

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

**UNITED STATES OF AMERICA** :  
 :  
 v. : **Crim. No. 21-cr-642 (JDB)**  
 :  
**DARRELL NEELY,** :  
 :  
 **Defendant.** :

**GOVERNMENT’S PROPOSED VOIR DIRE**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully requests that the Court read the following narrative and ask the following proposed voir dire questions during jury selection on May 22, 2023. The government also respectfully requests permission to ask follow-up questions of individual prospective jurors as outlined below.

**A. Narrative of the Case**

This is a criminal case entitled *United States v. Darrell Neely*. It arises out of the events at the U.S. Capitol on January 6, 2021. At that time, Mr. Neely resided in Washington, DC. The government has alleged that Mr. Neely committed six crimes relating to Congress’s meeting at the United States Capitol on January 6, 2021, to certify the Electoral College vote for president. First, he is charged with civil disorder or aiding and abetting others in committing civil disorder. Second, he is charged with theft of government property, specifically, a U.S. Capitol police patch, badge, name tag, and baseball hat. Third, he is charged with entering or remaining in a restricted building or grounds. Fourth, he is charged with disorderly or disruptive conduct in a restricted building or grounds. Fifth, he is charged with disorderly conduct in a Capitol Building. And sixth, he is charged with parading, demonstrating, or picketing in a Capitol Building. Mr. Neely has pleaded not guilty to these charges.

**B. Questions addressed to the full venire:**

The government proposes that the Court address the following questions to the full venire, and ask each juror to mark any “yes” answers on an index card, so that follow-up to those questions can be conducted during individual voir dire.

**Knowledge of Participants in the Case**

1. Do you know or recognize any other member of the courtroom staff or me?
2. The Government in this case is represented by Assistant United States Attorneys Michael Barclay and Kyle Mirabelli, who will be accompanied by paralegal Marcus Bennett and FBI Special Agent James Moran. Do you know or have you had contact with any of these individuals?
3. Mr. Neely is represented by Attorney Kira West, who will be accompanied by Nicole Cabbage. Mr. Neely has resided in the Washington, DC area and in Greensboro, North Carolina. Do you know or have you had contact with any of these individuals?
4. During the course of the trial, you may hear testimony from or about a number of people. The attorneys for the government will now identify for you the names of people who may testify or about whom you may hear testimony. Not all these individuals will necessarily testify as witnesses, but they are being introduced to determine whether any of you know any of the prospective witnesses in this case. Do you know any of these witnesses?
5. The defense will now read a list of names who you may hear from or about during trial. As with the government’s list, not all these individuals will necessarily testify as witnesses. The defense is not required to call any witnesses, but they are being introduced just to determine whether any of you know any of the prospective witnesses in the case.

**Presumption of Innocence, Burden of Proof, and Reasonable Doubt**

6. 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?
7. 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 each of the charged crimes. The law does not require that a defendant offer any evidence or testify on his own behalf. Would you have any difficulty accepting and applying this legal instruction?
8. If after you have heard all the evidence, you find that the government has proven beyond a reasonable doubt every element of a charged offense, 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 any element of a charged offense beyond a reasonable doubt, 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/Law Enforcement/Jury Service**

9. Have you, a family member, or a close friend ever gone to law school, worked as a lawyer, or worked in a law office?
10. Have you, a family member, or a close friend ever been involved as a lawyer or otherwise in the prosecution or defense of a criminal case?
11. Have you ever served on a grand jury?
12. Have you ever served on a jury in a civil or criminal case in either state or federal court?
13. Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?

14. 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. FBI agents
  - d. The “federal government” in general
  - e. Military service
  - f. Law-enforcement?
  - g. A defendant accused in a criminal case?
15. Have you, a member of your family, or a close friend ever worked for the Capitol Police, the Metropolitan Police Department, the Secret Service, the Federal Bureau of Investigation, or the police department of Greensboro, North Carolina?
16. Have you, a member of your family, or a close friend ever worked in any capacity for any other type of law enforcement agency? This includes any police department in or outside the District of Columbia, special police officers, prosecutors’ offices such as the state’s attorney or U.S. Attorney, Park Police, Department of Justice, Homeland Security, sheriffs’ departments, or any other federal, or state, or local law enforcement agency?
17. Do you, a family member, or a close friend have an application for employment pending with any law enforcement agency?
18. Have you, a family member, or a close friend had an experience with a law enforcement agency or with any person associated with or employed by the United States Attorney’s Office, the Department of Justice, or the court which would make it difficult for you to be a fair and impartial juror in this case?

