

**§ 9-4. Preparation and custody of list.**

As the jury list is prepared, the name and address of each qualified person selected for the list shall be written on a separate card. The cards shall then be alphabetized and permanently numbered, the numbers running consecutively with a different number on each card. These cards shall constitute the jury list for the county. They shall be filed with the register of deeds of the county, together with a statement of the sources used and procedures followed in preparing the list. The list shall be kept under lock and key, but shall be available for public inspection during regular office hours. The register of deeds may elect to store an electronic copy of the jury list for the county. (1967, c. 218, s. 1; 1969, c. 205, s. 2; 2009-518, s. 1.)

STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE

COUNTY OF WAKE 2011 AUG 2 AM 9:11 SUPERIOR COURT DIVISION

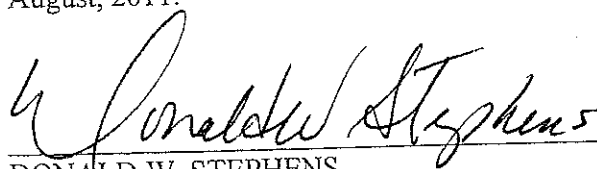
IN RE: BY )  
PUBLIC ACCESS TO )  
JUROR INFORMATION ) SUPERSEDING  
ADMINISTRATIVE ORDER  
REGARDING JUROR INFORMATION

This order supersedes and replaces all prior orders regarding juror information.

It is hereby ordered that all information in the possession of the Clerk of Superior Court regarding individual jurors who are summoned for jury duty, including telephone numbers and questionnaires containing private information, are confidential matters and are not part of the public records of the court available for public inspection. All such private juror information shall be sealed by the Clerk and maintained in a sealed status unless its release is authorized by court order. The privacy rights of jurors outweigh any public right of access.

Public access to juror information shall be restricted to the name and address of jurors which is part of the public records of the court and shall be made available by the Clerk upon request.

So ordered this, the 15th day of August, 2011.

  
DONALD W. STEPHENS  
SENIOR RESIDENT SUPERIOR COURT JUDGE



*State of North Carolina*  
*General Court of Justice*  
*10th Judicial District*

DONALD W. STEPHENS  
SENIOR RESIDENT SUPERIOR COURT JUDGE

WAKE COUNTY COURTHOUSE  
PO BOX 351  
RALEIGH, NC 27602

TELEPHONE: (919) 792-4950  
FAX: (919) 792-4951

August 1, 2011

Mr. Hugh Stevens, Jr.  
Stevens, Martin, Vaughn & Tadych  
1101 Haynes Street, Suite 100  
Raleigh, North Carolina 27604

Dear Mr. Stevens:

This letter is in response to your e-mail request of July 5<sup>th</sup> and follow-up letter of July 21, 2011. You have not specifically identified your clients, but I assume they are part of the local news media. I appreciate your memorandum and other information, including materials prepared by Michael Crowell of the UNC School of Government. You have convinced me that the names and addresses of all jurors summoned for jury service during any session of court are public records and should be available to the media. Therefore, I will amend my administrative order of June 3, 2011 to authorize the Clerk of Superior Court to release that information upon request. Your clients may request a complete printout of that information before trial, so that they will not be asking a courtroom clerk for that information at a time in the proceeding when that clerk is very busy keeping up with exhibits, witness lists, court minutes, a jury verdict and possibly preparing a criminal judgment or other court order regarding the case.

I remain satisfied that all other juror information, including telephone numbers and questionnaires, is not public record and not subject to disclosure or public inspection. Depending on the nature of the case, the information contained in questionnaires may include the juror's experience with or opinions about domestic violence, alcohol abuse, sexual abuse, drug abuse, sexual orientation, and marital infidelity and a number of other extremely personal and otherwise confidential subjects. Of course, if your clients have some interest in those matters, they may attend jury selection and note the answers of each juror to the questions posed by the lawyers about those subjects. They have always had complete access to my courtroom and to such information which was conveyed in open court. They can even request and obtain a transcript of those questions and answers.

