regional, national, and international media concerning the Angola 3 case have continued unabated.<sup>9</sup> Meanwhile, the Attorney General himself continues to press the case against Mr. Woodfox in the media, denigrating the legal claim that prevailed before Judge Brady as a “get out of jail free” card and insisting that the case against him is “undeniable” in a “news release” from the Attorney General’s Office. *See e.g.*, Ben Wallace, “Grand Jury Indicts Woodfox in '72 Death, Angola 3 Member Faces Third Trial,” *Baton Rouge Advocate*, February 13, 2015. In a more recent interview with the Associated Press, Attorney General Caldwell was emphatic with the reporter that Mr. Woodfox is guilty, “The driving force behind me is guilt — guilt, guilt, guilt.” “Louisiana AG not letting up on last of 'Angola Three',” *Associated Press*, June 24, 2015. And with the case presently pending at the federal district court, the federal Fifth Circuit, the United States Supreme Court, and this court, the volume of media saturating the local community will only grow as these proceedings move forward.<sup>10</sup>

10. Significantly, the consistent media concerning Mr. Woodfox’s case is likely to be overwhelmingly prejudicial for prospective jurors from West Feliciana Parish, in light of the fact

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<sup>8</sup> Laura Sullivan, “Doubts Arise About 1972 Angola Prison Murder,” *All Things Considered*, October 27, 2008; Laura Sullivan, “Favors, Inconsistencies Taint Angola Murder Case,” *All Things Considered*, October 28, 2008; Laura Sullivan, “Why Did Key Angola Witness Go To The 'Dog Pen'?,” *All Things Considered*, October 29, 2008.

<sup>9</sup> *See, e.g.*, Editorial, “Four Decades of Solitary in Louisiana,” *New York Times*, November 21, 2014; David Cole, “Albert Woodfox’s Forty Years in Solitary Confinement,” *The New Yorker*, June 16, 2015; “US Man Albert Woodfox To Be Freed After 43 Years in Solitary,” *BBC News*, June 9, 2015.

<sup>10</sup> A Newsbank media search of Louisiana newspapers generates 147 stories about Mr. Woodfox’s case since 1992. Significantly, 39 of these stories have appeared in the last twelve months. *See Exhibit B*,

that the parish community is so closely tied to Angola, as well as two other correctional facilities, Dixon Correctional and Feliciana Forensic Facility in nearby Jackson, LA. In these communities, where it is well known that Mr. Woodfox was twice convicted of murdering a guard and where respected members of the community – past and present – including Warden Burl Cain, Sheriff Bill Daniels, Connie Ray Dixon, Hilton Butler, Coroner Alfred Gould, Anne Butler – have all either acted as witnesses or otherwise lined up against Mr. Woodfox.<sup>11</sup> So while in other communities, the media concerning Mr. Woodfox’s case might appear two-sided or, in some cases, favorable to Mr. Woodfox, in West Feliciana, particularly among individuals associated with Angola or corrections, Mr. Woodfox’s continued efforts at release and reform at the prison are likely to be met with contempt based on the supposition that he randomly killed an Angola guard and, from their perspective, continues to evade responsibility and place other correctional officers at risk. There is every reason to believe that a substantial portion of the West Feliciana Parish community brings this perspective to the case. Demographic data about the parish reveals that Angola is the largest employer in the parish, providing 1500 jobs, most than twice the number of the second largest employer. *See Exhibit C, Baton Rouge Area Chamber, West Feliciana Parish Overview.* Significantly, these 1500 jobs are in a community where there are less than 5000 total people employed overall (and approximately only 10,000 non-incarcerated residents), reflecting the centrality of Angola in the life of the parish.<sup>12</sup>

11. These demographics would appear to have justified the change of venue from West Feliciana Parish for each of the past three Angola 3 trials. Significantly, a change of venue was similarly granted for the prosecutions of the Angola 5 defendants for the 1999 murder of Captain David Knapps. *See State v. David Mathis, et al*, Case No. 04-WFLN-077. There, based on the stipulation of both the defendants and the State, venue was changed for the selection of

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Newsbank Search.

