

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF _____
_____ DIVISION**

UNITED STATES OF AMERICA,)
)
)
v.)
)
)
)
)
Defendants.)
)
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_____)

UNITED STATES OF AMERICA,)
)
)
v.)
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)
)
Defendant.)
)
)

ORDER

By:
United States District Judge

PROPOSED JURY VOIR DIRE SCRIPT

The court intends to make the following remarks and ask the following questions during jury voir dire in this case. The first section will be the remarks and questions to the full jury panel on the first day of jury selection. The second section will be the remarks and questions to the groups of 30 panel members on the days that such groups return. The final section will be to the individual panel members during sequestered voir dire. It is ORDERED that objections or suggestions as to these remarks and questions must be made by the parties no later than [DATE], unless good cause be shown.

I. FIRST DAY - LARGE GROUP.

Ladies and gentlemen, I want to welcome you here to federal court. My name is Judge _____, and I will be the judge in this case. You have been asked to come here as possible jurors in a criminal case. This criminal case is called United States versus _____, _____ and _____. Only 16 of you will actually serve on the case as jurors, but it is necessary that all of you are part of jury selection, in order that we can make sure that we have a fair and impartial jury to hear this case. The process of jury selection will last several days, but it will not be necessary for you all to be here for the entire time.

I want to thank you for your service, whether or not you are actually selected to serve on the jury. The jury is a vital institution in our society. Indeed, the founders of our country felt that the right of a person accused of crime to be tried by a jury representing average people in the community was so important that they put it our Constitution. So, jury service is one of the most important privileges and responsibilities of American citizenship. I say this at the outset because I know that jury service can sometimes be inconvenient and disruptive to your daily lives. We will all do our best to make this as rewarding an experience as possible, but it will take time and on some occasions it will be tedious for you.

First, I need to ask you certain questions. Before I do so, I need to ask you all to rise and be sworn to tell the truth as to any questions asked of you in regard to your

jury service. [Clerk administers oath] Ladies and gentlemen, you are now sworn to tell the truth as to any questions put to you as to your jury service, both today and at any day in the future involving this case.

To be qualified as a juror in this court, you must be a citizen of the United States at least 18 years old, who has resided for at least one year in this judicial district. You must be able to read, write and understand the English language. You must not have any charge pending against you for the commission of, or have been convicted in a state or federal court of a crime punishable by imprisonment for more than one year, unless your civil rights have been restored. You must be capable, both physically and mentally, of rendering satisfactory jury service.

Do all of you qualify on these grounds?

Have all of you filled out the questionnaire sent to you? If not, I will ask you to fill it out before you leave here today.

The case for which you were called will last several weeks. If you are selected as a juror, you would be required to attend court Monday through Thursday, beginning at 9:00 in the morning and usually leaving at about 4:00 P.M. each day. There will likely be no court on Fridays or weekends. While I understand that service on this jury may be inconvenient for some of you, to be excused, a juror must show that service as a juror in this case would create an unacceptable amount of personal

hardship. If you believe that it would, and wish to be excused, I will allow you to explain your reasons to me later in this process.

Now that you have been called for jury service, it is important that you do not discuss this case with anyone, or permit anyone to discuss it with you, or in your presence. If anyone tries to discuss the case with you, you should report that to me as soon as possible. Also, you should not read, watch or listen to any news reports of the case.

I will allow you to leave shortly. However, it will be necessary for you to return for another day. Jury selection will continue for the next week or so, but in order to limit inconvenience to you, we will have you return in smaller groups of 30 or so, beginning tomorrow. In other words, 30 of you will be directed to return tomorrow, the next 30 on the next day, the next 30 on the day after that, and so on. You will be told by the clerk which day you are to return and given a slip of paper to remind you of your day. You will need to be here promptly by 9:00 A.M. You should plan to spend most of the day here on your particular day.

II. SMALL GROUPS.

Ladies and gentlemen, as you know you have been asked to be here today as possible jurors in a criminal case. I want to tell you something about the case, and then I will ask you some questions.

After I ask you questions as a group, we will ask you each of you a few additional questions in private here in the courtroom. If there are any questions that I ask now that you would prefer to answer later in private, please say so and we will take them up later.

