

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

MARC BRU,

Defendant.

No. 1:21-cr-352 (JEB)

United States' Proposed *Voir Dire*

In addition to the questions proposed by the Court, *see* ECF No. 76, the United States respectfully requests that the Court ask the following additional questions of potential jurors.

A. Proposed Additional Group *Voir Dire* Questions

Publicity and Predisposition Due to the Nature of the Case

1. Have you seen, heard, or read anything in the news or elsewhere about the defendant, Marc Bru?
2. If your answer to the previous question was “yes,” have you formed any opinions about Mr. Bru’s guilt or innocence?
3. Do you have any impressions or feelings, positive or negative, about how the Department of Justice has been handling the criminal cases arising from the events at the U.S. Capitol on January 6, 2021, that would make it hard for you to be a fair and impartial juror in this case?
4. Do any of you believe the 2020 presidential election was stolen, corrupt, or fraudulent?
5. Do you have an opinion about people who believe that the 2020 presidential election was stolen, corrupt, or fraudulent that would make it hard for you to serve as a fair and impartial juror in this case?
6. Are you familiar with the sovereign citizen movement and/or the beliefs of people associated with it?
7. Do you have an opinion about sovereign citizens or their supporters that would make it hard for you to serve as a fair and impartial juror in this case?

Legal Concepts

8. Does anyone believe that because Mr. Bru was charged, he is probably guilty?
9. Mr. Bru has elected to represent himself, which he has the right to do, with assistance from Mr. Muse as standby counsel. Does Mr. Bru's decision to represent himself lead any of you to form a belief about his likely guilt or innocence?
10. The burden of proof, as in all criminal cases, is proof beyond a reasonable doubt, and this burden rests on the government and never shifts to the defendant. The defendant is presumed innocent unless the government meets that burden, and she has no obligation to offer her own defense. Would anyone have any difficulty or hesitation with respecting this allocation of the burden of proof?
11. The government is not required to prove its case to a mathematical certainty or prove guilt beyond all doubt. Would any of you require proof to a mathematical certainty or prove guilt beyond all doubt?
12. All defendants have a constitutional right not to testify, and if Mr. Bru decides not to testify, I will instruct you that you cannot hold his silence against him in any way. Would you have any difficulty following that instruction?
13. Jurors are the sole judges of the facts, but they must follow the principles of law as I instruct. The jury may not choose to follow some rules of law and ignore others, and even if the jury disagrees with or dislikes a rule of law, or does not understand the reasons for some of the rules, it is the jury's duty to follow those rules. Will you have any difficulty following my legal instructions, whatever they may be?
14. If you are selected as a juror in this case, I will continue to instruct you to avoid all media coverage relating to this case, including radio, television, podcasts, social media, and other Internet sources. That is, you will be forbidden from reading any newspaper articles about this case, listening to any radio or podcast stories about this case, or watching any TV news about this case. You will also be forbidden from Googling this case, blogging, tweeting, reading, or posting comments about this case on social media sites or anywhere else on the Internet. Do you have any reservations or concerns about your ability or your willingness to follow this instruction?
15. Under certain circumstances, the government can obtain authorization from a judge to search a premises or electronic media to obtain evidence including, but not limited to, emails, text messages, video recordings, letters, financial information and other materials or information. I will instruct you that any evidence that is presented to you at trial was obtained legally and you can consider it. Do you have concerns about your ability to follow this instruction?

16. Under certain circumstances, the government can obtain authorization from a judge to search a premises or electronic media to obtain evidence including, but not limited to, emails, text messages, video recordings, letters, financial information and other materials or information. I will instruct you that any evidence that is presented to you at trial was obtained legally and you can consider it. Do you have concerns about your ability to follow this instruction?

Prior Jury Service or Experience as a Witness, Plaintiff, or Defendant

17. Have you ever served as a trial juror in a criminal or civil case?
18. If so, did the jury reach a verdict? Were you the foreperson?
19. Was there anything about the experience that you believe makes you unable to be fair and impartial as a juror in this case?
20. Have you ever appeared as a witness in either state or federal court?
21. Was there anything about the experience that you believe makes you unable to be fair and impartial as a juror in this case?
22. Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone, in state or federal court?
23. Was there anything about the experience that you believe makes you unable to be fair and impartial as a juror in this case?

Role of the Court and Final Questions

24. If, after considering all of the evidence and my instructions on the law, you find the defendant guilty of one or more counts in the indictment, it will be my job as the judge and my job alone to determine the punishment. The law does not permit you to consider the issue of punishment because there are factors, having nothing to do with this trial, which will help me determine the appropriate sentence, if any. Would you have difficulty or would you be uncomfortable serving as a juror knowing that you will not have any say in any fine, restitution, or jail sentence that I may impose?
25. (Describe the courtroom COVID-19 protocols, such as plexiglass, masks, and spacing, if any.) Would any of you be uncomfortable serving as a juror with these safety protocols in place?
26. Do you have any personal beliefs, whether religious, philosophical, or otherwise, such that you could not, after hearing all the evidence and law in this case, pass judgment on another person in a criminal case?
27. To reach a verdict on a particular charge, every juror must agree on the verdict. That is, any verdict must be unanimous. In deliberations you must consider the

opinions and points of your fellow jurors, but you must also follow your own conscience and be personally satisfied with any verdict. Would you have difficulty expressing your own opinions and thoughts about this case to your fellow jurors?

28. Today is Monday, October 2. We expect the presentation of evidence in this case to conclude by mid-week. You will likely hear evidence in the case every day from 9:30 am to 5:00 pm each day, with a lunch break from approximately 12:30 pm to 1:45 pm each day. After the close of evidence, the jury will deliberate until it reaches a decision. Once you begin deliberating, I do not know how long your deliberations will last. That is up to the jurors. But you will not meet past 5:00 pm, and you will not meet on weekends. Would serving as a juror in this case be an extreme hardship to you? And by this this, I mean extreme. Serving on a jury is often inconvenient. What I am asking is whether serving on this jury would be very difficult to you.

B. Proposed Background *Voir Dire* Questions for Every Individual Juror

After the Court questions the full venire, the United States understands that the Court intends to follow up with every juror individually about any “yes” answers. In addition to that procedure, the United States respectfully requests that the Court ask each juror the below questions so that the parties may obtain a limited amount of background information about every juror, including those who did not answer “yes” to any of the Court’s prior questions.

1. What is the highest level of school you completed?
2. How long have you lived in the District of Columbia?
3. What is your current occupation, if any?
 - i. How long have you been at this job?
 - ii. What are your job responsibilities?
 - iii. Are you responsible for hiring, firing, or supervising anyone?
4. Are you married or do you otherwise have a long-term partner?
5. If yes, what is your spouse or partner’s occupation?
6. Do you have children or step-children? If so, how many and what are their ages?

7. If any of your children or step-children are adults, what are their occupations?
8. Which television stations, radio stations, publications, and/or websites are the primary sources you turn to for news?

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
D.C. Bar Number 481052

/s/ Michael M. Gordon
MICHAEL M. GORDON
Assistant United States Attorney
Florida Bar. No. 1026025
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602-4798
michael.gordon3@usdoj.gov
(813) 274-6000

/s/ Madison H. Mumma
MADISON H. MUMMA
Trial Attorney, Detailee
N.C. Bar No. 56546
601 D Street NW
Washington, DC 20001
madison.mumma2@usdoj.gov
(202) 431-8603