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Jurors have expressed great concern about their privacy rights regarding questionnaire information which remains in the possession of the court after a case is completed. They have expressed great angst and opposition to this information being readily available to the media or to any member of the public to review. If citizens called for jury duty can expect this type of personal and otherwise confidential information to be released now or in the future, they may be less than candid and complete with their questionnaire answers or simply unwilling to serve in a case requiring that type of disclosure. Under such circumstances, even fewer citizens will voluntarily accept the civic responsibility of jury service. For our justice system to work well, we should endeavor to create a trial environment which imposes the least amount of stress possible on jurors.

Unlike your clients, jurors do not have a lawyer or an advocate to protect their rights. The trial court is the gatekeeper and guardian of the rights of many, including jurors. For that reason I will not authorize the Clerk to release any juror information except names and addresses, unless an appellate court compels me to do so. However, nothing in this ruling precludes your clients from attending jury selection at any trial and making note of any such information provided by jurors who are called to the jury box and questioned. The public has always been afforded that right. It has never been denied or abridged.

Your second concern is focused on my June 23<sup>rd</sup>, 2011 order which obligated jurors not to discuss the *Young* case until they had departed the courthouse and arrived at their intended destination. You indicated that your clients believed that this order came "out of the blue" and that such order unfairly implied that some inappropriate media conduct had prompted it. Again, I do not know who your current clients are but they must not have been covering the *Young* trial. The entire basis for that order is part of the record of the *Young* proceedings. The *Young* jurors specifically requested that the court address their "rights" not to be confronted or photographed or harassed by anyone, including the media, after they reached a decision. They seemed very preoccupied about how they would be treated after they reached a verdict. In response to their inquiry in open court, I instructed the jurors to focus only on their deliberations and their efforts to reach a unanimous verdict, and I assured them that I would take appropriate action to prevent any undesired contact from anyone after their verdict. Therefore, no one in the courtroom should have registered the slightest surprise at my order. The reason for that order is well documented in the record.

The most prudent way for the court to comply with such a juror concern is to not "release" the jurors until they depart the courthouse and arrive at their intended destination. That way, jurors cannot be photographed or contacted or queried until they

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are at a location of their choosing. This order did not preclude any juror who wanted to speak from walking across the street, declaring that to be their intended destination and discussing the case with anyone who chose to listen. However, it allowed others the opportunity to leave unimpeded.

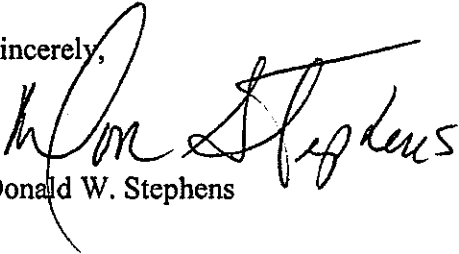
I do not anticipate that this type of order will be routinely entered. However, there are circumstances that warrant it, and the court has the authority to enter it. Those circumstances existed in the *Young* case due to the concerns raised by the jurors themselves.

I believe the conduct of the media during the *Young* trial was professional and commendable. Although the jurors' concerns may have been unfounded, those fears were very real to the 12 citizens deliberating in the jury room. This was an important problem in their minds that needed to be resolved. If left unresolved, this perceived problem could have overshadowed and unduly influenced the jury deliberations.

It is not unusual for jurors to have unfounded concerns based on television news reports about other cases in other places. In major drug trafficking cases and those involving gang violence, jurors frequently fear potential retribution from participants in the trial. Even though these fears are generally unfounded, most judges require a higher degree of security and would likely enter a similar order in such cases to prevent juror contact by anyone for some brief period after a jury verdict and after jurors depart the court facility. I strongly believe the trial court has the inherent authority to enter such an order. It does not unconstitutionally infringe on any juror's right to speak. They may well choose to walk across the street and immediately speak.

In my 27 years as a trial judge, I have always made every effort to allow the media full access to my courtroom and all court proceedings and have encouraged other judges to do the same. It is important that the public have an accurate account of all that we do. However, at times the role of the trial judge is an awkward balancing act to protect the rights of defendants charged with crimes, victims, jurors and the public's first amendment right to see, hear and know. I do the best I can under the circumstances. When my analysis and judgment in this process is flawed or out of balance, I am not offended by a mandate from our Court of Appeals or Supreme Court to correct it.

Sincerely,

  
Donald W. Stephens

