

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CRIMINAL NO. 06-538 JCH
)	
DANUEL DEAN QUAINANCE and)	
MARY HELEN QUAINANCE,)	
)	
Defendants.)	

UNITED STATES' PROPOSED VOIR DIRE

The United States respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The Court is requested to allow counsel for the United States to pursue more detailed questioning if further inquiry is appropriate and, if desirable, to conclude with an inquiry as to whether the particular fact or circumstance would influence a juror in favor or against either the United States or the defendants. The court is requested to invite jurors to approach the bench to respond outside the hearing of the rest of the panel if the prospective juror so desires.

A. The Charge.

1. This is a criminal case. The defendants have been charged in an indictment with violating federal narcotics laws. They have been charged with conspiracy to possess with intent to distribute 100 kilograms and more of marijuana and possession with intent to distribute 50 kilograms and more of marijuana.

2. The indictment is not evidence itself. It simply contains the charges that the United States is required to prove to the satisfaction of the trial jury beyond a reasonable

doubt. I would like to summarize the charges in this case in order to determine whether there is anything about the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

3. The indictment charges that beginning on or about February 13, 2006, up to and including February 22, 2006, in Hidalgo County, in the State and District of New Mexico, and elsewhere, the defendants, **Danuel Dean Quaintance** and **Mary Helen Quaintance**, did unlawfully, knowingly and intentionally combine, conspire, confederate and agree together and with each other and with other persons whose names are known and unknown to the grand jury to commit the following offense against the United States, to wit: Possession with intent to distribute 100 kilograms and more of Marijuana, a Schedule I controlled substance, contrary to 21 U.S.C. § 841 (a)(1) and 21 U.S.C. § 841 (b)(1)(B). In violation of 21 U.S.C. § 846.

Does any juror have any personal knowledge of the charges in the indictment as I have described them? The illegal activity allegedly occurred in Hidalgo County, New Mexico. Has any juror read or heard anything about the charges in the indictment?

4. The indictment further charges that on or about February 22, 2006, in Hidalgo County, in the State and District of New Mexico, the defendants, **Danuel Dean Quaintance** and **Mary Helen Quaintance**, did unlawfully, knowingly and intentionally possess with intent to distribute 50 kilograms and more of marijuana, a Schedule I controlled substance. In violation of 21 U.S.C. § 841(a)(1) and 21 U.S.C. § 841(b)(1)(C) and 18 U.S.C. § 2.

Does any juror have any personal knowledge of the charges in the indictment as I have described them? The illegal activity allegedly occurred in Franklin County,

Missouri, and in Hidalgo County, New Mexico. Has any juror read or heard anything about the charges in the indictment?

B. Nature Of The Charge.

5. During the trial, you will hear evidence concerning drug trafficking. Does the fact that the charges involves drugs – specifically marijuana – make it difficult for any juror to render a fair verdict? Does any juror feel that he or she could not decide fairly a case involving such a charge or one specifically involving marijuana?

6. Do any of you believe that the distribution and/or use of drugs, including marijuana, should be legal, or that the laws governing these crimes should not be enforced?

C. Knowledge Of The Trial Participants.

7. The defendants in this case are **Danuel Dean Quaintance** and **Mary Helen Quaintance**. Does any juror know, or has he or she had any dealings, directly or indirectly, with the defendants, or with any relative, friend or associate of the defendants?

8. Does any juror have any relatives, friends, associates, or employers who know or who have had any dealings with the defendants?

9. Defendant **Danuel Dean Quaintance** is represented by Mr. Jerry Daniel (“J.D.”) Herrera. Do any of you know Mr. Herrera? Has any juror had dealings, either directly or indirectly, with Mr. Herrera?

10. Defendant **Mary Helen Quaintance** is represented by Mr. John Robbenhaar. Do any of you know Mr. Robbenhaar? Has any juror had dealings, either directly or indirectly, with Mr. Robbenhaar?

11. The United States is represented here by the United States Attorney for the District of New Mexico, who is Gregory J. Fouratt. The conduct of the trial will be in the immediate charge of the Assistant United States Attorney Luis A. Martinez and Amanda L. Gould. Do any of you know Mr. Fouratt or his assistants, Mr. Martinez or Ms. Gould? Have any of you had dealings either directly or indirectly with these individuals?

