

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA**

UNITED STATES OF AMERICA,)

CR 17-00016-DLH

Plaintiff,)

- vs -)

**MOTION FOR TRANSFER
OF VENUE**

RED FAWN FALLIS,)

Defendant.)

The Defendant, RED FAWN FALLIS, by and through her attorney, hereby moves this Court for an Order, pursuant to Rule 21, Federal Rules of Criminal Procedure (F.R.Cr.P), transferring the venue of the trial of this case to a District within the jurisdiction of the Eighth Circuit, other than the District of North Dakota.

In support of her Motion, the Defendant respectfully contends that, due to the massive amount of widespread prejudicial publicity regarding the Dakota Access Pipeline [DAPL] protests in general, and her arrest in particular, she cannot receive a fair trial by a fair and impartial jury as guaranteed her by the Fifth and Sixth Amendments to the U.S. Constitution.

As is more specifically set forth in the Memorandum accompanying this Motion:

1. Massive, pervasive and prejudicial publicity surrounded the anti-DAPL

protesters and generated strong feelings about the pipeline and its protesters in a majority of the residents in the counties from which the Defendant's prospective venire is to be drawn.

2. An attitudinal survey by the National Jury Project revealed that the vast majority of juror-eligible residents in Morton and Burleigh Counties (and, to a slightly lesser extent, juror-eligible residents in Cass County) have been exposed to publicity about the anti-DAPL protesters, have formed a negative opinion about the protests and the protesters, believe that the arrested protesters are "guilty", and cannot be fair and impartial if selected as jurors for the trial of a protester.

3. The government itself contributed to, and exacerbated, the widespread negative and, at times, inflammatory, publicity about the anti-DAPL protesters and about the Defendant's case in particular and the dissemination of information and misinformation by the government and its agents increased the prejudicial impact of the publicity.

4. The extensive, inflammatory and prejudicial pre-trial publicity referenced herein and detailed in the accompanying Memorandum, the Affidavit of National Jury Project Director Dianne Wiley, and the exhibits attached thereto, has so impacted the

community from which the Defendant's venire is to be drawn that a fair and impartial jury cannot be seated in her case.

A change of venue from the District of North Dakota is required to secure to the Defendant herein her Right to Due Process, including her Rights to a Fair and Impartial Jury and to a Fair Trial, as guaranteed her by the Fifth and Sixth Amendments to the U.S. Constitution, and the requested change of venue is in the best interests of justice.

Dated this 14th day of June, 2017.

Respectfully submitted,

/s/ Bruce Ellison
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