

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : CASE NO. 22-CR-074 (JMC)
 :
 MICHAEL GIANOS, :
 :
 Defendant. :

GOVERNMENT’S PROPOSED VOIR DIRE

A. Questions addressed to the full venire:

The parties propose 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:

1. Having now heard a brief description of the case, do you know or have you heard anything about this case?
2. The United States is represented in this case by Assistant U.S. Attorneys Eric Boylan and Craig Estes, who will be accompanied by paralegal [TBD] and FBI Special Agent [TBD]. The defendant is Michael Gianos, and the attorneys representing him are John Pierce and [TBD]. Do you know any of these individuals?
3. The government will call a number of witnesses to testify during the trial. The defense may also call witnesses but is not required to. One of the Assistant U.S. Attorneys will now read a list of names of witnesses who you may hear from or about during trial. Not all of 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 the people just announced?

4. Mr. Pierce will now read a list of names of witnesses who you may hear from or about during trial. As with the government's list, 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 the people just announced?
5. Do you know any other member of the jury panel or any other person in the courtroom?
 - a. If so, would that affect your ability to decide the case for yourself based on your individual judgment?

Presumption of Innocence, Burden of Proof, and Reasonable Doubt

6. Mr. Gianos—like all defendants—is presumed innocent unless and until the government proves his guilt beyond a reasonable doubt. This presumption continues throughout the trial. Would you be unable to follow this requirement of the law?
7. The burden of proof in a criminal case is on the government. Mr. Gianos does not need to produce any evidence whatsoever to prove that he is innocent of these charges. The law does not require that a defendant offer any evidence or take the stand and testify on his own behalf because the burden is on the government. If you are selected, will you have any difficulty applying this rule of law?
8. The defendant has been charged with this offense by way of an information. An information is not evidence; it is merely the formal manner of informing the accused of the charges against him. Does the fact that there exists an information charging the defendant make it difficult for you to presume the innocence of Mr. Gianos—does the mere fact that he has been charged with a crime lead you to conclude that he is guilty of the crime?

9. If after you have heard all the evidence, you find that the government has proven beyond a reasonable doubt every element of the offense, it is your duty to find the defendant guilty. On the other hand, if you find that the government has failed to prove any element of the offense beyond a reasonable doubt, you must find the defendant not guilty. Would you be reluctant or unable to carry out this duty?

Presumption of Innocence, Burden of Proof, and Reasonable Doubt

10. Have you, a family member, or a close friend ever studied law or had any legal training, including paralegal training, or worked in a law office?
11. 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?
12. Have you ever served on a Grand Jury?
- a. If so, was there anything about that experience that would make it difficult for you to serve in this case?
 - b. Do you understand that the burden of proof for conviction at trial is different from the burden of proof required to indict?
 - c. Do you understand that the burden of proof before the grand jury is one of probable cause, whereas at trial the government must prove the essential elements of the charges beyond a reasonable doubt?
 - d. Would you have any difficulty applying the correct standard as I define it for you at the close of the case?
13. Have you ever served on a jury in a civil or criminal trial in either state or federal court?

- a. If so, was there anything about that experience that makes you feel you would have trouble being fair and impartial or that would make it difficult for you to serve in the case?

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 ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?

General Experience with Law Enforcement/Crime

16. Have you, a family member, or a close friend ever worked in any capacity for the Capitol Police, the Metropolitan Police Department, or the Secret Service?

- a. If so, were they working on January 6, 2021, at the U.S. Capitol?

17. Have you, a family member, or a close friend ever worked in any capacity for any other type of law enforcement agency? This would include the U.S. Park Police, Federal Bureau of Investigation, Department of Homeland Security, Drug Enforcement Administration, Federal Protective Services, Postal Inspectors, correctional officers, Department of Justice, U.S. Marshals Service, Military Police, the Internal Revenue Service, the Bureau of Immigration and Customs Enforcement, or any other federal, state, or local law enforcement agency.

18. Do you, a family member, or a close friend have an application for employment pending with any law enforcement agency?

19. 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?
20. Do you believe that the testimony of a law enforcement officers (this includes members of any law enforcement agency) is more, or less, likely to be truthful simply because that witness is a law enforcement officer?
21. Have you, a 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)?
- a. If so, what type of crime? How was the case resolved? When was it resolved?
 - b. Were you satisfied with the way the case was handled by law enforcement, prosecutors, and/or the court?
 - c. Would that have any effect on your ability to be fair and impartial in evaluating this case or deliberating on a verdict?
22. 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? This might include Crime Watch, Crime Stoppers, Orange Hats, neighborhood watch groups, the Fraternal Order of Police, or other groups relating to crime or crime victims.
23. Have you, a family member, or a close friend served in the military?

