

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI**

**STATE OF MISSISSIPPI**

**PLAINTIFF**

**VS.**

**CAUSE NO. 25CI1:16-cr-00836**

**ROBERT SHULER SMITH**

**DEFENDANT**

**RESPONSE TO DEFENDANT SMITH'S MOTION FOR  
RELIEF BASED UPON JUROR MISCONDUCT AND  
UPON STATE EFFORTS TO PROVOKE MISTRAL**

**COMES NOW**, the State of Mississippi, by and through the Office of the Mississippi Attorney General, and files this its Response to Defendant Robert Shuler Smith's Motion for Relief Based upon Juror Misconduct and Upon State Efforts to Provoke Mistrial (Doc. No. 190). In response to said motion, the State of Mississippi would show the Court the following:

1. There is no evidence whatsoever to support the suggestion that anyone sought to "provoke" a mistrial in this matter. Such unfounded allegations have no foundation and the issue alleged in Smith's motion was addressed by the Court promptly at the trial.

2. Additionally, the suggestion that a juror who failed to disclose fully on her juror questionnaire that she was an employee of the City of Jackson – as it has not yet been established whether she actually works for the Jackson Police Department – is a rather flimsy basis for suggesting that the juror should be

viewed as a “state actor” for purposes of precluding a retrial of this matter. Both the State of Mississippi and Defendant Robert Shuler Smith had equal access to this juror during the voir dire process, and neither party was able to discern that she was an employee of the Jackson Police Department, if in fact she is. Thus, if there was some improper conduct regarding the seating of this juror, the Defendant is equally at fault for failing to inquire further about her employment as a “dispatcher” – which appears to be all that she disclosed about her employment beyond what appears on her juror questionnaire.

3. The State of Mississippi has filed this date its on Motion for Leave to Interview Jurors or, in the Alternative, Motion to Reconvene the Petit Jury. The Court should, indeed, determine whether a hearing is necessary to examine each of the jurors or whether law enforcement authorities should interview the jurors. In all other respects, Smith’s present motion should be denied.

WHEREFORE, premises considered, the State respectfully requests that this Court deny Smith’s Motion for Relief except to the extent the Court determines, as set forth in the State’s separate motion, that interviews of the jurors or recall of the jurors is mandated in order to examine them concerning the prior knowledge of Juror No. 4 about the defendant in this case and what, if any, further action should be taken with respect to that juror’s action during the jury selection process and during the jury’s deliberations in this matter.

THIS the 17th day of January, 2017.

Respectfully submitted,

JIM HOOD, MISSISSIPPI  
ATTORNEY GENERAL

*s/Robert G. Anderson*

BY: Robert G. Anderson  
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**CERTIFICATE OF SERVICE**

I, Robert G. Anderson, hereby certify that I have this day filed the above and foregoing Response with the Clerk of Court, utilizing the Court's electronic case filing system, which caused a copy to be sent to Jim Waide, Attorney for Defendant, Robert Shuler Smith, at his usual e-mail address of [waide@waidelaw.com](mailto:waide@waidelaw.com).

THIS the 17th day of January, 2017.

*s/Robert G. Anderson*

Robert G. Anderson  
Special Assistant Attorney General  
MS Bar No. 1589