

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

TIMOTHY LOUIS HALE-CUSANELLI

Defendant.

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Case No: 21-CR-7 (TNM)

JOINT PROPOSED VOIR DIRE

Pursuant to the Court's December 3, 2021, Pre-Trial Scheduling Order, the parties submit the following joint proposed voir dire.

I. Preliminary Questions (Jointly Proposed)

1. This is a criminal case entitled *United States v. Timothy Hale-Cusanelli*. The Defendant is charged with the offenses of Obstruction of Justice of an Official Proceeding and Aiding and Abetting; 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. He was arrested in connection with the events that occurred at the U.S. Capitol on January 6, 2021. Do you know or have you heard anything about this case?

2. The Government in this case is represented by Trial Attorney Kathryn Fifield and AUSA Karen Seifert. The Defendant is represented by Jonathan Crisp. The Defendant is Timothy Hale-Cusanelli, formerly a resident of Colts Neck, New Jersey. Do you know any of these people?

3. [Each side will introduce its witnesses by name, general area of residence, and employment.] Do you know any of the witnesses who have been introduced to you?

[The next three questions relate to you, members of your immediate family, and close personal friends.]

4. Does anyone in that group now work for, or has anyone in that group ever worked for, any law-enforcement agency? This includes any police department in or outside the District, special police officers, prosecutors' offices such as the state's attorney or U.S. Attorney, Park Police, FBI, Dept. of Justice, Homeland Security, sheriffs' departments, Secret Service, or any other law-enforcement agency.

5. Has any member of that group ever gone to law school, worked as a lawyer, or worked in a law office?

6. 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?

7. Do any of you live or work in or near the U.S. Capitol?

8. I will be instructing the jury at the end of the trial that the testimony of a police officer should be treated the same as the testimony of any other witness and that the jury should not give either greater or lesser weight to the testimony of a witness simply because that witness is a police officer. Does anyone have such strong feelings about the police – either positive or negative – that would make it difficult for you to be a fair juror in the case?

9. Have any of you had an experience as a member of a grand jury or as a juror in a previous 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. Would serving as a juror in this case be an extreme hardship to anyone [discuss schedule]. Also, does anyone have a health or physical problem that would make it difficult to serve on this jury?

11. Is there is any other reason that would make it difficult for you to sit as a juror in this case? Perhaps you have a religious, moral, or philosophical reason that you believe would make it hard for you to be fair. In sum, is there some other reason that would make it difficult for you to sit as a fair, impartial, and attentive juror in this particular case?

II. Background Questions (Jointly Proposed)

1. 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?
 - e. How long have you been at this job?
 - f. What is your current role at work?
 - g. Does your role include supervisory duties?
 - h. What is your spouse's occupation?
 - i. Are you able to read, speak, and understand the English language?
 - j. Do you have any trouble seeing or hearing?
 - k. Do you have trouble paying attention for long periods of time?
 - l. Do you take medication that makes it difficult for you to sit and focus for long periods of time?
 - m. Does jury service raise COVID-19 safety concerns for you?

- n. Do you hold religious beliefs that prevent you from passing judgment on others?
2. How do you get your news?
 - a. Newspapers
 - b. TV
 - c. Radio
 - d. Social media
 - e. Podcasts
 - f. A different way?
3. Do you use social media? If yes, what platform(s) do you use, and what do you use them for?
4. Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?
 - a. If the answer is yes, please indicate who brought the lawsuit, what it was about, and the result of the lawsuit.
5. Do you have any opinions concerning the following which would affect your ability to be a fair and impartial juror?
 - a. Criminal prosecutors
 - b. Criminal defense attorneys
 - c. Police officers
 - d. FBI agents
 - e. The “federal government” in general

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

III. January 6, 2021- Specific Questions (Jointly Proposed Except Questions 5 and 6)

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?

Questions 5 and 6 are proposed by Defendant and objected to by the government:

5. Do you think it is possible that someone who entered the Capitol on January 6th, 2021, did not know the Electoral College count was occurring in the Capitol?

6. Do you think it is possible that someone went to the Capitol on January 6th, 2021 only because President Donald Trump instructed them to do so?

IV. Evidentiary Questions (Proposed by Defendant and Objected to by the Government)

1. Do you think someone who impersonates Adolf Hitler, satirical or otherwise, is a person who would want to overthrow the government?

2. Do you think someone who is a white supremacist wants to overthrow the government?

3. Do you think a Nazi sympathizer wants to overthrow the government?

4. Do you think a person can express distrust with the government without wanting to overthrow it?

5. Do you think someone can express a political belief without taking any action in line with that belief?

6. Would you agree that most people, when visiting a friend of great importance to them at an address to which the visiting person has never been, are going to get directions to the actual location of their friend's house and not just the city or general neighborhood?

7. Once that person has those directions, would you agree that the person would go directly to their friend's house and not wander around their neighborhood?

V. Other Questions (Jointly Proposed)

1. 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?

2. 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?

3. The government bears the burden of proving the defendant guilty beyond a reasonable

doubt, and he is presumed innocent unless and until the government meets that burden. This burden of proof never shifts to the defendant, and he has no obligation to offer his own evidence. Would you have any difficulty or hesitation with respecting this allocation of the burden of proof?

4. A defendant has a constitutional right not to testify, and if Mr. Hale-Cusanelli 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?

5. 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?