<sup>11</sup> Warden Cain has been very outspoken concerning his negative opinions of Mr. Woodfox, referring to him and Mr. Wallace in a media interview as “crybabies” who “chose a life of crime” and who should “look in the mirror and quit looking out. It’s about time for them to look at themselves.” Gwen Filosa, “Two of ‘Angola Three’ Counting Days Still – Guards Killing Brings 3 Decades of Lockdown,” *Times-Picayune*, May 2, 2002. Cain has very publicly and consistently maintained that Mr. Woodfox’s highly restrictive conditions of confinement are warranted by the high security risk he allegedly still presents. *See, e.g., id.* (“Public safety and the safety of my security staff is what we’re all about first, and their comfort level is second,” Cain said. “And you can look at their record. Their conduct record doesn’t warrant them living in population, where they’d have more opportunity to figure out some breach of security.”); Gwen Filosa, “Angola 3 Inmate Is Ordered Freed – Woodfox Awaiting Third Murder Trial,” *Times-Picayune*, November 26, 2008 (Cain quoted as saying that Mr. Woodfox “is not a rehabilitated prisoner,” that he “will be a predator when the opportunity comes his way,” and that he is “still trying to practice Black Pantherism”).

<sup>12</sup> Significantly, in East Feliciana Parish, another 1000 people are employed either at Dixon Correctional

the juries because, inter alia, a large number of the jurors in West Feliciana Parish were associated with Angola or Dixon Correctional, relatives of the victims lived in the parish and were well known in the community, and the extensive media coverage in the area media market. See Exhibit E, *State v. David Mathis, et al*, Case No. 04-WFLN-077, December 10, 2009 Minute Entry. As a consequence of this order, the two trials in *State v. Jeffrey Clark*, the trial in *State v. Robert Carley*, the trial in *State v. David Brown*, and the trial in *State v. Barry Edge*, were all conducted with jurors from outside West Feliciana Parish. Consequently, in the last eight trials for the murder of an Angola correctional guard arising in this parish over the past 42 years – the five Angola 5 trials and the 3 Angola 3 trials – the district court and the parties have been uniformly of the view that a change of venue was necessary.

12. Louisiana law provides that a change of venue is mandatory where there is a likelihood of prejudice against a defendant in the jury pool:

A change of venue shall be granted when the applicant proves that by reason of prejudice existing in the public mind or because of undue influence, or that for any other reason, a fair and impartial trial cannot be obtained in the parish where the prosecution is pending.

In deciding whether to grant a change of venue the court shall consider whether the prejudice, the influence, or the other reasons are such that they will affect the answers of jurors on the voir dire examination or the testimony of witnesses at the trial.

La. C.Cr.P. art. 622.

13. In *State v. Bell*, the Louisiana Supreme Court set out factors for the court to consider in weighing the impact of pretrial publicity: (1) the nature of pretrial publicity and the particular degree to which it has circulated in the community; (2) the connection of government officials with the release of the publicity; (3) the length of time between the dissemination of the publicity and the trial; (4) the severity and notoriety of the offense; (5) the area from which the jury is drawn; (6) other events occurring in the community which either affect or reflect the attitude of the community or individual jurors. 315 So.2d 307, 311 (La.1975).