12. During the trial you may hear reference to the following people, and some may be called as witnesses: [read witness list] Do any of you know any of these witnesses? Has any juror had dealings, either directly or indirectly, with these witnesses?

D. Ability To Render A Fair Verdict.

13. Expert Witnesses. You may hear testimony in this case by expert witnesses, either directly or through stipulations. Let me advise you that the use of expert testimony is proper in the context of this case. Have any of you had any experiences with experts or do you have any general feelings about the use of experts that would make it difficult for you to render a wholly fair and impartial verdict?

14. Law Enforcement Personnel. The witnesses in this case will include law enforcement personnel. Would you be more likely to believe a witness merely because he or she is a law enforcement officer? Would you be less likely to believe law enforcement witnesses?

E. Relationship With Government.

15. Do any of you know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the District of New Mexico, Drug Enforcement Administration, the United States Border Patrol, Sunland Park Police Department, Missouri State Highway Patrol, or any

other law enforcement agency? Is any member of your family employed by any law enforcement agency, whether federal, state or local?

16. Does any juror have any strong feelings for or against the United States Attorney's Office for the District of New Mexico, Drug Enforcement Administration, the United States Border Patrol, Sunland Park Police Department, Missouri State Highway Patrol, or any particular law enforcement agency?

17. Have you, or has any member of your family, either as an individual or in the course of business, ever been a party to any legal action or dispute with the United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute and its outcome?

F. Prior Jury Service.

18. Have you ever, at any time, served as a member of a grand jury, whether in federal, state, county or city court? If so, when and where did you serve?

19. Have you ever served as a juror in any court? If so, when and in what court did you serve and was it a civil or a criminal case?

G. Experience As A Witness, Defendant, Or Crime Victim

20. Has any juror or any relative or close friend of any juror, ever been involved or appeared as a witness in any investigation by a federal or state grand jury or been questioned in any matter by a federal, state, or local law enforcement agency?

21. Have you ever been a witness or complainant in any prosecution, state or federal?

22. Have you, or has any member of your family, any associate or close friend, ever been charged with a crime?

23. Has any juror or any relative, associate, or close friend ever been the subject of any investigation or accusation by any grand jury, federal or state?

H. Other Questions.

24. Does any juror have any problem with his or her hearing or vision which would prevent him or her from giving full attention to all the evidence at this trial?

25. Is any juror taking any medication which would prevent him or her from giving full attention to all of the evidence at this trial?

26. Does any juror have any difficulty in reading or understanding English in any degree?

27. Does any juror have any religious, philosophical or other beliefs which would make him or her unable to act as the judge of the facts in this case and to render a guilty verdict for reasons unrelated to the law and evidence?

28. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly and impartially in this case and to render a true and just verdict without fear, favor, sympathy or prejudice, and according to the law as it will be explained?

I. Function Of The Court And Jury

29. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or lawyers say or do may encroach in any way on your role as the exclusive fact finder. When it comes to the law, however, you are to take your instructions from the Court and you are bound by those instructions. You may not

substitute your notions of what the law is or what you think it should be. At the conclusion of this case, your job will be to determine whether or not the defendants are guilty as charged in the indictment. Does any juror have any reason that might prevent him or her from accepting the instructions of law that I will give you in this case? Would anyone be unable to reach a firm yes/no, guilty/not guilty verdict based solely on the evidence admitted at trial and on the law?

30. Will each of you accept the proposition of law that the question of punishment is for the Court alone to decide and that the possible punishment must not enter into your deliberations as to whether the defendant on trial here is guilty? Would the possibility that a defendant might spend time in prison make you even a little less likely or a little more likely to influence your deliberations?

31. Will each of you accept the proposition of law that sympathy must not enter into your deliberations as to the guilt or innocence of the defendant and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of the defendant?

32. Do each of you accept the proposition of law that it is the government's burden to prove the defendant's guilt beyond a reasonable doubt? Do any of you favor a higher or lower burden of proof in a criminal case than that of beyond a reasonable doubt?

33. Is there any juror who feels that even if the evidence established a defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and evidence?

J. Requested Instruction Following Impaneling

From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your family or friends. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom they will, and should, ignore you. Please do not take offense. They will only be acting properly by doing so.

Respectfully submitted,

GREGORY J. FOURATT
United States Attorney

Electronically filed by
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I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to opposing counsel of record, on this date.

Electronically filed 8/ /2008
LUIS A. MARTINEZ
Assistant United States Attorney