

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS

STATE OF ARKANSAS

Plaintiff

v.

No. CR06-494-4

BOBBY JUNIOR COX

Defendant

**COX'S MOTION FOR CONTINUANCE BECAUSE OF DEER SEASON  
INTERFERING WITH JURY SELECTION AND  
DENYING A FAIR CROSS SECTION OF THE COMMUNITY**

Defendant Cox moves for a continuance of the November 8th trial date because of deer season:

1. According to the Arkansas Game and Fish Commission's website,<sup>1</sup> the following is the deer hunting schedule in Arkansas for 2006:

November 11-19 and November 23-December 3	Zones 1, 2, 3, 6, 7, 8, 10 and 11
November 11-12, 2006	Zone 4
November 11-12 and November 18-19	Zone 5
November 11-December 10	Zone 4A, 5A, 13, 14 and 15
November 11-December 17	Zones 9 and 12:
November 11-December 28	Zone 16, 16A and 17

2. 273,128 big game hunting licenses were issued in Arkansas in 2005,<sup>2</sup> and, based on our 2000 Census data, ten percent of the population of the State will be deer hunting when this trial is going on.<sup>3</sup>

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<sup>1</sup> [http://www.agfc.state.ar.us/rules\\_regs/hunting\\_regs\\_all.html](http://www.agfc.state.ar.us/rules_regs/hunting_regs_all.html).

<sup>2</sup> E-mail from Arkansas Game and Fish Commission, September 12, 2006 (attached).

<sup>3</sup> Kenn Young, "Arkansas' 2005 Deer Outlook Part 1: Our Top Hunting Areas,"

3. That means that about ten percent of the jury pool will come with excuses for jury duty to avoid sitting on a month long trial in November and December.

4. Some will be direct and admit it, but others will not. It will show up in other excuses from jury duty or they will just refuse to show up.

5. The court is obliged to deny requests for exemption from jury duty because of “deer season” because that obviously is not a statutorily recognized exemption.

6. If deer hunters succeed in getting exempted from the jury, it will deny defendant an “impartial jury” in violation of the Sixth Amendment to the U.S. Constitution and Ark. Const., Art. 2, § 10 or both. The fair cross-section requirement applies to the jury venire. *Holland v. Illinois*, 493 U.S. 474, 477 (1990):

To the contrary, our cases hold that the Sixth Amendment entitles every defendant to object to a venire that is not designed to represent a fair cross section of the community, whether or not the systematically excluded groups are groups to which he himself belongs. *See, e.g., Duren v. Missouri*, 439 U.S. 357 (1979); *Taylor v. Louisiana*, 419 U.S. 522 (1975).

Therefore, defendant does not have to show that he is a deer hunter to object to potentially ten percent or more of the jurors getting excluded from jury duty because they would rather be hunting than stuck in a courtroom in Cabot.

## CONCLUSION

Wherefore, Cox’s motion to continue because of deer season interfering with jury selection should be granted.

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[http://www.arkansassportsmanmag.com/hunting/whitetail-deer-hunting/AR\\_1005\\_01/](http://www.arkansassportsmanmag.com/hunting/whitetail-deer-hunting/AR_1005_01/).(estimates 275,000 deer hunters in Arkansas).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a this pleading was served by mail, fax, or e-mail (.pdf) on the following on September 12, 2006:

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