14. Each of these factors weigh in favor of a finding that pretrial publicity and community sentiment undermine the possibility of a fair and impartial trial. First, as detailed above, the media about Brent Miller's murder and Mr. Woodfox and his co-defendants, as well as the accounts of people familiar with the case in this small community, have been pervasive

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or the Feliciana Forensic Facility. See Exhibit D, Baton Rouge Area Chamber, East Feliciana Parish Overview.



and consistent for more than four decades. Second, the State has consistent fed stories to the media from the earliest days of this case, with Warden Henderson seeking to counter his critics that he was responsible for Mr. Miller's death, to more recently with Attorney General Caldwell appearing to make a concerted effort to foment prejudice against Mr. Woodfox, including referring to him as "the most dangerous person on the planet." Third, while trial has not yet been scheduled, it appears that the media surrounding this case will only become more dense and pervasive as the trial approaches. Fourth, the murder of Mr. Miller is a notorious crime in West Feliciana Parish which is perceived to be against the Angola community itself, not just against Mr. Miller as an individual, as it threatens the many people in this community who are employed by or have loved ones or neighbors associated with the prison. To be sure, the murder of Mr. Miller has been consistently characterized as a random act of violence that could have befallen any white prison guard, which renders the act all the more frightening to the community. Fifth, the jury will be drawn from West Feliciana Parish, which includes a community of families that actually reside on the prison grounds and where nearly everyone in the community has some connexity with the prison or its employees. Sixth, there are constant reminders of Brent Miller's murder in West Feliciana Parish including (1) the firing range named in his memory at Angola, (2) the 1999 murder of Captain Knapps and the subsequent decade and a half of high profile legal proceedings in the prosecutions of five Angola inmates for his murder, (3) as well as the media coverage of Mr. Woodfox's civil litigation concerning his well known solitary confinement which will make clear to local community members that Angola still regards Mr. Woodfox as a threat within the prison notwithstanding the 43 years since Mr. Miller's murder. In short, like a fishing community concerned about their loved ones returning from stormy seas, Mr. Woodfox and the murder of Captain Knapps are the center of the worries and anxieties of this community that is inextricably linked to Angola.

15. In addition to these factors relating to pretrial publicity, Mr. Woodfox further urges that the notoriety of the case in West Feliciana creates a strong probability that a significant portion of the venire is familiar with evidence or information that is inadmissible at Mr. Woodfox's trial including (1) the fact of his two prior convictions for the murder of Brent Miller, (2) the fact of his solitary confinement at Angola based on its determination that he is responsible for the murder of Brent Miller, and (3) the prior testimony of Hezekiah Brown and other now deceased state witnesses who appeared at Mr. Woodfox and Mr. Wallace's prior

trials.<sup>13</sup> Significantly, the jurors awareness of these matters serves to undermine Mr. Woodfox's presumption of innocence and other Sixth Amendment and Due Process rights.

16. Regarding the prospective venue in the event that this motion is granted, Mr. Woodfox urges the Court (1) not to change venue to Tangipahoa Parish, the sight of his 1998 trial, and (2) to select a venue that is demographically similar to West Feliciana Parish in terms of race but where there is not a large percentage of the population employed in corrections. On the first point, Mr. Woodfox urges the Court to consider that Amite in Tangipahoa Parish was the hometown of Brent Miller, where he was buried, and where he likely still has family ties. *See* Obituary, States Item, April 4, 1972 (identifying Mr. Miller as a "native of Amite," his place of burial as Pine Ridge Cemetery in Tangipahoa Parish, and noting surviving family members from Tangipahoa Parish); Anne Butler and C. Murray Henderson, *Dying To Tell: Angola, Crime, Consequence, Conclusion at Louisiana State Penitentiary* (Center for Louisiana Studies, University of Southwestern Louisiana, 1992) at 12 (describing Miller's Tangipahoa Parish funeral as "packed with mourners"). Consequently, Tangipahoa Parish, as a venue for Mr. Woodfox's trial, has some of the same risks of community prejudice against Mr. Woodfox as West Feliciana Parish. On the second point, Mr. Woodfox notes that, over the past 43 years and continuing to the present, issues of race have loomed over this case, which has been portrayed by the State as involving a black radical who killed a white prison guard based exclusively on racial animosity. Consequently, in this case the need for a racially diverse venire reflecting the demographics of the community is especially important. *See* Peter M. Kougasian, *Should Judges Consider the Demographics of the Jury Pool in Deciding Change of Venue Applications*, 20 Fordham Urb. L.J. 531 (Spring 1993) ("It is therefore appropriate for judges to include the demographic diversity of the prospective venue among the factors they consider in moving trials. To do so is consistent with the jury's historic function, with precedent, and with the philosophical foundations of justice in a democracy."); M. Shanara Gilbert, *An Ounce Of Prevention: A Constitutional Prescription For Choice Of Venue In Racially Sensitive Criminal Cases*, 67 Tul. L. Rev. 1855 (June 1993) ("The change of venue decision, once made, must take into account the demographics of the community to which venue will be changed in order to preserve the underlying principle that juries must be chosen from a fair cross section of the community where

