

Courtroom 12

Typical Criminal Trial Voir Dire

- I am Judge Battaglia and I will preside over this case.
- This case is entitled United States v. _____.
- You have been selected as possible jurors to hear this case for the purpose of determining whether the defendant _____ is guilty or not guilty.
- The parties are entitled to a fair and impartial jury to determine the issues of this case. A fair and impartial jury is a jury where each individual juror is without bias and is fair and objective. It is a jury willing and able to return a verdict solely on the evidence and the law applicable to that evidence.
- A fair and impartial jury must be able to disregard and set aside all prejudices, sympathy, ideas, and notions or beliefs about the law, the type of case they are asked to try, and the defendant.
- To assist the parties in selecting a fair and impartial jury to hear this case I am going to ask the panel as a whole some questions and then individual members of the panel will give us a little background information.
- If the answer to any question concerns private or potentially embarrassing matters, you may come to the sidebar to give your answer.

- The purpose of this voir dire examination is to enable the court to determine whether or not any prospective juror should be excused for cause; and to enable counsel for the parties to exercise their individual judgment with respect to preemptory challenges -- that is challenges for which no reason need be given.
- The charges against the defendant are contained in the Indictment. The Indictment is simply the description of the charges made by the government against the defendant. It is not evidence of anything.
- The Indictment charges the defendant as follows:

[Read the Indictment]

- **[Introduce the AUSA . Have the AUSA introduce the case agent.]**
- **[Introduce defense counsel. Have counsel introduce the defendant.]**
- **Juror questions:**
 1. Is any member of the jury panel acquainted with the parties or the Court?
 2. The witnesses that the parties will call are _____. Is any member of the jury panel acquainted with any of the witnesses.
 3. Inquire as to availability of jurors to serve for the length of trial.
 4. Inquire as to pretrial publicity.
 - A. Have any of you heard of, or have any knowledge of, the facts or events in this case? If so, how?
 - B. Can the juror set aside and disregard anything he/she has heard or read about the case?

5(a)¹. This case involves approximately _____ pounds of _____ seized at the _____.

It is impossible to pick up the morning newspaper, turn on the television, listen to the radio or read a magazine without hearing or reading about the illegal drug problems that faces our country today.

OR

5(b)². This is an illegal immigration case. Much has been said and written about immigration issues in the media. You cannot pick up a newspaper or news magazine, turn on the radio or TV, without hearing the matter discussed.

THEN

We are not here to solve this problem and whether or not we agree with the current law. We are here only to determine whether the defendant is guilty or not guilty as charged in the indictment that I just read to you.

Does anyone have a feeling or belief in favor of or against the current federal law (on drugs or illegal immigration) that will prevent them from being fair and impartial?

¹ DRUG CASES ONLY.

² IMMIGRATION CASES ONLY.

6. You must determine whether the defendant is guilty or not guilty based solely on the evidence presented during the course of the trial and the law as I instruct you during the trial. In arriving at your verdict you must not be influenced by any personal likes or dislikes, prejudices or sympathies.

a. Is there any member of the jury panel that could not render a fair and impartial verdict because of the nature of the case?

b. Has any member of the jury panel had any experience in which you, any member of your family, or any close friend were involved, that relates to (the use or possession of illegal drugs or illegal immigration), that would prevent you from rendering a fair and impartial verdict?

c. Has any member of the jury panel been involved in a criminal matter of any kind that concerns you, any member of your family, or a close friend, either as a defendant, a witness, or a victim?

[IF YES] Would this experience prevent you from rendering a fair and impartial verdict in this case?

7. Under our laws, the defendant is presumed innocent until proven guilty by evidence beyond a reasonable doubt. Do any of you feel that just because defendant has been arrested and charged with a crime in this case that he must be guilty?

8. If seated as a juror, will you require the Government to prove guilt beyond a reasonable doubt in this case as required by law?

9. The defendant has no obligation to call any witnesses in this case. The burden of proof is solely that of the Government. Will any of you feel that defendant's choice not to call any witnesses should be held against him/her in this case?

10. A defendant in a criminal case has a constitutional right not to testify. Stated another way, the defendant has a right to remain silent throughout the case including trial. No presumption of guilt may be raised, and no inference may be drawn, from the fact that the defendant does not testify. Is there anyone who will hold defendants silence against him in any way, if he chooses not to testify in this case?

- 11(a). The testimony you will hear from the witnesses -- both the Government and the defense -- must be considered in the same light and weighed on the same scales, all in accordance with the instructions of the Court.

The Government's testimony will be presented in whole or in part by law enforcement officers. Is there any juror who would give the testimony of a law enforcement officer more weight and credence than that of any other witness, merely because of the witnesses' employment as a law enforcement officer?

11(b).Have any of you, or any member of your family or close friends, had any experience of special training in the law, law enforcement or correctional institutions?

12. Has any member of the jury panel, or any member of your family or close friends, had an unpleasant or negative experience (including an arrest/detention/conviction) with any law enforcement agent or agency, state or federal (including immigration officers or border patrol), that would prevent you from rendering a fair and impartial verdict?

[IF YES] Would this experience/arrest/detention prevent you from rendering a fair and impartial verdict in this case?

13. As previously stated, the Government's case will be presented in whole or in part by law enforcement agents of the United States. **(Counsel are asked to identify the agencies.)** Does any member of the jury panel, their family or close friends, have any connection with any of these agencies?

14. It may appear that one or more of the parties, attorneys, or witnesses come from a particular national, racial or religious group or may have a life style different than your own. Would this in any way affect your judgment or the weight and credibility you would give to their testimony? Stated another way, Is there any juror who would give the testimony of a witness more or less weight and credence than that of any other

witness, because they appear to come from a particular national, racial or religious group or may have a lifestyle different than your own?

15. Some evidence or testimony may be presented in Spanish (or other as appropriate). Are any of you fluent in that language? If so, do you understand that you will need to consider only the translation provided by the official court interpreters or through language experts and must disregard any meaning of the non-English words that you believe differs from the official translation?
16. During the course of the case I will instruct you on the law as it applies to this case. It is your duty to follow and accept the law as I state it to you, whether you agree with it or not. Is there any member of the jury panel who would substitute his or her own ideas about what the law is or ought to be instead of what I instruct you the law is as enacted by the Congress of the United States?
17. If you are selected to sit on this case, will you be able to render a verdict solely on the evidence presented at the trial and in the context of the law as I will give it to you in my instructions, disregarding any other ideas, notions, or beliefs about the law that you may have encountered in reaching your verdict?
18. Now that you have heard a little about the case and had a few moments to consider your role as a possible juror, has anything come to mind that would prevent you from being a fair and impartial juror in this case --

a juror who could render a fair and impartial verdict based solely on the evidence and the law as given to you by the court?

19. Do you know of any reason, or has anything occurred during this question period, that might make you doubtful that you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.
 20. If you or a member of your family were a party to this case or one like it - on either side - would you be willing to have your case tried, or theirs, by people in the same frame of mind as you are now?
- **[Present written questions to prospective jurors. Ask jurors to answer the questions on the list. Remind jurors to keep the microphone close to their mouths so the Reporter will hear their voices.]**
 - **[Counsel will have a brief period to inquire of the panel. Counsel must refrain from repeating the Court's questions, discussing the law, or arguing the facts of the case. Violation of these rules will result in a termination of counsel's opportunity for voir dire.]**