

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

DAVID JOHN LESPERANCE, CASEY
CUSICK, AND JAMES VARNELL
CUSICK, JR.,

Defendants.

No. 1:21-cr-575 (JDB)

STATEMENT OF THE CASE

In this criminal case the government has charged the defendants, David John Lesperance, Casey Cusick, and James Varnell Cusick, Jr., with entering and remaining in a restricted building or grounds; disorderly and disruptive conduct in a restricted building or grounds; disorderly conduct in a Capitol building; and parading, demonstrating, or picketing in a Capitol building. Each defendant has pleaded not guilty to these charges.

PROPOSED VOIR DIRE

Knowledge of Participants in the Case

1. I am Judge Bates, and I will be the presiding judge in the case. Assisting me are **TIM BRADLEY**, the courtroom deputy; [], the court reporter, who makes a stenographic record of the proceedings; and [], one of my law clerks. Do you know any of these individuals?
2. The United States is represented in this case by Trial Attorneys **FRANCESCO VALENTINI** and **SONIA MURPHY**, and they are being assisted by paralegals **TAMICA MEADOWS** and **JOSPEHINE ROBERTS**, all of whom work with the United States Attorney's Office here in Washington, D.C. Also at counsel table are FBI Special Agent **WALTER GIARDINA** and FBI Task Force Officers **KRIS MIYASATO** and **JOSHUA STRAIT**. PLEASE STAND. Do you know or think that you recognize any of these individuals?
3. The defendants are represented in this case by **JOHN PIERCE**, assisted by paralegal **EMILY LAMBERT**. PLEASE STAND. Do you know or think that you recognize **DAVID JOHN LESPERANCE, CASEY CUSICK, JAMES VARNELL CUSICK, JR., JOHN PIERCE**, or **EMILY LAMBERT**?
4. The government will call several witnesses to testify during the trial. The defense may also call witnesses, but it is not required to do so. The government will now read a list of names of witnesses who you may hear from or about during the trial. Not all of them will necessarily

testify as witnesses, but they are being introduced to determine whether any of you know the potential witnesses in this case. If you know any of these individuals, please mark this question in your notepad.

5. Defense counsel will now read a list of names of potential witnesses they may call during the trial. As with the government, not all these individuals will necessarily testify as witnesses. They are being introduced to determine whether any of you know the potential witnesses in the case. If you know any of these individuals, please mark this question in your notepad.
6. Please look around you. Do you know or have a pre-existing relationship with any other member of the prospective jury panel, or any other person in the courtroom?

Presumption of Innocence, Burden of Proof, and Reasonable Doubt

7. Each defendant in this case, like all defendants in all criminal trials, is presumed innocent unless and until the government proves his guilt beyond a reasonable doubt. This presumption continues throughout the trial. Would you have any difficulty following this requirement of the law?
8. The burden of proof in a criminal case is on the government. The defendants in this case do not need to produce any evidence whatsoever to prove that they are innocent of the charges. The law also does not require that a criminal defendant offer any evidence or take the stand and testify on his own behalf because the burden is on the government. Would you have any difficulty accepting and applying these requirements of the law?
9. If after you have heard all the evidence, you find that the government has proved beyond a reasonable doubt every element of an offense charged in this case, it is your duty to find the defendant guilty of that offense. On the other hand, if you find that the government has failed to prove beyond a reasonable doubt any element of an offense charged in this case, you must find the defendant not guilty of that offense. Would you be reluctant or unable to carry out this duty?

Familiarity with Prosecution, Defense, Police Work, Jury Service, etc.

10. Have you, an immediate family member, or close friend ever studied law or had any legal training, including paralegal training?
11. Have you, an immediate family member, or close friend ever been involved, as a lawyer or otherwise, in the prosecution or defense of a criminal case?
12. Have you ever served on a grand jury?
13. Have you ever served on a jury in a criminal or civil trial in either federal or state court?

14. Have you formed specific opinions concerning defense attorneys, prosecutors, law enforcement officers, or accused persons that would affect you in deciding this case?
15. Have you, an immediate family member, or a close friend previously been called for jury service for a trial related to the events at the United States Capitol on January 6, 2021?
16. Have you, an immediate family member, or a close friend ever worked in any capacity for the United States Capitol Police, the Metropolitan Police Department, or the United States Secret Service?
17. Have you, an immediate family member, or a close friend ever worked in any capacity for any other law enforcement agency? Law enforcement agencies include, for example, the United States Park Police, the Federal Bureau of Investigation (FBI), the U.S. Marshal Service, the Department of Homeland Security, the Drug Enforcement Administration, the Department of Justice, or any other federal, state, or local law enforcement agency. If the answer is yes, please mark this question in your notepad.
18. Have you ever filed a complaint against a police officer or anyone in law enforcement?
19. Have you, an immediate family member, or a close friend had any experience with a law enforcement agency, the government, or a court which would make it difficult for you to be a fair and impartial juror in this case?
20. Do you believe that the testimony of a law enforcement officer is more or less likely to be truthful simply because that witness is a law enforcement officer?
21. In this case, you may hear evidence that one of the defendants works as a pastor at a church. Would the fact that one of the defendants works as a pastor at a church make it difficult for you to be a fair and impartial juror in this case?
22. Do you believe that the testimony of someone who works as a pastor at a church is more or less likely to be truthful simply because that witness is a pastor at a church?
23. Have you, an immediate family member, or a close friend ever been the victim of, a witness to, arrested for, or charged with a criminal offense, excluding traffic offenses?

