

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

UNITED STATES OF AMERICA

v.

DEREK COOPER GUNBY,

Defendant.

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Case No. 21-cr-626 (PLF)

PROPOSED VOIR DIRE

The government proposes the following voir dire questions:

1. 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?
2. Are you currently caring for a relative or close friend, who has been infected by, or exposed to persons infected with, COVID-19, such that it would be difficult for you to pay attention or otherwise to serve as a juror in this case?
3. The United States is represented in this case by Assistant United States Attorney Kyle McWaters and Trial Attorney Shanai Watson, and they are being assisted by Assistant United States Attorney Samuel White and paralegal Fanny Vandy, all of whom work at the U.S. Department of Justice. Could you each PLEASE STAND. Do you know or have you had any contact with these individuals?
4. The defendant at trial is Derek Cooper Gunby. PLEASE STAND. Do you know or have you had any contact with Derek Gunby?
5. Derek Gunby is represented in this case by counsel, John M. Pierce. PLEASE STAND. Do you know or have you had any contact with John M. Pierce?
6. During the course of the trial, you may hear testimony from or about a number of people. The attorneys will now identify for you the names of people who may testify or about whom you may hear testimony. Listen carefully and, if you recognize or know any of the people named, please mark your paper beside the number 6. The Government's counsel may go first, and then defense counsel may list any additional names.
7. Please look around you. Do you know or recognize any other member of the prospective jury panel, the courtroom staff or me?
8. The lawyers have predicted that the presentation of evidence in this trial should last about **three days**, but it could run shorter or longer. 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?

9. 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?
10. Do you have any moral, religious, or ethical beliefs that prevent you from sitting in judgment of another person?
11. Have you, any member of your family or close friend ever studied law or been employed by a lawyer or a law firm, worked in a courthouse, as a paralegal or legal secretary, or performed legal investigative work?
12. Have you, any member of your family or close friend ever been employed by any local, state, or federal law enforcement agency or a private security company? Law enforcement agencies include for example, the Metropolitan Police Department, the U.S. Marshals Service, or the Federal Bureau of Investigation (FBI).
13. Have you, any member of your family or close friend had any experiences with any law enforcement agency or the government that might cause you to favor or disfavor the government or law enforcement?
14. If you ever served before as a juror at a civil or criminal trial, or on a grand jury, was there anything about your service that might affect your ability to serve fairly and impartially as a juror at this trial?
15. Have you ever filed a complaint against a police officer or anyone in law enforcement?
16. Have you, any member of your family or close friend ever been the subject of a criminal investigation, been accused of criminal conduct, been arrested or convicted of a crime, been a victim of a crime, been a witness to a crime, testified in court or before a grand jury as a witness to a crime, or been required to appear in court for any reason?
17. Do you have any opinions about prosecutors or defense attorneys that might affect your ability to serve fairly and impartially in this trial?
18. Do you, any member of your family or any close friend belong to a group or organization that is active in law enforcement or crime victim prevention matters? Some examples of such organizations include: Fraternal Order of Police, Crime Watch, Crime Stoppers, Orange Hats, or other organizations, including any groups on the Internet, which monitor or discuss neighborhood crime issues.
19. Do you believe that merely because a defendant has been arrested and charged with a crime that he is guilty of something?

20. In this case, law enforcement officers will be witnesses. Would you tend to believe or not believe the testimony of a law enforcement officer simply because he or she is a law enforcement officer? In other words, would you tend to give more or lesser weight to the testimony of a law enforcement officer than to the testimony of other witnesses?
21. The prosecution has the burden of proof. This means that the jury cannot return a guilty verdict against a defendant unless the prosecution has proven beyond a reasonable doubt that the defendant is guilty of the crime charged. Would you have any difficulty accepting and applying this legal instruction?
22. The defendant in this case, just as every defendant in a criminal trial, is presumed innocent and, therefore, has no obligation to testify or present any evidence in the case. Would you have any difficulty accepting and applying this legal instruction?
23. 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?
24. This case involves evidence recovered during the execution of a court-approved search warrant. Do you have such strong feelings about the execution of court-approved search warrants that would make it difficult for you to be fair and judge this case on the evidence presented in court?
25. 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?

January 6, 2021- Specific Questions

26. During the course of this trial, you will hear about the events at the United States Capitol on January 6, 2021. Do you, any member of your family or close friend live, work near, or have any special familiarity with the immediate area of the United States Capitol?
27. Have you watched video of what happened at the U.S. Capitol on January 6, 2021, on the news or on the Internet?
 - a. Approximately how many times have you seen video or news programs depicting these events?
 - b. From what source—that is, what news program, website, or social media platform—did you view those videos?
28. Do you or someone you know have any direct or indirect connection to events at the U.S. Capitol on January 6, 2021?
29. Have you been following the investigation of the events of January 6, 2021, at the United States Capitol in the news media or on the internet?

30. 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?

Background Questions

31. [The following individual questions would be asked separately of each juror.] Please provide the following information:

- a. How long have you lived in the District of Columbia?
- 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 the highest level of school you completed?
- e. 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?
- f. If you are married, what is your spouse's occupation?
- g. Have you served on a jury before? If so:
 - i. Was it a criminal 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?
- h. Have you been a party to a lawsuit or a witness who testified in court? If so:
 - i. What was the nature of the lawsuit?
 - ii. What was your role in the case?
 - iii. What was the result?
- i. What social media platforms do you use, how often do you use them, and what do you use them for?
- j. What source or sources do you rely on to get your news?