19. I will be instructing you at the end of the trial that the testimony of a law enforcement 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 law enforcement officer. Does anyone have such strong feelings about law enforcement—either positive or negative – that would make it difficult for you to follow that instruction?
20. Have you, a family member, or a close friend ever been arrested for, convicted of, or charged with a crime or been a victim of or witness to a crime, excluding traffic offenses?
21. Have you, a family member, or a close friend belonged in the past five years to any group or organization that is active in law enforcement, crime prevention, or victim support or advocacy? That could include Crime Watch, Crime Stoppers, Orange Hats, neighborhood watch groups, the Fraternal Order of Police, or other groups relating to crime or crime victims.

**Nature of Case**

22. Do you, a family member, or close friend live or work at or near the U.S. Capitol?
23. Were you, a family member, or close friend, present at or near the U.S. Capitol on January 6, 2021?
24. Were you, any members of your family, or any close friends directly affected by the events at the U.S. Capitol on January 6?
25. Did any of you watch the events at the U.S. Capitol on live TV at that time?
26. Have you ever watched video of what happened at the U.S. Capitol on January 6, 2021, on the news, on the Internet, or in any other way?
27. Have you been following the investigation of the events of January 6, 2021, at the U.S. Capitol in the news media or on the internet?

28. Have you, any family member, or close friend been employed or had any association with the “January 6” committee in the House of Representatives?
29. Have you watched any portion of the TV coverage of hearings by the “January 6” committee in the House of Representatives?
30. Have you formed any opinion about the guilt or innocence of individuals who have been charged with criminal offenses for their participation in the events at the U.S. Capitol on January 6?
31. You are to decide this case based only on the evidence presented in court and not based on anything you may have learned about it from outside sources such as the news or social media. Can you put 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?
32. Do you have strong feelings or opinions about the events that took place at the U.S. Capitol on January 6 that would make it difficult for you to serve as a fair and impartial juror in this case?
33. Do you have an opinion about people who believe that the 2020 presidential election was stolen, that would make it hard for you to serve as a fair and impartial juror in a case where the defendant is such person?
34. Do you have an opinion about people who strongly support President Donald Trump that would make it hard for you to serve as a fair and impartial juror in a case where the defendant is such person?
35. Have you ever watched video of this defendant, Mr. Neely, relating to January 6, 2021, on the news, on the Internet, or in any other way?

36. Have you read any articles regarding this defendant, Mr. Neely, relating to January 6, 2021, on the internet, social media platforms, or in any other way?
37. Are you aware of, or do you know anyone who works for, the Global Enlightenment Radio Network or “GERN”?
38. Based on what you have seen or heard, if anything, about Mr. Neely, relating to January 6, 2021, have you formed any opinions about Mr. Neely’s guilt or innocence?
39. Do you know of any reason why you may be prejudiced for or against the government, for or against any witness, or for or against the defendant because of the nature of the charges or otherwise?

**Hardships and Other Beliefs**

40. Do you hold any moral, social, political, philosophical, religious, or any other beliefs that would interfere with your ability to assess the facts and return a fair and impartial verdict based solely upon the evidence?
41. Would you have any difficulty expressing your own opinions and thoughts about this case to your fellow jurors?
42. Do you have a health or physical problem that would make it difficult to serve on this jury?
43. Are you able to read, speak, and understand the English language?
44. Do you have any trouble seeing or hearing?
45. Do you have trouble paying attention for long periods of time?
46. Do you take medication or suffer from any physical pain that makes it difficult for you to sit and focus for long periods of time?
47. Does jury service raise COVID-19 safety concerns for you?
48. Do you presently care for someone who has COVID-19 or who is recovering from COVID-19?

49. Do you get your news from any of the following sources:

- a. Newspapers
- b. TV
- c. Radio
- d. Social media
- e. Podcasts
- f. Internet searches

50. Do you use social media?

51. If you are selected as a juror in this case, I 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 or any of its participants, 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?

52. The law requires that the jurors weigh the evidence in the 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. you believe that you would have any difficulty following this instruction?

53. Jurors are the sole judges of the facts. However, the jury must follow the principles of law as instructed by me. 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 my legal instructions, whatever they may be?

