

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

UNITED STATES OF AMERICA            )  
  )  
  )            Case No. 1:21-cr-00263-TSC  
  )  
RUSSELL DEAN ALFORD                )

**DEFENDANT’S NOTICE OF PROPOSED JURY QUESTIONNAIRE  
AND GOVERNMENT OBJECTIONS**

The Defendant, Russell Dean Alford, hereby submits a proposed questionnaire for the Court’s review, modification as appropriate, and approval. The Court previously granted Mr. Alford’s request for expanded examination of prospective jurors, including a questionnaire. Doc. 46 at 15.<sup>1</sup> In doing so, the Court agreed that many prospective jurors “may . . . hold impressions and opinions about [January 6, 2021]’s events,” and that expanded examination could help the parties and Court to discern “[w]hether those impressions and opinions amount to disqualifying bias or whether prospective jurors can set aside any impressions and opinions and view the evidence against Defendant with an objective and open mind,” *id.* at 14.

The Court also directed the parties to “meet and confer . . . regarding the [defense’s proposed] questionnaire before submitting it for court approval,” with the defense thereafter to “submit[] the proposed questionnaire . . . [with] a joint filing identifying the disputed language and succinctly stating the parties’ respective

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<sup>1</sup> As used in this pleading, “Doc.” refers to numbered documents entered on the CM/ECF docket in this case.

positions.” Doc. 46 at 15. A subsequent scheduling order set deadlines. Doc. 48 at 3. The parties’ attorneys complied with those deadlines and have communicated by videoconference and email to try to resolve conflicts between their positions. Both parties also reviewed a copy of the Court’s form “Introduction and Voir Dire” document, which the Courtroom Deputy provided.

Although these good-faith discussions have been constructive and productive, the parties have been unable to agree in full on a proposed questionnaire. The attached exhibits attempt to succinctly inform the Court of the remaining disagreements. Exhibit 1 is the full questionnaire that the defense proposes, and it includes some questions that the government objects to. Exhibit 2 contains the same questions as Exhibit 1, but reorganizes them into groups according to the reasons for including each group in the questionnaire. (Although the questions are reorganized in Exhibit 2, they retain the same numbering as in Exhibit 1 for ease of cross-reference.) Those groups—also described in Exhibit 2—are as follows:

- Questions that neither party objects to.
- Questions that the government objects to but that the defense believes (1) are relevant to the purposes the Court identified in granting a questionnaire, *see* Doc. 46 at 15, and (2) are calculated to elicit information that could warrant a strike for cause.
- Questions that the government objects to but that the defense believes (1) are relevant to the purposes the Court identified in granting a questionnaire; (2) *are not* likely to elicit responses that would warrant a strike for cause; but (3) *are* appropriate questions likely to elicit responses that would inform the parties’ use of peremptory strikes; and (4) are proposed for inclusion in the questionnaire as a more-efficient alternative to asking these questions in person.

The defense has no objection to these questions’ removal from the questionnaire if the Court prefers to allow sufficient time to ask them in person.

Finally, Exhibit 3 is a document that the government prepared and asked the defense to file on its behalf. In the document, the government explains its objections. Some of the government's responses include proposed modifications to individual questions that would resolve the government's concerns.<sup>2</sup> Mr. Alford's counsel believes that prospective jurors are likely to self-censor probative answers if the question is limited only to matters that impact impartiality. Although impartiality is, of course, a critical consideration, Mr. Alford's counsel respectfully submits that questions of impartiality are best reserved for in-person follow-up. That said, counsel understands and respects that this Court must make the ultimate decision as to the most effective and efficient way to pose these questions.

Mr. Alford's counsel further recognizes that "[t]he court's broad discretion in jury selection 'includes deciding what questions to ask prospective jurors,' and that 'discretion does not vanish when a case garners public attention.'" Doc. 46 at 15 n.3 (quoting *United States v. Tsarnaev*, 142 S. Ct. 1024, 1034 (2022)). Counsel also understands that the Court might favor a different balance between the relative scope of the questionnaire and in-person voir dire than counsel has proposed. With this notice and the attached exhibits, counsel simply seeks to accomplish the objectives that the Court identified, *see id.* at 14–15, and to adhere as closely as practicable to the process the Court prescribed, *see* Doc. 48 at 3.

Respectfully submitted,  
KEVIN L. BUTLER  
Federal Public Defender  
Northern District of Alabama

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<sup>2</sup> *See* Ex. 3 at 12-13 (discussing proposed questions 23, 24, and 25).

**/s/ James T. Gibson**

JAMES T. GIBSON  
Assistant Federal Public Defender

**/s/ Tobie J. Smith**

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 8, 2022, I electronically filed the foregoing via this Court's CM/ECF system, which will send notice of such filing to all counsel of record.

Respectfully submitted,

**/s/ Tobie J. Smith**

TOBIE J. SMITH  
Research & Writing Attorney