The persons who is charged in a criminal case are called the defendants. The defendants in this case are _____, also known as _____, _____, also known as _____, and _____. All of the defendants are represented by attorneys who have been appointed by the court. Mr. _____ is represented by _____ and _____; Mr. _____ is represented by _____ and _____; Ms. _____ is represented by _____. A criminal case in this court is brought by the United States of America. I sometimes call the United States the government or the prosecution. The United States is represented in this case by _____ and _____, who are both assistant United States Attorneys.

Now, about this case. On [DATE], _____, _____, and _____ were shot to death at their home in _____. The government

claims that the defendant _____ hired the defendant _____, along with a person named _____, to commit the murders. _____ has already been tried for this crime. The government claims that the murders were committed in connection with an illegal drug distribution ring in which _____, _____, _____, _____, and others were involved. The government claims that _____ committed perjury at an earlier trial of _____ by testifying that he was with her when the murders occurred. The earlier trial of _____ did not reach a verdict one way or the other.

The fact that Mr. _____ has already been tried should not be considered by you in any way in reaching your verdict as to these defendants' guilt or innocence, if you are selected as a juror. The fact that there was an earlier trial of Mr. _____ likewise should not be considered by you in reaching your verdict.

Please keep in mind throughout these proceedings that the charges brought by the government are only accusations and nothing more. The defendants are presumed innocent of the charges and may not be convicted unless the jury unanimously agrees that the government has proved guilt beyond a reasonable doubt. The defendants have pleaded not guilty to the charges and the burden is on the government to prove guilt beyond a reasonable doubt. The defendants do not have any burden to prove that they are not guilty. While the defendants are being tried together, the jury will be required to give separate consideration to the case against each defendant.

The government is seeking the death penalty against Mr. _____ and Mr. _____ in this case. That means that there may be two phases to this trial. In the first phase, the jury will decide if the prosecution has proved guilt beyond a reasonable doubt. If the jury finds both defendants not guilty, then its job will be over. If the jury finds either Mr. _____ or Mr. _____ or both of them guilty, then there will be a second phase before the same jury, called the penalty phase, which will be like a second trial. At the end of this second phase, the jury will decide whether or not the death penalty will be imposed. As the judge, I will not be able to change the jury's decision.

At this penalty phase, the government will have the opportunity to present certain matters that the law refers to as aggravating factors. These would be circumstances that might favor the death penalty. The defendant would have the opportunity to present matters that are referred to as mitigating factors, that might suggest that the death penalty would not be appropriate. A decision to impose the death penalty must be unanimous; all the jurors must agree. No jury is ever required to impose the death penalty, but if the death penalty is imposed, the jury must decide to impose it. When you are each questioned individually, you will be asked questions about your attitude on the death penalty. Please remember that these questions are being asked now only because the same jury will hear the entire case and there would

be no opportunity to question you about punishment following the first phase of the trial. In other words, the fact that you are questioned now about the death penalty does not mean that Mr. _____ or Mr. _____ will or should be found guilty of these charges.

I will now ask some questions. If you have an affirmative or “yes” answer to any of the questions, please raise your hand, speak into the mike which will be handed to you, and give your name. As you can see, we have a court reporter taking down these proceedings, and she needs your name for the record she is making. Please remember that you are still under oath to tell the truth, and that there are no right or wrong answers to any of these questions. It is important that you answer the questions as truthfully as you can. If you don’t understand any question, please ask me to repeat it.

1. This case and the earlier trials of _____ and _____ have received publicity in the newspapers, television and radio. There is nothing wrong with having heard something about this case. Do you recall having heard anything about this case?

2. Have you ever discussed this case with anyone?

3. Do you know _____, the defendant, or any member of his family? Have you ever heard of him before?

4. Do you know _____, or any member of his family? Have you ever heard of him before?

5. Do you know _____, or any member of his family? Have you ever heard of him before?

6. Do you know _____, or any member of her family? Have you ever heard of her before?

7. Have you ever expressed an opinion about this case or about _____, _____, _____ or _____ to anyone?

8. Has anyone ever told you or expressed the opinion that _____, _____, _____ and _____ are guilty of the crimes charged?

9. The following is a list of the attorneys who are or have been representing the parties in this case and their respective offices. Do you know either professionally, socially, or by reputation any of these attorneys? Do you know anyone who works for or with these lawyers?

_____, Assistant U. S. Attorney

_____, Assistant U. S. Attorney

_____, of the firm of _____ in _____

_____ of the firm of _____ in _____

_____ of _____

_____ of _____, [STATE]

_____ of the _____ Law Firm of _____

10. The following is a list of law enforcement officers who have been connected with the investigation of the murder of the Davis family. Do you know any of these persons?