54. Let me tell you the likely schedule. Today is Monday, May 22. Following the completion of jury selection, you may hear evidence in the case every day this week, from 9:30 am to 5:00 pm each day, with a lunch break from approximately 12:30 pm to 1:45 pm each day. You will likely begin deliberating before the end of next week. Once you begin deliberating, I do not know how long your deliberations will last. But you will not meet past 5:00 pm, and you will not meet on weekends. Knowing this schedule, would serving as a juror in this case be an extreme hardship to you?

55. My final question is a “catch-all question.” This asks whether there is any other reason that I haven’t asked about that might make it difficult for you to sit fairly, impartially, and attentively as a juror. Is there some other reason that would make it difficult for you to sit as a fair and impartial juror in this case?

**C. Individual Voir Dire by the Court**

After the Court reads the above questions to the full venire, the government respectfully request that the Court conduct individual voir dire, both to follow up on any “yes” answers each juror gave to those questions, and to obtain a limited amount of background information about the juror. The government requests that the Court generally follow up on “yes” responses to the above questions, including but not limited to the follow-up questions listed below. The government also respectfully requests that the Court ask the following background questions of each juror during individual voir dire:

Background questions

1. What is the highest level of school you completed?

2. What is your marital status?
3. Do you have children or step-children? If so, how many, and what are their ages?
4. What is your current occupation?
5. How long have you been at this job?
6. What is your current role at work?
7. Does your role include supervisory duties?
8. If you have a partner, what is their occupation?
9. How long have you lived in the District of Columbia?

Specific Follow-up Questions:

1. To follow up on question 11 and 12 above, “Have you ever served on a grand jury?” and “Have you ever served on a jury in a civil or criminal case in either state or federal court?”
  - a. If you served on a trial jury, was it a criminal case or a civil case?
  - b. Did you reach a verdict?
  - c. Was there anything about your experience as a juror which would make you not want to serve again?
2. To follow upon question 13, “Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?”
  - a. Please indicate who brought the lawsuit, what it was about, and the result of the lawsuit?
  - b. Was there anything about your that experience that would interfere with your ability to be a fair and impartial juror?
3. To follow up on question 14, “Do you have any opinions concerning the following which would affect your ability to be a fair and impartial juror...”

- a. Please describe your opinions and explain why they would interfere with your ability to be a fair and impartial juror.
4. To follow up on question 20 above, “Have you, a family member, or a close friend ever been arrested for, convicted of, or charged with a crime or been a victim of or witness to a crime, excluding traffic offenses”?
  - a. If so, did you feel that you, or your family member or close friend, were treated fairly?
  - b. Why or why not?
5. To follow up on question 26 above, “Have you ever watched video of what happened at the U.S. Capitol on January 6, 2021, on the news, on the Internet, or in any other way?”:
  - a. How many times have you seen videos of that event, in whole or in part, on TV or on the internet, or other source? (1 time, 2-3 times, 4-5 times, 6 or more times)
6. To follow up on question 27 above “Have you been following the investigation of the events of January 6, 2021, at the U.S. Capitol in the news media or on the internet?”
  - a. Please describe how closely you have been following the investigation of the events of January 6, 2021.
  - b. Can you set aside what you have learned about January 6, 2021, from the news media or on the internet and judge this case only on the evidence presented in this courtroom?
7. To follow up on question 35 above, “Have you ever watched video of this defendant, Mr. Neely, relating to January 6, 2021, on the news, on the Internet, or in any other way?”
  - a. 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)

8. To follow up on question 36 above, “Have you read any articles regarding this defendant, Mr. Neely, relating to January 6, 2021, on the internet, social media platforms, or in any other way?”
  - a. What website or social media platforms did you read the article from?
9. To follow up on question 49 above, “Do you get your news from any of the following sources: Newspapers? TV? Radio? Social media? Podcasts? Internet Searches?”
  - a. What is the name of the [newspaper, TV, radio station/program, social media platform/podcast] from which you get your news?
10. To follow up on question 50, “Do you use social media?”:
  - a. What platform(s) do you use?
  - b. What do you use them for?

**D. Attorney Conducted Follow-Up Questions**

The government respectfully requests that, following the Court’s individual voir dire, each party be permitted to ask additional follow-up questions of the prospective jurors.

Respectfully submitted,

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