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<sup>13</sup> As detailed in motions filed simultaneously with this motion, Mr. Woodfox contends that the prior testimony of Hezekiah Brown, Paul Fobb, Joseph Richey, and other state witnesses should be found to be

the alleged crime occurred.”) According to census data, West Feliciana Parish is 53% white and 45.9% black or African American, compared to 63.5% and 32.4%, respectively, statewide. West Feliciana Parish, Louisiana, State and County QuickFacts, United States Census Bureau, available at <http://quickfacts.census.gov/qfd/states/22/22125.html> (last checked July 23, 2015). Mr. Woodfox respectfully requests that the Court, in identifying an alternative venue, chooses a venue that is demographically similar with respect to race.<sup>14</sup> Cf. Florida Statute 910.03(2) (“After a court orders a change of venue and in order to protect the defendant’s due process rights, the court, upon a motion of any party, shall give priority to any county which closely resembles the demographic composition of the county wherein the original venue would lie.”)

17. Finally, as required by La. C.Cr.P. art. 621, undersigned counsel affirms that this motion is not made for the purpose of delay, but to obtain a fair and impartial trial. La. C.Cr.P. art. 621.

Wherefore, Albert Woodfox respectfully requests that this order that the venue for this case be changed to another parish where Mr. Woodfox can receive a fair and impartial trial.

Respectfully submitted,

/s/ William M. Sothern

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#### **Certificate of Service**

I hereby certify that I have served a copy of the foregoing document on the 24<sup>th</sup> day of July, 2015, by email (by agreement of all counsel) upon all counsel in this case, including:

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inadmissible at his forthcoming trial.

<sup>14</sup> Based on this rationale as well, Tangipahoa Parish is not an appropriate venue for this case given that its population is 67.3% white and only 30.3% black or African American, which is disproportionately non-minority compared to West Feliciana Parish. Tangipahoa Parish, Louisiana, State and County QuickFacts, United States Census Bureau, available at

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William M. Sothern

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<http://quickfacts.census.gov/qfd/states/22/22105.html> (last checked July 23, 2015).

STATE OF LOUISIANA

20TH JUDICIAL DISTRICT COURT

v.

PARISHES OF EAST AND WEST FELICIANA

ALBERT WOODFOX

CASE NO. 15-WFLN-088, DIV. B

**ORDER**

Upon consideration of this *MOTION TO CHANGE VENUE*, the Court being sufficiently advised and good grounds appearing therefore, this motion is **GRANTED**. Venue for this case is heretofore transferred to \_\_\_\_\_ Parish.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
HONORABLE WILLIAM G. CARMICHAEL  
DISTRICT COURT JUDGE, 20<sup>TH</sup> JUDICIAL DISTRICT

*Please Serve:*

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## **EXHIBIT LIST**

Exhibit A - Front Page, States Advocate Times, March 7, 1973.

Exhibit B - Newsbank Search of 12 Months of Louisiana Newspapers.

Exhibit C - Baton Rouge Area Chamber, West Feliciana Parish Overview.

Exhibit D - Baton Rouge Area Chamber, East Feliciana Parish Overview.

Exhibit E - *State v. David Mathis, et al*, Case No. 04-WFLN-077, December 10, 2009 Minute Entry.