[NAMES LISTED]

11. Here is list of persons who may be witnesses in this case. Do you know any of these persons?

[NAMES LISTED]

12. Do you know the deceased, _____, _____, _____, or any of their family? Some of their family members are [NAMES LISTED].

13. As I have told you, a defendant is presumed innocent of the charges against him or her and the charges in this case are simply accusations and nothing more. A defendant cannot be found guilty of any charge until the government has proved his guilt beyond a reasonable doubt. Do any of you have any difficulty accepting these legal rules and applying them in this case?

14. Some police or other law enforcement officers will testify in this case. The testimony of a law enforcement officer must be considered by you in the same way that you consider the testimony of other witnesses in the case, and you cannot give greater weight to the testimony of a law enforcement officer just because he or she is a law enforcement officer. Do any of you have any difficulty accepting this legal rule and applying it in this case?

15. Under our laws, a defendant has the right to decide whether he will testify. If a defendant decides not to testify, the law is that a jury may not consider that fact in deciding whether the defendant is guilty or not. Do any of you have any difficulty accepting this legal rule and applying it in this case?

16. Until the trial is over, members of the jury must not read, watch or listen to any news accounts of the case, or have others report those accounts to them, and must not talk with anyone about the case, even the other jurors, until the jury retires to deliberate on its verdict. Do any of you have any difficulty accepting this legal rule and applying it in this case?

17. I told you that Mr. _____ and Mr. _____ were previously tried. You must not consider those trials in deciding any of the defendants' guilt or innocence. Do any of you have any difficulty accepting this legal rule and applying it in this case?

18. Although the defendants are being tried together, the jury will have to give separate consideration to the case against each defendant. In other words, the fact that the jury might find one defendant guilty or not guilty does not mean that it must reach the same verdict as to the other defendants. Do any of you have any difficulty accepting this legal rule and applying it in this case?

19. Do any of you know of any reason why you could not decide this case solely on the evidence and the law as the Court will instruct you, without regard to sympathy, bias or prejudice?

20. Do any of you know of any reason, even a reason that has not been asked of you, that would make it difficult for you to be completely fair and impartial in this case?

21. Have any of you had any past experience that in any way causes you doubt of your ability to sit as a fair and impartial juror in this case?

22. Do any of you have reason why you should be excused on account of hardship from possible service on this jury?

That is all of the questions that I have for you in this group. All of you must now wait outside the courtroom and each of you will come back in the courtroom one by one when called. You will then be asked some additional questions in private.

Some of these questions will relate to the death penalty. A potential juror is not qualified for or disqualified from service on this jury merely because he or she has some personal views or opinions for or against the death penalty as a punishment. On the contrary, persons who personally oppose the death penalty may serve as jurors so long as they clearly and honestly state their willingness and ability to put aside their own beliefs and follow the law given by the court. Similarly, persons who favor the death penalty are eligible to serve so long as they clearly and honestly state their willingness to follow the law given by the court.

This individual questioning may take some time, so I would ask you to be patient. Please do not read or discuss anything about this case, however. After you have had your individual questions, please wait outside the courtroom unless you are released by me to leave.

III. INDIVIDUAL SEQUESTERED VOIR DIRE.

[1. You indicated that you would like to be excused from service on this jury. Please give me your reasons for this request.]

2. Do you know anything about this case, other than what I told you? Tell us what you know and how you know it. Have you come to any firm conclusions based on what you know? Can you consider the evidence with an open mind in spite

of what you know? Can you fairly and impartially consider the case regardless of what you know?

[3. You indicated in your questionnaire that you believe that you cannot morally judge other persons. What did you mean by that?]

As you know, service on the jury in this case may require you to consider the death penalty. I must ask you some questions about your attitude toward the death penalty. What are your views about the death penalty?

4. Is there any reason whether as a matter of moral, religious, or philosophical belief, or as a matter of conscious or personal belief, or for any other reason why you would never vote to impose the death penalty under any circumstances?

5. Suppose you are a juror in this case and the jury finds Mr. _____ or Mr. _____, or both, guilty of committing these murders. The case then goes to the second phase, following which the jury could legally impose the death penalty, but is not obligated to do so. Would you automatically vote for the death penalty if the defendant were found guilty, regardless of the circumstances?

ENTER: [DATE]

United States District Judge