

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	
	:	NO. 1:08-CR-139-CC-CCH
BRIAN RICHARDSON	:	

ORDER SETTING JURY SELECTION PROCEDURES

Upon consideration of the Government's motion regarding jury selection procedures (Doc. 253) and the Defendant's response (Doc. 278), said motion is GRANTED as set forth below:

1. Counsel for both parties will be permitted to participate in voir dire. This also grants the Defendant's motion to participate in voir dire (Doc. 33).
2. The Court approves the Joint Jury Questionnaire (hereafter referred to as "Jury Questionnaire"), previously submitted by the parties, with the addition of a sub-heading on page 25, prior to question number 107, to be agreed upon by the parties.
3. The Court will summon 235 prospective jurors to report to the United States Courthouse on September 7, 2010, at which time, the prospective jurors will complete the Jury Questionnaire.
4. No later than September 2, 2010, the parties will deliver 235 copies of the Jury Questionnaire to the Court's courtroom deputy clerk to be delivered to the jury

administrator.

5. After the prospective jurors have completed the Jury Questionnaire, the jury administrator will provide the completed questionnaire to the courtroom deputy clerk, who will then notify the parties by not later than September 14, 2010. The courtroom deputy clerk will then provide half the number of completed questionnaires to the Government and half to the Defense. The parties will then be responsible for making the appropriate number of copies and providing a set of copies to other party by not later than September 17, 2010. By that same date, the parties will return the original completed questionnaires to the courtroom deputy clerk.
6. On October 4, 2010, at 9:30 a.m., the Court will hold a hearing to determine whether any prospective jurors should be excluded for cause based upon their responses to the Jury Questionnaire. Prior to this hearing, counsel for both parties will confer to discuss whether they can stipulate to excuse for cause any prospective jurors based solely on the juror's responses in the questionnaire.
7. All prospective jurors who have not been excused during the October 4, 2010, hearing will report to the United States Courthouse in groups of thirty (30) beginning on the first day of trial, October 6, 2010, to undergo

individual voir dire. The Court may adjust the number of prospective jurors called in each day, depending upon the speed with which individual voir dire is conducted.

8. By not later than July 8, 2010, the parties will confer regarding the Preliminary Jury Instructions (detailed instructions on the bifurcated nature of a capital trial) that the Court will give to prospective jurors and agree, if possible, on those preliminary instructions. The parties will report back to the Court by that date on the status of these Preliminary Jury Instructions.
9. The Court will use a visual aid that outlines the bifurcated procedure used in a capital trial. Counsel for the parties are to confer on and prepare a visual aid for the Court's use. This agreed upon visual aid shall be presented to the Court for review at or before the hearing date set for August 9, 2010.
10. The parties are to confer prior to and report to the Court in writing by July 8, 2010, of any individual voir dire questions the parties agree should be asked by the Court, rather than by counsel for either party.
11. The parties are to file with the Court, by July 8, 2010, any fact-specific voir dire questions they desire to ask jurors, including questions regarding the ability or willingness of jurors to consider particular mitigating evidence. Any objections by the opposing party to the

requested fact-specific questions will be submitted by July 23, 2010. The Court will determine, at or before the hearing date set for August 9, 2010, whether any such fact-specific questions will be allowed.

12. Individual voir dire will proceed as follows:

- A. Each day (or each new group of prospective jurors) will begin with the Court playing a videotaped recording of the Preliminary Jury Instructions for the prospective jurors.
- B. Those prospective jurors who, in their responses to the Jury Questionnaire, responded affirmatively to questions related to their knowledge of the case or indicated a potential hardship, will be questioned first.
- C. Following this initial questioning, any jurors not excused, and all other prospective jurors, will be questioned on the *Witherspoon* and *Morgan* questions, on the issue of capital punishment, and on any other issues that require follow-up based on the jurors' questionnaire responses.
- D. The Court will seat a jury of sixteen (16) persons; that equaling twelve (12) jurors and four (4) alternate jurors. Each party will have twenty (20) peremptory strikes, and two (2) additional peremptory strikes per side for alternate jurors.

Therefore, a jury panel of sixty (60) persons will be required, prior to the exercise of the peremptory strikes, in order to have the jury of sixteen (16) persons.

E. Challenges for cause will be entertained and determined directly following the individual voir dire of each juror. Once sixty (60) qualified jurors have been approved; that is, jurors who have not been excused for cause by the Court following challenge by either party, individual voir dire will cease and the parties will be given an opportunity to exercise their peremptory strikes. The remaining sixteen (16) jurors will constitute the jury that will hear the trial of this case.

SO ORDERED, this 6th day of JULY, 2010.

s/ CLARENCE COOPER
CLARENCE COOPER
UNITED STATES DISTRICT JUDGE

Prepared by:

Todd C. Alley

Todd C. Alley
Assistant United States Attorney

Kimberly Sharkey

Kimberly Sharkey
Attorney for Defendant