

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES COX,

Defendant,

)
) Case No. 09-00296-03-CR-W-FJG)
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**DEFENDANT JAMES COX'S
PROPOSED VOIR DIRE QUESTIONS**

Pursuant to the Court's order, defendant James Cox respectfully submits his proposed voir dire questions which he requests the Court to ask the jury panel during jury selection:

I. This is a criminal case. Each side - the government and the defendants - are entitled to have a fair trial before an opened-minded jury. The process of selecting a jury is premised on finding a fair and impartial group of people to decide this case. In doing that, the Court and the attorneys will ask questions about you, your background, your experiences, and other areas of your life. The Court and the attorneys have the right and duty to find those individuals whose background, experience and responses guarantee the most impartial and unbiased jurors. When asked questions, should answer the questions completely and truthfully. We do not intend by these questions to pry into your personal affairs or to embarrass you in any way, but it is our duty to seek, and your duty to give, candid answers to all questions. If you have an answer to a question that you would be more comfortable giving here at the bench, you may raise your hand and do so.

2. To the extent the following information is not otherwise asked by the Court, defendant requests that each prospective juror state their:

- a. occupation and job duties (current or most recent);
- b. employer and how long at current employment (current or most recent);
- c. spouse's occupation and employer, and
- d. highest level of education.

3. The court will instruct you on the law. Of these legal instructions there are several specific instructions regarding criminal trials I would like to discuss. They are:

- a. That the defendant is presumed to be innocent. Is there anyone on the panel who cannot presume the defendant as he or she sits here to be innocent of all the charges?
- b. That the charge of a crime is not evidence of guilt. Is there anyone on the panel who believes that because the defendant has been charged that he or she must have done something wrong or it is likely that she has done something wrong?
- c. That the government must prove each element of charges beyond a reasonable doubt. Is there anyone who would require anything less of the Government the meeting the standard of proof beyond a reasonable doubt?
- d. Is there any member of the panel who has any disagreement with the idea that the defendant has no burden of proof whatsoever, that the sole burden of proving his or her guilt is the government's and that if the government fails, you must find him or her not guilty.
- e. Is there anyone on the panel who would hesitate to vote "not guilty" if the government failed to prove its case beyond a reasonable doubt?

4. Have any of you ever served as a juror in either the state or federal courts before?

If so:

- a. In which court did you serve?
- b. When?
- c. What type of case was being considered (civil / criminal, brief description of the subject matter)?
- d. Was there a verdict reached in the case?
- e. Was it for the plaintiff or defendant?
- f. Did you act as foreperson on any case in which you served?
- g. Is there anything about your experience as juror which would in any way affect or influence your ability to sit as a juror in this case, to give each side your complete attention, or to reach a fair and impartial verdict based upon the evidence and instructions of the court?

5. Have any of you ever served on a grand jury in either state or federal court? If so:

- a. In what court did you serve?
- b. When was your service?
- c. How long did you serve?
- d. What kind of cases did you hear?
- e. Did your grand jury ever return a "No True Bill" to Indictment presented by the prosecutor?

6. Have any of you had formal legal training (law school, college business law course, paralegal training, legal training in the course of employment etc.)? If so:

- a. Do you have knowledge or experience in criminal law? If so, please describe your experience.

b. Have you had experience with narcotics investigations? If so, please describe your experience.

7. Have any of you, or a member of your family, ever had dealings with: the United States Attorney's office; the local office of the FBI in Kansas City, Missouri; the police departments of Independence, Missouri, Kansas City, Kansas, or Kansas City, Missouri; the Hennepin County, Minnesota, Sheriffs Office?

8. Is there anyone of the panel who has any disagreement with the idea that James Cox has no burden of proof whatsoever, that the sole burden of proving his individual guilt is the government's and that if the government fails, you must find him not guilty?

9. Is there anyone who would hesitate to vote "not guilty" if the government failed to prove its case beyond a reasonable doubt?

10. Is there anyone who would hesitate determining the guilt or innocence of James Cox separate from the guilt or innocence of the other defendants in this case?

II. Is there anyone who would hesitate determining the guilt or innocence of James Cox despite the fact that several co-defendants have plead guilty to the conspiracy to which the government alleges Robert Stewart was a part of?

12. Is there any matter not covered by any of the questions asked here today that you believe may inhibit your ability to sit, fairly and impartially as a juror in this case, and to base your verdict on the evidence and the law as the judge gives it to you?

13. Have any of you ever been a witness in a criminal case? (If answer is in the affirmative, what was the charge and what was the verdict?)

14. Has any member of the jury panel or any member of your family ever received any legal training of any kind, even business law, or been employed in a law office? If so, please

determine the nature of such training or experience.

