

UNITED STATES DISTRICT COURT
[REDACTED] DISTRICT OF TEXAS
[REDACTED] DIVISION

UNITED STATES OF AMERICA

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V.

CAUSE NO. 1:20-CR-[REDACTED]

MAXIMINO [REDACTED]

DEFENDANT'S REQUESTED VOIR DIRE

TO THE HONORABLE JUDGE [REDACTED] UNITED STATES DISTRICT JUDGE FOR
THE WESTERN DISTRICT OF TEXAS:

Maximino [REDACTED] through his counsel, requests that, in addition to the
standard questions that this Court poses to the jury panel during voir dire, the following
additional inquiries be made:

INNOCENCE

1. This case involves drugs found in Mr. [REDACTED]'s car. This fact will not be in dispute. The central question you will need to decide if you are on the jury is whether Mr. [REDACTED] knew drugs were in the car or if he was deceived.
 - a. Have you heard of "innocent mules" - people who have been caught transporting drugs in cars and not knowing about it?
 - b. Do you believe there could be such a thing as an "innocent mule?"
2. The law says that a person does not have to testify in their own defense; the government must prove their knowledge beyond a reasonable doubt. However, I worry in a case like this you might think, "If you are claiming he did not know that there were drugs in his car then he has to testify in his own defense in order for me to find him Not Guilty."
 - a. Does anybody feel this way?

3. Are you able to find that the government did not prove that Max knew he possessed drugs without him testifying that he didn't know? What evidence would be important for you to make this important determination if Max does not testify?

MECHANIC / CAR EXPERIENCE

4. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, how strongly do you agree or disagree with the following statements:
 - a. "I know every part on my car."
 - b. "I know everything a mechanic has ever done to my car?"
 - c. "I know all the items that are in my car?"

BIAS AND EXPERIENCE - GULLIBILITY

5. When someone successfully scams or tricks a gullible or trusting person, who do you think is at fault - the scammer or the trusting person?
 - d. By a show of hands, who here has been the target of a scam?
 - i. Can you tell us about that scam?
 - ii. What clues did you notice to determine that you had been scammed?
 - iii. Did you blame yourself, or the scammer?

BIAS AND EXPERIENCE - DRUG CHARGES

6. Some people believe possession of drugs should be decriminalized; other people believe that legalization of marijuana has made the drug problem in this country worse. How do you feel about the criminalization of drugs?
7. I am concerned that because this case involves allegations of distribution, it may affect someone's ability to impartially view the evidence. Have you, your family members, or close personal friends ever had any type of negative experience involving drug distribution? Or Drug Cartels? Or Drug conspiracies?

BIAS AND EXPERIENCE - IMMIGRATION STATUS

8. Have you, or anyone in your family, ever done business with anyone located in South America? If yes, please explain.
9. You are going to hear that Mr. [REDACTED] is from Honduras, has his green card, and has lived in the United States for many years legally. You are also going to hear that many of the people he worked with are Honduran, Mexican, Guatemalan, and Salvadoran, and that several of the people he worked with were undocumented. Does the fact that Mr. [REDACTED] worked with, and associated with, undocumented people make anyone feel, without hearing anything else, that he is more likely guilty of being a drug transporter?
10. I read an article in the past few months that the former president of Honduras was indicted for running what's called a "Narco State" - meaning that the United States government accused the Honduras government of supporting narcotics trafficking.
 - a. Has anyone heard of similar criticisms of the Honduran government?
 - i. Or that Honduras is rife with drug trafficking?
 - ii. Knowing that Max was born and lived in Honduras, is it more likely that you would start out believing that Max was is more likely to be a drug trafficker based upon the fact that he is from Honduras and accused of drug trafficking?

BIAS AND EXPERIENCE - "UNDER THE TABLE" JOBS

11. Does anyone here have a loved one or family member that gets paid fully in cash - or pays workers in cash?
 - a. What are the reasons someone may deal in cash?
 - b. Does anyone here think it's unethical or criminal to be paid for a job in cash?
 - c. What about to pay someone in cash?

BIAS AND EXPERIENCE - FALSE ACCUSATIONS

12. Have you or a loved one ever been falsely accused of something you didn't do?
 - a. Please tell us about that.

- b. Do you believe there is a "typical" way innocent people should react to false allegations?
13. I next want to talk about what you believe innocent or guilty people do when they believe they have done nothing wrong.
- a. Please rate the following on a scale from 1-5, 1 being "I strongly disagree," and 5 being "I strongly agree."
 - i. "If I believed I was innocent, I would let a police officer search my car for drugs?"
 - ii. Why/Why not?
 - iii. "If I believed I was innocent, I would let a canine search my car for drugs?"

BIAS AND EXPERIENCE - LAW ENFORCEMENT RELATIONSHIPS

14. Have you, family members, or friends ever been employed by or connected with any law enforcement agency? (This includes: police, sheriff, FBI, CIA, IRS, U.S. Marshall, Highway Patrol, DEA, State Attorney, U.S. Attorney, Attorney General, State Prisons or County Jail, Family Services, Homeland Security, Probation Department, State or Federal Courthouse, or any other agency.) Please specify who and with what agency.
15. Is there any member of the panel who would tend to give more weight to the testimony of a law enforcement officer solely because she or he is a law enforcement officer?
16. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, how strongly do you agree or disagree with this statement:
- a. "Because of their job, law enforcement is more likely to tell the truth on the stand."
 - i. Why/Why not?
 - b. "Most people get fearful and nervous around law enforcement?"
 - i. Why?
 - c. "People of color have a right to be nervous around law enforcement"

i. Why?

