

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA : Crim. No. 21-cr-00032 (DLF)
 :
 v. :
 :
 GUY WESLEY REFFITT, :
 :
 Defendant. :
 :

JOINT PROPOSED VOIR DIRE

On October 18, 2021, the Court provided the parties with Proposed Voir Dire questions and invited the parties to submit objections and proposed additions to those questions (ECF 46). In a Minute Order issued on November 2, 2021, the Court ordered the parties to submit these proposals by November 24, 2021. The parties now jointly request the following modifications to the Court’s proposed voir dire and the following additional questions:

A. Proposed Modifications to the Court’s Voir Dire Questions:

- (1) The parties do not object to proposed question number 1.
- (2) The parties do not object to proposed question number 2.
- (3) The parties do not object to proposed question number 3.
- (4) The parties do not object to proposed question number 4.
- (5) The parties do not object to proposed question number 5.
- (6) The government requests asking follow up questions to proposed question 6, such that the question would read as proposed below (modification marked in red font). The defense does not object to this proposal:

[The next three questions relate to you, members of your immediate family, and close personal friends.] Has any member of that group ever been arrested for, convicted of, or charged with a crime or been a victim of or witness to a crime? **If so, did you feel that you, or your family member or close friend, were treated fairly? Why or why not?**

- (7) The defense requests the following modification to proposed question 7 (modification marked in red font). The government does not object to this proposal:

Do any of you live or work **at or** near the U.S. Capitol?

- (8) The parties do not object to proposed question 8.

- (9) The government requests asking follow up questions to proposed question 9, such that the question would read as proposed below (modification marked in red font). The defense does not object to this proposal:

Have any of you had an experience as a juror in a previous **eriminal** trial that would affect your ability to be a fair juror in this trial?

- i. **When you served as a juror in a prior case, was it a criminal case or a civil case?**
- ii. **Did you reach a verdict?**
- iii. **Was there anything about your experience as a juror which would make you not want to serve again?**

- (10) The defense requests the following modification to proposed question 10, such that the question would read as proposed below (modifications marked in red font). The government does not object to this proposal:

This case involves allegations about the possession of a handgun, which was not fired. **Does anyone believe that this would affect their ability to serve as a juror in the case?** Does anyone have such strong feelings about handguns that would make it difficult to be a fair juror in this case?

- (11) The parties do not object to proposed question 11.

- (12) The parties do not object to proposed question 12.

B. Government's Additional Proposed Questions

In addition to the questions proposed by the Court, the government also requests the voir dire questions listed below. Unless otherwise noted, the defense does not object to these proposed questions.

January 6, 2021- Specific Questions

- (1) Do you or someone you know have any direct or indirect connection to events at the U.S. Capitol on January 6, 2021?

- (2) Have you ever watched video of what happened at the U.S. Capitol on January 6, 2021 on the news or on the Internet? If yes, how many times have you seen videos of that event, in whole or in part, on TV or on the internet? (1 time, 2-3 times, 4-5 times, 6 or more times)
- (3) Have you ever watched video of this defendant from January 6, 2021 on the news or on the Internet? If yes, how many times have you seen videos of the defendant, in whole or in part, on TV or on the internet? (1 time, 2-3 times, 4-5 times, 6 or more times)
- (4) No matter what you have heard or seen about events at the U.S. Capitol on January 6, 2021, and no matter what opinions you may have formed, can you put all of that aside and decide this case only on the evidence you receive in court, follow the law, and decide the case in a fair and impartial manner?
 - a. The defense objects to this proposed question, and instead proposes the following language: “Does anyone have such strong feelings about events at the Capitol on January 6, 2021 that would make it difficult to be a fair juror in this case?”

Background Questions

- (5) Please provide the following information:
 - a. What is the highest level of school you completed?
 - b. What is your marital status?
 - c. Do you have children or step-children? If so, how many, and what are their ages?
 - d. What is your current occupation?
 - i. How long have you been at this job?
 - ii. What is your current role at work?
 - iii. Does your role include supervisory duties?
 - e. What is your spouse’s occupation?
 - f. Are you able to read, speak, and understand the English language?
 - g. Do you have any trouble seeing or hearing?
 - h. Do you have trouble paying attention for long periods of time?
 - i. Do you take medication that makes it difficult for you to sit and focus for long periods of time?
 - j. Does jury service raise COVID-19 safety concerns for you?
 - k. Do you hold religious beliefs that prevent you from passing judgment on others?
- (6) How do you get your news? Please circle all that apply, and provide the specific news source you use.
 - l. Newspapers
 - m. TV
 - n. Radio
 - o. Social media
 - p. Podcasts

- (7) Do you use social media? If yes, what platform(s) do you use, and what do you use them for?
- (8) Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?
- q. If the answer is yes, please indicate who brought the lawsuit, what it was about, and the result of the lawsuit.
- (9) Do you watch courtroom, law-related, or crime-related TV shows? If yes, what do you watch?
- (10) Do you have any opinions concerning the following which would affect your ability to be a fair and impartial juror?
- r. Criminal prosecutors (Yes/No)
 - s. Criminal defense attorneys (Yes/No)
 - t. Police officers (Yes/No)
 - u. FBI agents (Yes/No)
 - v. The “federal government” in general (Yes/No)

If you answered “yes” to the questions above, please describe your opinions and explain why they would interfere with your ability to be a fair and impartial juror.

Other Questions

- (11) One or more government witnesses may testify that they participated in crimes. The witness may be testifying pursuant to a grant of immunity from prosecution or an agreement with the government. Use of such witnesses is lawful. As a juror, you will assess the credibility of each witness. Is there any reason why you could not fairly and impartially consider, or render a guilty verdict based on, the testimony of (1) a witness who was granted immunity from prosecution or (2) a witness testifying pursuant to an agreement with the government?
- (12) 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. The Judge will instruct you that any evidence that is presented to you at trial was obtained legally and you can consider it. Is there any reason why you could not follow this instruction?
- (13) In what ways, if any, could your political views, or those of your spouse, affect your service as a juror in this case?

(14) If you are selected as a juror in this case, the judge will instruct you to avoid all media coverage, including radio, television, podcasts, and social media, and not to use the internet with regard to this case for any purpose. That is, you will be forbidden from reading newspaper articles about this case, listening to radio and podcast stories about this case, watching TV news about this case, googling this case, blogging or tweeting about this case, or reading or posting comments about this case on any social media sites. Do you have any reservations or concerns about your ability or willingness to follow this instruction?

(15) Jurors are the sole judges of the facts. However, the jury must follow the principles of law as instructed by the judge. The jury may not follow some rules of law and ignore others. Even if the jury disagrees or dislikes the rules of law or does not understand the reasons for some of the rules, it is their duty to follow them. Do you have any personal beliefs that would make it difficult to follow the Court's legal instructions, whatever they may be?

C. Defendant's Additional Proposed Voir Dire Question

The defendant separately requests the voir dire question listed below. The government does not object to this question:

(1) Do you disagree with the principles of law that (i) the defendant is presumed to be innocent, (ii) has the right to remain silent, (iii) has no burden to establish his innocence, and (iv) the government has the burden of proving its case beyond a reasonable doubt?

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
DC Bar No. 481052

By: /s/ Risa Berkower
Jeffrey S. Nestler
Assistant United States Attorney
D.C. Bar No. 978296
Risa Berkower
Assistant United States Attorney
NY Bar No. 4536538
U.S. Attorney's Office for the District of Columbia
555 4th Street, N.W.
Washington, D.C. 20530
Phone: 202-252-7277
Email: Jeffrey.Nestler@usdoj.gov