Nature of the Charges

24. A few moments ago, you heard a brief summary about the charges in this case—that is, that Mr. Gianos was involved in the events at the Capitol on January 6, 2021. The specific offenses Mr. Gianos is charged with are: (1) entering and remaining in a restricted building or grounds; (2) disorderly and disruptive conduct in a restricted

- building or grounds; (3) disorderly conduct in a Capitol building; and (4) parading, demonstrating, or picketing in a Capitol building. Is there anything about the nature of those charges, or any experience that you or a 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 United States Capitol here in Washington, D.C. Do you, a member of your family, or a close friend live, work near, or have any special familiarity with the immediate area of the U.S. Capitol?
- a. If so, did you have concern for the safety of such person on January 6?
26. Were you, any member of your family, or close friend present at the U.S. Capitol on January 6, 2021?
27. Did you watch the events at the U.S. Capitol on live television at that time?
28. 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. A lot, quite a bit, some, not much, or none at all?
29. Have you learned information regarding an organization referred to as the Proud Boys in relation to the events of January 6, 2021?
- a. If so, do you have opinions about the Proud Boys, or individuals associated with the Proud Boys?
30. Have you, any family member, or close friend been employed or had any association with the House of Representative's "January 6" committee?
31. Have you watched the television coverage of the hearings by the House of Representative's "January 6" committee?

32. 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?
33. 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?
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. Do you believe the 2020 presidential election was stolen, corrupt, or fraudulent?
36. Do you have an opinion about people who believe 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 a person?
37. Do you think that because someone was present at the Capitol building on January 6, 2021, that they are guilty of criminal conduct?
38. Have you ever watched a video of this defendant, Mr. Gianos, relating to January 6, 2021, on the news, on the internet, or any other way?
39. Have you read any articles regarding this defendant, Mr. Gianos, relating to January 6, 2021, on the news, on the internet, or any other way?
40. Based on anything you have seen or heard about Mr. Gianos, relating to January 6, 2021, have you formed any opinion about his guilt or innocence?

41. 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?

Individual Judgment

42. Do you have 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?

43. Do you have strong opinions about criminal defendants, defense attorneys, prosecutors, law enforcement, or the “federal government” in general that would make it difficult for you to be a fair and impartial juror?

44. I will be instructing the jury 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 be a fair juror in the case?

45. 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. I will instruct you that any evidence that is presented to you at trial was obtained legally and you can consider it. Do you have concerns about your ability to follow this instruction?

46. 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?
47. 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?
48. To reach a verdict, every juror must agree on the verdict. That is, any verdict must be unanimous. In deliberations you are to consider the opinions and points of your fellow jurors. However, in the final analysis, you must follow your own conscience and be personally satisfied with any verdict. Would you have any difficulty expressing your own opinions and thoughts about this case to your fellow jurors?
49. Anyone who is selected to serve on this jury will take an oath to follow the law as instructed by this Court. Would you for any reason not be able to accept and follow the Court's instructions regarding the law?

Medical / Hardship / Catch-All

50. 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?
51. Does jury service raise COVID-19 safety concerns for you?
52. Are you able to read, speak, write, and understand the English language?
53. Do you have a hearing problem such that it would be difficult for you to hear tape recordings or witness testimony, or an eyesight problem that would make it difficult to view projections of photographs or documents, all of which may be presented as part of the evidence of this case?
54. Are you presently taking any medication which might cause drowsiness, or experiencing any other physical or mental conditions which might in any way affect your ability to give your full attention to this case?
55. Do you have trouble paying attention for long periods of time, or have any other physical or mental issues that would make it difficult for you to serve as a juror?
56. Do you hold religious beliefs that prevent you from passing judgment on others?
57. Do you think that your political views, or those of your partner, will affect your service as a juror in this case?
58. The presentation of evidence in this trial is expected to last approximately 3-4 days, but it could run shorter or longer; the length of deliberations is determined by the jury itself. The jury will generally sit from 9:30 a.m. to 5 p.m. each weekday, with a lunch break from approximately 12:30 to 1:45 p.m. each day. Do you have an urgent matter to attend to during the next week such that you could be faced with a severe hardship if selected for the jury in this case?

59. Do you know of any other reason, not already discussed, that might interfere with your ability to arrive at a fair and impartial verdict, or which causes you to feel you cannot sit as a juror in this case? This is the final, catch-all question.

B. Individual Voir Dire by the Court

After the Court reads the above questions to the full venire, the parties 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 parties request that the Court generally follow up on “yes” responses to the above questions. The parties also respectfully request 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?
 - i. If they are adults, what are their occupations?
4. 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?
5. If you have a partner, what is their occupation?
6. How long have you lived in the District of Columbia?

C. Attorney Conducted Follow-Up Questions

The parties 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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