BIAS AND EXPERIENCE - DRUG DEALERS

17. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, how strongly do you agree or disagree with this statement:

a. "If a person is paid in cash, I am suspicious he is involved in drugs."

ii. Why/Why not?

b. "If a person has expensive tastes, I am suspicious he is involved in drugs."

ii. Why

c. "Drug dealers flash their wealth."

FALSE ALERTS/DRUG DETECTION DOGS

18. Has anybody been subjected to a checkpoint stop where a drug detector dog has alerted on your car? What about at the airport when TSA uses drug detector dogs when the security lines are long and they wish to speed up the process?

19. Does anybody have any specialized training or experience with canines?

SUBCONSCIOUS BIAS

20. Please rate the following on a scale from 1-5, 1 being "I strongly disagree," and 5 being "I strongly agree."

a. "People who deal exclusively in cash are up to no good."

b. "People who aren't forthcoming with law enforcement are likely guilty of a crime."

c. "I am suspicious of non-corporate jobs."

PRESUMPTION OF INNOCENCE

21. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, what number would you give the statement: "All defendants are innocent until proven guilty."

- a. Using the same scale, what number would you give the statement: "It is better to risk saving a guilty man than to condemn an innocent man."
 - b. Why do you feel this way?
 - c. Does anyone feel differently?
22. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, what number would you give the statement: "Because someone has been arrested, they had to have done something wrong."
- a. Why do you feel this way?
 - b. Does anyone feel differently?
23. Without hearing any evidence, please choose the answer that best fits your belief:
- a. The defendant is definitely guilty.
 - b. The defendant is likely guilty.
 - c. The defendant is neither guilty nor not guilty.
 - d. The defendant is likely innocent.
 - e. The defendant is definitely innocent.
 - f. I need more information.
24. On a scale of 1 to 5, with 5 being complete agreement and 1 being total disagreement, what number would you give the statement: "If I were accused of a crime, I would testify to prove my innocence."
- a. Why do you feel this way?
 - a. Does anyone feel differently?
 - b. Does anyone believe that a person should attempt to prove his innocence by testifying?

STANDARD OF PROOF - BEYOND A REASONABLE DOUBT

25. Has anyone heard of the term, "beyond reasonable doubt?"
- a. What does "beyond a reasonable doubt" mean to you?
 - b. Why do you think that this burden is so high?
 - ii. Are you willing to apply that level of proof in this case?

26. Does a verdict of not guilty mean the individual is innocent?
- a. Does anyone agree with this statement: "I can only find Maximino not guilty if the defense proves his innocence?"
27. The law says that if a juror *thinks* a person might be guilty or *probably* is guilty, that is not enough and the jury must find the person not guilty. Do you agree with this principle of law?
- a. Why?
28. In this case, the government wants you to find Mr. [REDACTED] guilty.
- a. How would you feel about saying "No" to the government if you felt you had a reasonable doubt at the end of this case?
29. What if you *believe* the person is guilty - but you also believe that the government didn't prove its case. Could you tell the government no?

BIAS AND EXPERIENCE - NETWORKING

30. Who here has gotten a job through networking?
- a. Can you help us define networking?
31. Who here has gotten a job through a family friend, or a friend of a friend?
- a. Tell us about it.
 - b. Do you find anything inherently suspicious about obtaining employment through friends of friends?
32. Please rate the following on a scale from 1-5, 1 being "I strongly disagree," and 5 being "I strongly agree."
- a. "Before I would accept it, I would do my *due diligence* if offered a job by an acquaintance."
 - i. What due diligence would you do?
 - ii. Why?

IMPLICIT BIAS

33. By a show of hands, who here has heard of implicit bias?
- a. What does it mean to you?
34. By a show of hands, who can think of five Latinos who you admire and respect? Tell us about one.
35. When you heard the charges and looked at Max, what went through your mind?
36. Has anyone here been treated badly because of their race, ethnicity, gender, or religion?
- a. Tell us about that.

BIAS AND EXPERIENCE - CSI

37. What physical evidence do you expect to find in a case to prove that someone possessed drugs?
- a. What physical evidence do you expect to prove that a person knew that drugs were in their possession?
- b. What physical evidence would you expect to find (or not find) to prove that a person didn't know that drugs were in their possession?

BIAS AND EXPERIENCE - LYING

38. Please rate the following on a scale from 1-5, 1 being "I strongly disagree," and 5 being "I strongly agree."
- a. "People lie to get out of trouble."
- b. "I am skeptical of people who have been convicted of crimes."
- c. "I have told a half-truth to get out of trouble."

Respectfully submitted,

[REDACTED]

Telephone: (512) 381-9955
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By: /s/ [REDACTED]
[REDACTED]
State Bar No. [REDACTED]
[REDACTED]

**ATTORNEY FOR DEFENDANT
MAXIMINO [REDACTED]**

CERTIFICATE OF SERVICE

By my signature below, I do hereby certify that July 13, 2022 a true and correct copy of the foregoing Defendant's Proposed Voir Dire was filed using the Court's electronic filing system, which will provide notice to all parties of record, specifically:

[REDACTED]
United States Attorney's Office
Western District of Texas
[REDACTED]

/s/ [REDACTED]
[REDACTED]