15. One or more police officers and federal agents may testify in this case. Do you members of the jury panel understand that the testimony of a law enforcement officer is not to be given any more credit or believability than that of any other witness, including the defendant, simply because he or she is a law enforcement officer?

16. The Assistant United States Attorney and the defense counsel attorneys are equals, both are lawyers, and thus equal in the eyes of the law, each doing his or her best to represent his or her client. Is there any member of the panel who would give any more weight to the arguments of the prosecutor than to the defense counsel merely because the prosecutor represents the government or because the prosecutor bears the title "Assistant United States Attorney?"

17. Do any of you have the opinion that since this defendant was arrested and charged with a crime, he is probably guilty? Would any of you have any difficulty presuming him innocent and requiring the Government to prove its case beyond a reasonable doubt, as the law requires?

18. Are any of you a member of or donate money to any community action groups such as Ad Hoc Committee Against Crime, Mothers Against Drunk Driving, Partnership for a Drug Free America, Neighborhood Block Watch, or any similar organization?

19. Have any of had good or bad experiences with a motorcycle or motorcycle rider? If so, please describe?

20. Have any of you been riding in an automobile when a group of motorcycles came up behind you or passed you? Did it cause any uneasiness or fear in you?

21. Do any of you automatically assume someone riding a motorcycle, who has long hair or a beard or tattoos, must be a person who participates in criminal activity?

22. Do any of you believe that just because the Defendant is with someone else who is

guilty of a crime that the Defendant is automatically guilty because of his association with that person?

23. Do any of you believe that just because the Defendant is present when a crime may have been committed that he is automatically guilty because he was there?

24. Do any of you believe that just because an individual may have been convicted of prior crimes that he is therefore guilty of THIS crime?

25. Do any of you believe that just because an individual may have been convicted of prior drug crimes that he is automatically guilty of THESE charges?

26. As you have heard, many of the witnesses that will be called by the Government are law enforcement officers. Is there any member of the panel who would automatically believe all of a police officer's testimony solely because he or she is a law enforcement officer, without applying the same set of factors that you would apply to the other witnesses?

27. Do you feel that you might give more weight to the testimony of a federal agent, or police officer, than to the testimony of a civilian witness?

28. Some witnesses for the government have agreed to testify in order to receive a reduced sentence in their pending federal criminal case. Is there any member of the panel who would have any trouble weighing the benefit to be gained by such person in assessing their reliability automatically disbelieve the testimony of a witness who will receive such a benefit for their testimony?

29. Has anyone here ever owned or ridden a motorcycle on a regular basis? If yes, have you come into contact with motorcycle clubs?

30. Has anyone here ever attended a motorcycle rally, or an event such as motorcycle shows, races, or motorcycle runs? Is there anything about that event in which you came away with a negative image of motorcycle riders?

31. Has anyone here ever attended the Sturgis rally? Is there anything about that event in which you came away with a negative image of motorcycle riders?

32. Has anyone ever watched a movie, television show, documentary or some type of A&E or History Channel special about motorcycle clubs? Is there anything about that event in which you came away with a negative image of motorcycle riders? Has anyone seen the television series with “Sons of Anarchy?”

33. Has anyone here ever come into contact with a club called El Forastero or Galloping Gooses Motorcycle Club? Is there anything about that event in which you came away with a negative image of motorcycle riders?

34. Has anyone ever known a member of any of those clubs? Is there anything about that event in which you came away with a negative image of motorcycle riders?

35. Has anyone here ever heard the term I %er as used in context with motorcycle clubs? Is there anything about that perception that would cause you to automatically feel a person is more likely to commit a crime?

36. Does anyone here believe that merely being a member of a motorcycle club makes them more likely to commit crimes?

37. Has anyone ever had any contacts or associations with any other motorcycle club that has not been mentioned? If so, is there anything about that experience that left you with a negative image of motorcycle club members?

38. Does anyone here have a strong feeling about any motorcycle club that would prevent them, from sitting in judgment on a person who is either a member or associate of a motorcycle club?

38. Does anyone have any preconceived images of motorcycle clubs that would interfere with their ability to be fair and impartial?

WHEREFORE, defendant, James Cox, requests the foregoing questions be posed to the jury panel and that the Court delve more fully into the possible bias or prejudice of any potential juror based on their answers to these questions.

Respectfully submitted,

/s/ Georgia A. Mathers
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed electronically with the Court, with notice of case activity to be generated and sent electronically by the Clerk of the Court this 2nd of December, 2009, to all counsel of record.

/s/ Georgia A. Mathers
Georgia A. Mathers #58025