Nature of the Charges

24. A few moments ago, you heard a brief summary of the charges against the defendants—that is, that they were involved in the events at the Capitol on January 6, 2021 and that they are charged with entering and remaining in a restricted building or grounds; disorderly and disruptive conduct in a restricted building or grounds; disorderly conduct in a Capitol building; and parading, demonstrating, or picketing in a Capitol building. Is there anything about the nature of these charges or any experience that you, an immediate family member, or close friend may have had that would affect your ability to be a fair and impartial juror in this case?

25. During the course of this trial, you will hear about the events at the United States Capitol on January 6, 2021. Do you, any immediate family member, or close friend live, work near, or have any special familiarity with the immediate area of the United States Capitol?
26. Were you, an immediate family member, or close friend present at the United States Capitol on January 6, 2021?
27. Did you watch live news coverage of the events at the United States Capitol on January 6, 2021 or have you since watched videos or news coverage of what happened that day?
28. Have you, an immediate family member, or close friend been employed by or had any association with the House of Representatives Select Committee to investigate the January 6, 2021 events at the United States Capitol?
29. Have you watched TV coverage or videos of any congressional hearing related to the events of January 6, 2021?
30. Do you have such strong feelings or opinions about the events that took place at the United States Capitol on January 6 that would make it difficult for you to serve as a fair and impartial juror in this case?
31. Do you have such strong feelings of opinions about the people who believe that the 2020 presidential election was stolen that would make it difficult for you to serve as a fair and impartial juror?
32. You are to decide this case based only on the evidence presented in court and not based on anything that you may have learned about it from outside sources such as the news or social media. Would you have difficulty putting aside what you may have already learned about the events of January 6 and any opinions you may have already formed about people charged with criminal conduct in relation to those events when considering the evidence in this case?
33. Have you watched video of any of these defendants – Mr. Lesperance, Mr. Casey Cusick, and Mr. James Varnell Cusick – relating to January 6, 2021, on the news, on the internet, or any other way?
34. Have you read any articles regarding these defendants – Mr. Lesperance, Mr. Casey Cusick, and Mr. James Varnell Cusick – relating to January 6, 2021, in the news, on the internet, or any other way?
35. Is there any reason why you may be prejudiced for or against the government, for or against a witness, or for or against any of the defendants because of the nature of the charges or otherwise?
36. If you are selected as a juror in this case, I will instruct you to avoid and not seek out any media coverage about this case; about the defendants; or about any hearings held by the House Select Committee concerning events at the United States Capitol on January 6, 2021, including radio, television, podcast, social media, and the internet. I will instruct you not to Google or search for

information about any of the defendants. Would you have any difficulty following this instruction?

Medical Problem / Hardship / Catch-all

37. Do you feel so uncomfortable being in a room with other jurors and trial participants, due to the COVID-19 pandemic, that it would be difficult for you to pay attention or otherwise to serve as a juror in this case?
38. The lawyers have predicted that the presentation of evidence in this trial should last about four days. The jury will sit Monday through Friday, generally from 9:30 a.m. to 5 p.m., although the starting and ending times may vary. The length of jury deliberations following the presentation of evidence at trial will be determined by the jury itself. Do you have an urgent or extremely important matter to attend to this week and next, such that you could be faced with a hardship if selected to serve on the jury in this case?
39. 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?
40. Do you have any vision, language, or hearing problems, or any other physical or medical problems, that might interfere with your ability to hear or understand what the witnesses say in this case, to view exhibits and photographs, or to give your full attention to this case?
41. Do you have any moral, religious, or ethical beliefs that prevent you from sitting in judgment of another person?
42. The law requires that the jurors weigh the evidence in a case and determine the guilt or innocence of the defendant solely upon the basis of the evidence, without any consideration of the matter of punishment and without prejudice, fear, sympathy, or favoritism. Do you believe that you would have difficulty following this instruction?
43. Do you know of any reason, or has anything occurred to you during this questioning, that might in any way prevent you from following my instructions on the law and being completely fair and impartial as a juror in this case?